

# MEDICAL JURISPRUDENCE ADDICTION

BY JAMES DENNIS C. GUMPAL



# MEDICAL JURISPRUDENCE

# ADDICTION

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# Prologue

The Philippine Drug Enforcement Agency (PDEA) reported that from 2002 to 2022, 405,062 drug cases were filed in court, with 28% already resolved. Of those, 60% resulted in convictions, while around 40% ended in acquittals or dismissals. As of June 2022, over 90,000 prisoners were involved in drug-related cases, primarily in the National Capital Region and CALABARZON.

This handbook examines the physiological effects of drug addiction on the mind, how addiction affects consent in civil actions, and how courts address culpability during drug-related crimes. It also explores the root causes of addiction, including family dysfunction and societal pressures. Drug-related crimes often stem from a mix of personal, environmental, and societal factors, with the loosening of values due to globalization as a major influence.

The book raises the question: is a drug-using individual the aggressor or a victim? It looks at the intricate relationship between addiction, law enforcement, and public health, emphasizing the social and judicial costs of addiction. Lawyers, lawmakers, and law enforcers play vital roles in addressing addiction, requiring a collaborative approach to reduce its impact. Through policy reform and rehabilitation efforts, this work highlights the legal aspects and socio-economic implications of addiction in the Philippines.

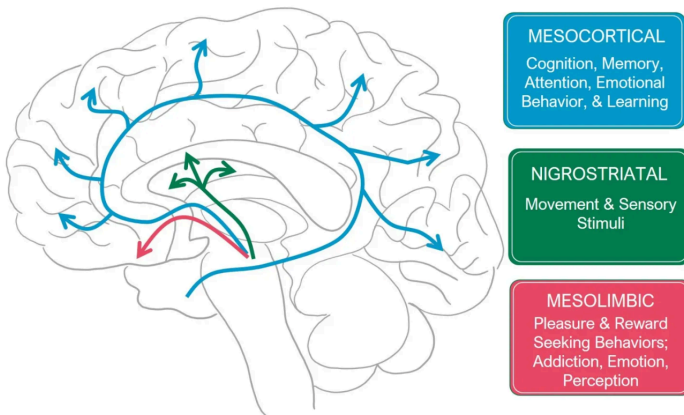
J.D.C. Gumpal  
20 November 2024

# 1 PHYSIOLOGY OF ADDICTION

## THE REWARD SYSTEM OF THE BRAIN

Addictions center around alterations in a *single* pathway in the brain: the “reward” circuit, whose chief centers of action lie in the *limbic system*<sup>1</sup> deep in the brain. Dopamine is the principal neurotransmitter in the brain reward pathway.

This pathway is involved in drug addictions of all kinds—not just addiction to illegal drugs such as heroin and cocaine, but also addiction to caffeine, alcohol, tobacco. Experts consider this pathway as involved in “addictions” that do not involve drugs, for example, compulsive sex



The Reward System of the brain. Image from sitn.hms.harvard.edu.

<sup>1</sup> Set of brain regions recognized to participate in emotion, memories, arousal, and modulation of reinforcing behaviors. Gaetano Di Chiara, Valentina Bassareo, Reward system and addiction: what dopamine does and doesn't do, *Current Opinion in Pharmacology*, Volume 7, Issue 1, 2007, Pages 69-76, ISSN 1471-4892, <https://www.sciencedirect.com/science/article/pii/S1471489206002001>. Accessed October 30, 2022.

behavior,<sup>2</sup> sugar addiction,<sup>3</sup> gambling disorder,<sup>4</sup> cell phone,<sup>5</sup> and internet pornography.<sup>6</sup>

## INGENTIVE-SENSITIZATION THEORY

Experts in neurosciences and psychology mostly agree with the *Incentive-Sensitization* theory of drug addiction. This theory posits that drugs sensitize a part of the brain<sup>7</sup> motivating a drug user due to the physiological state induced by the drug and previously learned association of a reward cue.<sup>8</sup> Thus, the drug serves as a stimulus to a reward sought by the user for which the drug is used which in turn increasingly sensitizes the brain as drug is continuously being used. Drug cues can trigger it as a *learned* motivational response of the brain compelling drug pursuit. Since incentive salience is distinct from pleasure or liking processes, sensitization gives impulsive drugs wanting an enduring life of their own.<sup>9</sup>

## NEUROADAPTATIONS

What is of physiological importance is that repeated exposure to addictive drugs can, in susceptible individuals and under particular circumstances, persistently *change brain cells and circuits* that normally regulate the

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<sup>2</sup> Schmidt C, Morris LS, Kvamme TL, Hall P, Birchard T, Voon V. Compulsive sexual behavior: Prefrontal and limbic volume and interactions. *Hum Brain Mapp.* 2017 Mar;38(3):1182-1190. doi: 10.1002/hbm.23447. Epub 2016 Oct 27. PMID: 27787929; PMCID: PMC5324617.

<sup>3</sup> Avena NM, Rada P, Hoebel BG. Evidence for sugar addiction: behavioral and neurochemical effects of intermittent, excessive sugar intake. *Neurosci Biobehav Rev.* 2008;32(1):20-39. doi: 10.1016/j.neubiorev.2007.04.019. Epub 2007 May 18. PMID: 17617461; PMCID: PMC2235907.

<sup>4</sup> Quintero GC. A biopsychological review of gambling disorder. *Neuropsychiatr Dis Treat.* 2016 Dec 23;13:51-60. doi: 10.2147/NDT.S118818. PMID: 28096672; PMCID: PMC5207471.

<sup>5</sup> De-Sola Gutiérrez J, Rodríguez de Fonseca F, Rubio G. Cell-Phone Addiction: A Review. *Front Psychiatry.* 2016 Oct 24;7:175. doi: 10.3389/fpsy.2016.00175. PMID: 27822187; PMCID: PMC5076301.

<sup>6</sup> Love T, Laier C, Brand M, Hatch L, Hajela R. Neuroscience of Internet Pornography Addiction: A Review and Update. *Behav Sci (Basel).* 2015 Sep 18;5(3):388-433. doi: 10.3390/bs5030388. PMID: 26393658; PMCID: PMC4600144.

<sup>7</sup> mesocorticolimbic system.

<sup>8</sup> Incentive salience refers to motivation for rewards that is driven by both physiological state and previously learned associations about a reward cue (Hyman, 2005). Similar to drug addiction, these cues can activate food-seeking and the development of compulsive habits (Koob & Volkow, 2016).

<sup>9</sup> (Robinson & Berridge 2003).

psychological process in motivated behavior. These ‘*neuroadaptations*’<sup>10</sup> makes the brain circuits hypersensitive (‘sensitized’) in a way that results in pathological levels of incentive motivation (wanting) for drugs that last for years, even after the discontinuation of drug use.

Addiction involves *drug-induced changes in many different brain circuits*, leading to complex changes in behavior and psychological function. The core changes leading to addiction occur when incentive sensitization combines with defects in cognitive decision-making and the resulting ‘*loss of inhibitory control over behavior and poor judgment*’.<sup>11</sup>

## ROLE OF DOPAMINE

Dopamine, commonly known as the “happy hormone” is also a *neurotransmitter*.<sup>12</sup> In the brain, it spikes in anticipation of and when a person experiences something pleasurable.<sup>13</sup> Getting enough sleep, exercising, a balanced diet, listening to music, meditating, and spending time in the sun can all boost dopamine levels.<sup>14</sup> Drugs and substances most commonly abused, like methamphetamine, opiates, alcohol, and nicotine are found to likewise increase dopamine levels in the brain.<sup>15</sup> The result of this dopamine overflow is the feeling of being high.<sup>16</sup>

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<sup>10</sup> *Neuroadaptation* the process by which initial drug effects are either enhanced (i.e., sensitization) or attenuated (i.e., counteradaptation) by repeated substance exposure. Drug-related responses (i.e., reinforcement) are modulated by the neuroadaptive changes that occur with substance exposure.

<sup>11</sup> Robinson, T. E., & Berridge, K. C. (2008). The incentive sensitization theory of addiction: some current issues. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1507), 3137-3146. <https://doi.org/10.1098/rstb.2008.0093>. Accessed October 28, 2022.

<sup>12</sup> A chemical released from a nerve cell that transmits an impulse from a nerve cell to another nerve, muscle, organ, or other tissue. Modified from: Definition of neurotransmitter, RxList, Medical Editor, Melissa Conrad Stöppler, MD, reviewed on 3/29/2021. Accessed October 30, 2022.

<sup>13</sup> Dopamine, Cleveland Clinic, <https://my.clevelandclinic.org/health/articles/22581-dopamine>. Accessed October 30, 2022.

<sup>14</sup> Ten Best Ways to Increase Dopamine Levels Naturally, Nutrition/Evidenced Based, Healthline, <https://www.healthline.com/nutrition/how-to-increase-dopamine>. Accessed October 30, 2022.

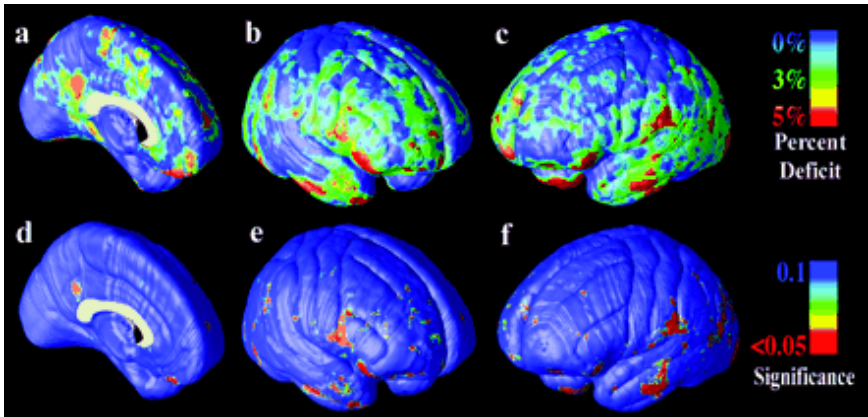
<sup>15</sup> Di Chiara G, Imperato A. Drugs abused by humans preferentially increase synaptic dopamine concentrations in the mesolimbic system of freely moving rats. *Proc Natl Acad Sci U S A*. 1988 Jul;85(14):5274-8. doi: 10.1073/pnas.85.14.5274. PMID: 2899326; PMCID: PMC281732. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC281732/>

<sup>16</sup> Dopamine and the Brain’s Reward System, Hazelden Betty Ford Foundation, <https://www.hazeldenbettyford.org/education/bcr/addiction-research/drug-abuse-brain-ru-915>. Accessed October 10, 2022.



## METHAMPHETAMINE

Methamphetamine causes a dopamine rush through the brain, spewing such intense good feelings that the person immediately seeks to experience these feelings when it subsides. Chronic use of methamphetamine can permanently damage the brain's cognitive centers and motor coordination.<sup>17</sup>



Gray-matter differences on the lateral brain surfaces. The mean reduction in gray matter in the methamphetamine group, relative to healthy controls, is expressed as a percentage and shown color-coded (blue colors, no reduction; red colors, greater reduction). In methamphetamine abusers, a highly significant gray-matter deficit was observed in a broad anatomical region. The most significant impairments occurred in cingulate regions (Fig. 1d, red colors), in which gray-matter volumes were 11.3%. Most intriguing was the anatomical specificity of the loss. Image from: [jneurosci.org/content/24/26/6028#sec-3](http://jneurosci.org/content/24/26/6028#sec-3)

## OPIOIDS

Use of cocaine, induces long-term changes in the brain. Animal studies show that cocaine exposure can cause significant neuroadaptations in neurons that release the excitatory neurotransmitter glutamate.<sup>18</sup>

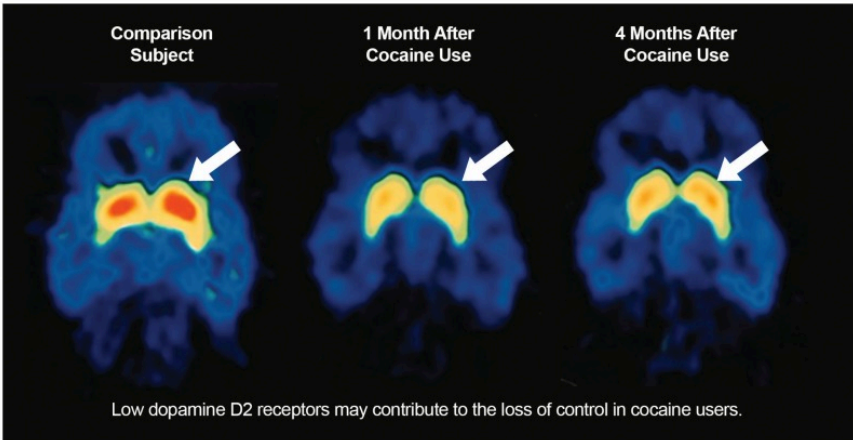
Cocaine sensitizes neurons that release dopamine. Repeated exposure to the substance triggers the release of increased levels of dopamine. This can cause powerful urges to use the drug repeatedly. Chronic exposure prolongs imbalances in the brain's dopamine production and affects the

<sup>17</sup> Groman, S.M.; Morales A.M.; Lee, B.; London, E.D.; Jentsch, J.D. Methamphetamine-induced increases in putamen gray matter associate with inhibitory control. *Psychopharmacology* 229(3):527-538, 2013. Abstract.

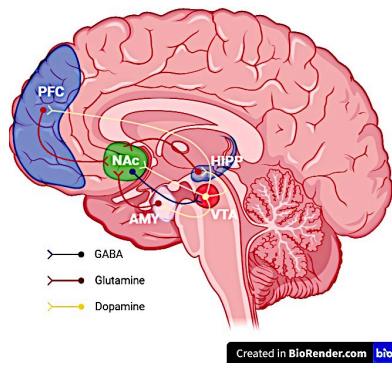
<sup>18</sup> Schmidt HD, Pierce RC. Cocaine-induced neuroadaptations in glutamate transmission: potential therapeutic targets for craving and addiction. *Ann N Y Acad Sci.* 2010;1187:35-75. doi:10.1111/j.1749-6632.2009.05144.x.

brain's glutamate receptors in the reward system. These receptors become sensitized to cocaine cues causing the brain to preferentially react to these cues.

Repeated misuse of opioids, including prescription opioids, can lead to a substance use disorder with severe withdrawal effects, which become powerful motivators for its continued use.

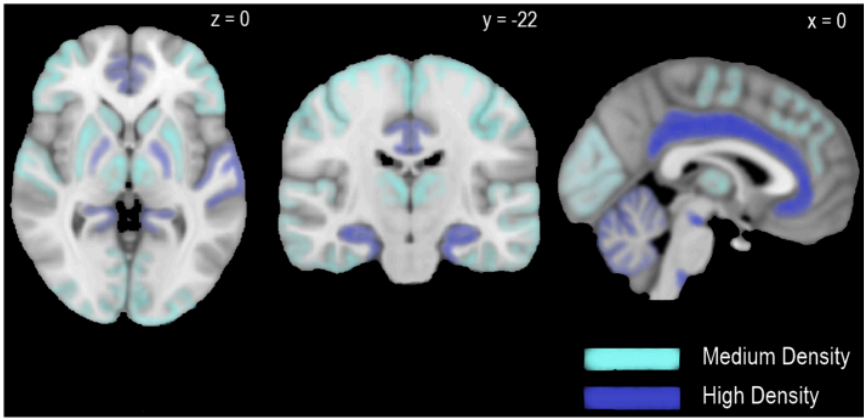


Time-Related decrease in dopamine released in the brain of a cocaine user. Source: Modified from Volkow et al., (1993).



Mesocorticolimbic Circuit - Wikimedia Commons

These fMRI<sup>19</sup> images compare the brain of an individual with a history of cocaine use disorder (middle and right) to the brain of an individual without a history of cocaine use (left). The person who has had a cocaine use disorder has lower levels of the D2 dopamine receptor (depicted in red) in the striatum one month (middle) and four months (right) after stopping cocaine use compared to the non-user. The level of dopamine receptors in the brain of the cocaine user is higher at the 4-month mark (right), but has not returned to the levels observed in the non-user (left).



## MARIJUANA

Neurocognitive differences between marijuana users and non-using controls include impaired verbal learning and memory, attention, psychomotor function, and decision making<sup>20</sup> Persistent use has been associated with poor long-term neurocognitive performance<sup>21</sup> and poorer health outcomes. Marijuana when administered during adolescence, could negatively affect neurocognitive development. Indeed, individuals who begin using marijuana during adolescence exhibit lower IQs and seem to have less crystallized intelligence.<sup>22</sup> At the same time, the direct

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<sup>19</sup> Functional magnetic resonance imaging (fMRI) measures the small changes in blood flow that occur with brain activity. It may be used to examine which parts of the brain are handling critical functions, evaluate the effects of stroke or other disease, or to guide brain treatment. fMRI may detect abnormalities within the brain that cannot be found with other imaging techniques. From: [www.radiologyinfo.org](http://www.radiologyinfo.org).

<sup>20</sup> Brody et al., 2016, Volkow, Swanson, et al., 2016.

<sup>21</sup> Meier et al., 2012

<sup>22</sup> Jackson et al., 2016

effect of marijuana use on neurocognitive deteriorations during adolescence has not been shown to be significantly related to frequency of use, and may be attributable to genetic or familial factors that contribute to risk for both marijuana use initiation and low intellectual achievement.<sup>23</sup>

Therefore, characterizing changes in brain structure and function related to marijuana use may help differentiate risk factors from consequences of marijuana use. Careful study design is necessary to overcome some of the inherent challenges in illustrating specific effects of marijuana, as marijuana use often cooccurs with alcohol and nicotine consumption, and heritable factors (eg, genetics and personality traits) likely contribute to brain differences independent of marijuana use.<sup>24</sup>

In the current chapter, we will (1) describe a neurodevelopmental framework for understanding the effects of marijuana use on brain structure and function, (2) summarize the robust results and discuss recent findings from neuroimaging studies of the effects of marijuana use on brain structure and function, and (3) highlight remaining questions and areas of ongoing evaluation in understanding the effects of marijuana use on the human brain.

It has already been established that the use of cannabis limits the release of dopamine more and more over time. This explains why the long-term effects of cannabis use include reduced motivational levels,<sup>25</sup> negative emotion levels, addiction severity,<sup>26</sup> and an increased risk for physical and mental health problems related to low dopamine levels, including

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<sup>23</sup> Jackson, N. J., Isen, J. D., Khoddam, R., Irons, D., Tuvblad, C., Iacono, W. G., McGue, M., & Baker, L. A. (2016). Impact of adolescent marijuana use on intelligence: Results from two longitudinal twin studies. *Proceedings of the National Academy of Sciences*, 113(5), E500-E508. <https://doi.org/10.1073/pnas.1516648113>

<sup>24</sup> Hurd, Y. L., Michaelides, M., Miller, M. L., & Jutras-Aswad, D. (2014). Trajectory of adolescent cannabis use on addiction vulnerability. *Neuropharmacology*, 76(B), 416-424. <https://doi.org/10.1016/j.neuropharm.2013.07.028>

<sup>25</sup> Bloomfield MA, Morgan CJ, Kapur S, Curran HV, Howes OD. The link between dopamine function and apathy in cannabis users: an [18F]-DOPA PET imaging study. *Psychopharmacology (Berl)* 2014;231:2251–2259. doi: 10.1007/s00213-014-3523-4.

<sup>26</sup> Volkow ND, et al. Decreased dopamine brain reactivity in marijuana abusers is associated with negative emotionality and addiction severity. *Proceedings of the National Academy of Sciences of the United States of America*. 2014;111:E3149–3156. doi: 10.1073/pnas.1411228111.

schizophrenia, psychosis, anxiety, depression,<sup>27</sup> and increased suicidality in young adults.<sup>28</sup>

## 2 DRUG MISUSE & CRIMINAL BEHAVIOR

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**B**ased on the 2019 National Household Survey on the Patterns and Trends of Drug Abuse, released by the Dangerous Drugs Board, 6 out of 10 Filipinos aged 10-69 years have tried dangerous drugs at least once. Of these, 2 out of 100 were users at the time of the interview. Marijuana (57%) and methamphetamine (35%) were the top two drugs of choice. Lifetime users usually start at 22 years old, more than half of which are due to the influence of friends and about a quarter out of curiosity.<sup>29</sup>

Research in Australia on drug-related crime correlates drug misuse with various crimes, such as crimes against property (e.g., robbery and theft), violence and aggression, and driving while intoxicated.<sup>30</sup>

There are four types of crime associated with drugs:

**Drug-defined** crimes as a result of violations of laws prohibiting or regulating the possession, use, distribution, or manufacture of illegal drugs.

**Use-Related** crimes committed by persons taking drugs in which the drug's pharmacologic effects contribute. as a result of the effect the drug has on their thought processes and behavior. This includes violent behavior resulting from drug effects.

**Economic-Related** crimes are committed to fund a drug habit.

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<sup>27</sup> Marijuana and Dopamine Levels in the Brain, ARK Behavioral Health, Medically reviewed by Davis Sugar, M.D., on June 28, 2022. <https://www.arkbh.com/illicit-drugs/marijuana/dopamine-levels/>. Accessed October 30, 2022.

<sup>28</sup> Cannabis use may be associated with suicidality in young adults, National Institutes of Health, <https://www.nih.gov/news-events/news-releases/cannabis-use-may-be-associated-suicidality-young-adults>. Accessed October 30, 2022.

<sup>29</sup> 2019 Drug Survey shows drug use prevalence rate falls to 2.05%, Dangerous Drug Board, <https://www.ddb.gov.ph/newsroom/511-2019-drug-survey-shows-drug-use-prevalence-rate-falls-to-2-05>, Accessed November 8, 2022.

<sup>30</sup> Australian Government; National Drug Law Enforcement Research Fund (2007). "Benzodiazepine and pharmaceutical opioid misuse and their relationship to crime" (PDF). NDLERF. Retrieved 27 December 2008.

**System-Related** crimes relate to the exposure to the structure of the drug system and interactional circumstances, which increases the likelihood and frequency of involvement in illegal activity as well as violence related to the production or sale of drugs, such as a turf war.

Drug users report greater involvement in crime and are more likely than non-users to have criminal records. High levels of criminal activity are strongly related to the frequent use of drugs and the use of multiple drugs.

## BENZODIAZEPINES

Benzodiazepines are depressants used as a sedative, hypnotic (sleep-inducing), anxiolytics, anticonvulsants, and muscle relaxants. These drugs are often prescribed to treat anxiety, panic disorders, agitation, muscle spasms, alcohol withdrawal, insomnia and as a premedication for medical and dental procedures.<sup>31</sup> By 1997, benzodiazepines were the most prescribed medicine globally, waning only due to the discovery of drugs with the same action but with better side effect profile and relatively lower toxicity in overdose.

In 2000, 71% of suspected criminals in Scotland at the time of arrest tested positive for benzodiazepines.<sup>32</sup> In one research, benzodiazepine users are 62% more likely to commit a crime if they had used *alprazolam*<sup>33</sup> in the hazard period.<sup>34</sup> It has been abused for the purpose of carrying out acts of incest and for the corruption of adolescent girls.<sup>35</sup>

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<sup>31</sup> Olkkola KT, Ahonen J (2008). "Midazolam and other benzodiazepines". In Schüttler J, Schwilden H (eds.). *Modern Anesthetics. Handbook of Experimental Pharmacology*. Vol. 182. pp. 335–360.

<sup>32</sup> The Scottish Government Publications (25 July 2000). "Interviewing and Drug Testing of Arrestees in Scotland: A Pilot of the Arrestee Drug Abuse Monitoring Methodology (ADAM)". Accessed December 27, 2008.

<sup>33</sup> a type of benzodiazepine used to treat anxiety and panic disorders.

<sup>34</sup> Lethbridge, HP 2020 , 'Benzodiazepine use and criminal activity : a case-crossover study', Coursework Master thesis, University of Tasmania. Accessed October 10, 2022.

<sup>35</sup> Kintz P; Villain M; Chèze M; Pépin G (October 29, 2005). "Identification of alprazolam in hair in two cases of drug-facilitated incidents". *Forensic Science International*. 153 (2–3): 222–6. doi:10.1016/j.forsciint.2004.10.025. PMID 16139113.

Benzodiazepines have been used as a tool for murder by serial killers, and other murderers.<sup>36,37</sup> *Temazepam* and *midazolam* are the most common benzodiazepines used to facilitate date rape.<sup>38</sup> However, alcohol remains the most common drug involved in cases of drug rape.<sup>39</sup> Although benzodiazepines and ethanol are the most frequent drugs used in sexual assaults, GHB is another potential date rape drug that has received increased media focus.<sup>40</sup>

Some benzodiazepines are more associated with crime than others, especially when abused or taken in combination with alcohol. The potent benzodiazepine *flunitrazepam* which has strong amnesia-producing effects, can cause abusers to become ruthless and also cause feelings of being invincible. This has led to some acts of extreme violence against others, often leaving abusers with no recollection of what they have done in their drug-induced state. It has been proposed that criminal and violent acts brought on by benzodiazepine abuse may be related to lowered *serotonin*<sup>41</sup> levels via enhanced *GABAergic*<sup>42</sup> effects.<sup>43</sup>

A study on forensic psychiatric patients who had abused *flunitrazepam* at the time of their crimes found that the patients displayed extreme violence, lacked the ability to think clearly, and experienced a loss of empathy for their victims while under the influence of flunitrazepam, and it was found that the abuse of alcohol or other drugs in combination with *flunitrazepam* compounded the problem. Their behavior under the

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<sup>36</sup> Missliwetz J (July–August 1981). "[Serial homicide in the Vienna-Lainz hospital]". *Archiv für Kriminologie*. 194 (1–2): 1–7. PMID 7979864.

<sup>37</sup> Saito T; Takeichi S; Nakajima Y; Yukawa N; Osawa M (November–December 1997). "A case of homicidal poisoning involving several drugs". *Journal of Analytical Toxicology*. 21 (7): 584–6. doi:10.1093/jat/21.7.584. PMID 9399131..

<sup>38</sup> Negrusz A; Gaensslen RE (August 2003). "Analytical developments in toxicological investigation of drug-facilitated sexual assault". *Analytical and Bioanalytical Chemistry*. 376 (8): 1192–7. doi:10.1007/s00216-003-1896-z. PMID 12682705. S2CID 34401047.

<sup>39</sup> Weir E. (July 10, 2001). "Drug-facilitated date rape". *Canadian Medical Association Journal*. 165 (1): 80. PMC 81265. PMID 11468961.

<sup>40</sup> Saint-Martin P; Furet Y; O'Byrne P; Bouyssy M; Paintaud G; Autret-Leca E (March–April 2006). "[Chemical submission: a literature review]". *Thérapie*. 61 (2): 145–50. doi:10.2515/therapie:2006028. PMID 16886708.

<sup>41</sup> Serotonin a neurotransmitter in the brain and throughout your body which plays a key role in such body functions as mood, sleep, digestion, nausea, wound healing, bone health, blood clotting and sexual desire.

<sup>42</sup>  $\gamma$ -Aminobutyric acid (gamma-aminobutyric acid) , or GABA , is the chief inhibitory neurotransmitter in the developmentally mature mammalian central nervous system. Its principal role is reducing neuronal excitability throughout the nervous system.

<sup>43</sup> Dåderman A; Lidberg L. (March 3, 1999). "[Rohypnol should be classified as a narcotic]". *Läkartidningen*. 96 (9): 1005–7. PMID 10093441.

influence of flunitrazepam was in contrast to their normal psychological state.<sup>44</sup>

## MARIJUANA

In the United States, which legalized marijuana in several states, it had been shown that an increase in potency or THC content<sup>45</sup> was reportedly linked to an increase in criminal behavior and self-harm, particularly burglary (for marijuana), violence (e.g., domestic violence, child abuse, and neglect) and suicide.<sup>46</sup> Drugged driving in Oregon showed a 55-60% increase in marijuana-related DUIs.<sup>47</sup>

## METHAMPHETAMINES

The use of methamphetamine was associated with significant increases in crime beyond pre-morbid risk for criminality. Crime is a likely social consequence of methamphetamine.<sup>48</sup>

In 2010, 50-73% of state and local law enforcement agencies in the western half of the U.S. identified methamphetamine as the drug that most contributes to violence and crime in their areas<sup>49</sup>. In a literature review of substance use and violence, Boles and Miotto<sup>50</sup> reported that methamphetamine use is linked to violence through both systemic

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<sup>44</sup> Dåderman AM; Fredriksson B; Kristiansson M; Nilsson LH; Lidberg L (2002). "Violent behavior, impulsive decision-making, and anterograde amnesia while intoxicated with flunitrazepam and alcohol or other drugs: a case study in forensic psychiatric patients". *Journal of the American Academy of Psychiatry and the Law*. 30 (2): 238–51. PMID 12108561.

<sup>45</sup> tetrahydrocannabinol, the psychoactive component of marijuana.

<sup>46</sup> Erin J. Farley and Stan Orchowsky, *Measuring the Criminal Justice System Impacts of Marijuana Legalization and Decriminalization Using State Data*, July 2019, US Department of Justice, Office of Justice Program.

<sup>47</sup> Driving under the influence (DUI) is the offense of driving, operating, or being in control of a vehicle while impaired by alcohol or other drugs (including recreational drugs and those prescribed by physicians), to a level that renders the driver incapable of operating a motor vehicle safely. Walsh, J. Michael; Gier, Johan J.; Christopherson, Asborg S.; Verstraete, Alain G. (11 August 2010). "Drugs and Driving". *Traffic Injury Prevention*. 5 (3): 241–253. doi:10.1080/15389580490465292. PMID 15276925. S2CID 23160488.

<sup>48</sup> McKetin R, Boden JM, Foulds JA, Najman JM, Ali R, Degenhardt L, Baker AL, Ross J, Farrell M, Weatherburn D. The contribution of methamphetamine use to crime: Evidence from Australian longitudinal data. *Drug Alcohol Depend*. 2020 Nov 1;216:108262. doi: 10.1016/j.drugalcdep.2020.108262. Epub 2020 Aug 30. PMID: 32916517.

<sup>49</sup> NDIC (National Drug Intelligence Center) Washington, DC: U.S. Department of Justice; 2011. *National Drug Threat Assessment 2010*. Retrieved 10/26/12 from <http://www.justice.gov/archive/ndic/pubs44/44849/44849p.pdf>. [Google Scholar] [Ref list]

<sup>50</sup> Boles S, Miotto K. Substance abuse and violence. A review of the literature. *Aggression and Violent Behavior*. 2003;8:155–174.



dynamics (e.g., drug trafficking) and pharmacological effects (e.g., agitation, paranoia, psychosis). However, even after controlling for involvement in the drug trade, i.e., sales, distribution, or manufacturing, a study of prison parolees found methamphetamine use was significantly predictive of self-reported violent criminal behavior and general recidivism.<sup>51</sup>

The criminal behavior of persons who suffer from substance abuse often feels that there is nothing wrong with them. Instead, they feel as though something is wrong with you for thinking that something is wrong with them. In fact, clinicians of all backgrounds and educational levels often assess clients as "resistant" or "in denial." Many feel that they can address their "drug problem" by self-control and willpower. This is the very nature of addiction, it affects the way the person thinks and reacts to certain situations and is one of the main sources of resistance to treatment.

Addiction in many cases, leads to criminal behavior. The use of illegal drugs is often associated with buying drugs, using drugs, selling drugs, and driving under the influence of alcohol or other drugs. These crimes often translate into vehicular homicide, so called crimes of passion, assault, murder, robbery, burglary, domestic violence and child abuse. Our criminal justice system is loaded with drug cases. Ninety-eight percent of these people when released will end up back on the street, committing more crimes and then right back in the criminal justice system still hooked on drugs.

## **PREVALENCE OF DRUG-RELATED CRIMINALITY**

The Dangerous Drugs Board of the Philippines through the Treatment and Rehabilitation Admission Information System, in 2021, based on the reports from 63 treatment and rehabilitation facilities, the 13.54% increase in admission for drug rehabilitation is attributed to an increase of about 42% in willingness to submit to rehabilitation. The median age of those admitted was 33 years old, with a male to female ratio of 10:1. A little more than half are single, and about 6 out of 10 are employed, while about a third are unemployed. The average family income is P15,142.03. About 1 out of 4 attained a high school level of education, while 1 out of 5 reached the college level. Most substances of abuse are methamphetamine, marijuana, and benzodiazepines.

The prevalence of illegal drugs in the Philippines has not been accurately determined. However, estimates by the United Nations Office on Drugs

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<sup>51</sup> Cartier J, Farabee D, Prendergast ML. Methamphetamine use, self-reported violent crime, and recidivism among offenders in California who abuse substances. *Journal of Interpersonal Violence*. 2006;21:435–445.

and Crime showed the annual prevalence for marijuana is 3.5 percent, amphetamine-type stimulants 2.8 percent, and ecstasy .01 percent of the population above 15 years of age. The prevalence of illegal drug use in the Philippines is lower than the global average, according to the United Nations Office on Drugs and Crime (UNODC).

In 2012, the United Nations said the Philippines had the highest rate of methamphetamine use in East Asia. In Metro Manila, most barangays are affected by illegal drugs.[2]

From 2010 to 2015, 623 government officials and employees were arrested for drug possession, according to the Philippine Drug Enforcement Agency (PDEA). Of these, 45% were government employees while 30% were elected officials and 25% were police.

Drug syndicates have been producing methamphetamine in small-scale and kitchen-type laboratories to avoid detection by the Philippine authorities since 2010. Usually, drug syndicates rent warehouses for use as drug laboratories. These syndicates have moved towards renting houses in private subdivisions, condominiums and apartments to be used as bases for their illegal drug production. Private properties are becoming more favorable to drug syndicates as sites of illegal drug production.[40]

Methamphetamine remains more feasible to sell in the Philippines than cocaine, a more costly illegal drug.[41]

Owing to its geographical location, international drug syndicates use the Philippines as a transit hub for the illegal drug trade.[2][42] Some local drug syndicates are also involved in the international illegal drug trade, and utilize drug mules to transport small amounts of illegal drugs to other countries. Some overseas Filipino workers have been utilized by drug syndicates as drug mules, either knowingly or unknowingly. Most Filipino drug mules, mainly women, are sent to China, where drug convicts will face execution via lethal injection.[43] The Ninoy Aquino International Airport has been identified as a favorable illegal drug trafficking hub.[40]

Some Filipinos choose to be involved in drug trafficking due to the promise of a high income. Some still participate in such illicit activity because they are forced by certain circumstances. There were reports in the past that some Filipinos, usually women, were forced and blackmailed by drug syndicates to work as drug couriers, and if they refused, their family's safety would be compromised.[44]

A Manila-based firm, Pacific Strategies & Assessments, identified the Philippines as, "not only a transshipment point, but also a key producer of synthetic drugs for all of Asia" in a report made in 2009.[45]

In December 2013, the Philippine National Police – Anti-Illegal Drugs Special Operations Task Force and the Philippine Drug Enforcement confirmed reports that the Mexican Sinaloa Cartel had started operations in the country.[44][46] Methamphetamine has also been manufactured in North Korea and brought into the Philippines.

## **DRUG CARTELS**

About nine Chinese drug cartels are involved in most illegal drug trade in the Philippines.[47] The government confirms that Asia’s bamboo triad, Mexico’s Sinaloa cartel and a cartel from Medellin, Columbia are already operating in the country. The U.S. Department of State claims that Chinese drug cartels are behind the trade of methamphetamine hydrochloride in the Philippines.[2][48]

## **TRADE VALUE**

According to a 2010 U.S. International Narcotics Control Strategy Report the Philippine Drug Enforcement Agency’s Director General estimated that the value of the illegal drug trade in the Philippines to be worth \$6.4 to \$8.4 billion annually.[51][52]

## **PARTY DRUGS**

MDMA (ecstasy), one of the party drugs, is the third most abused drug, next to cannabis and methamphetamine.[53]

## **DRUG USE AMONG MINORS**

Inhalants are commonly used among minors, especially street children. [53] Street children in the Philippines are most likely to be inhalant abusers.[57]

Philippine Drug Enforcement Agency statistics of 2014 recorded 40% of minors arrested for drug possession,[58] and drug syndicates use children as drug pushers.[59] Children arrested for drug possession or use are brought to the Department of Social Welfare and Development (DSWD), in compliance to Republic Act No. 9344 (Juvenile Justice and Welfare Act of 2006).[5]

## **SELF-VIEW**

We have views of ourselves that others may not agree with. A person with substance addiction likewise sees themselves in certain ways to justify their drug use or as a way of rationalizing their substance abuse. Self-view may also be the result of the cognitive impairment of a person who suffers addiction. Common self-views are as follows:

## **ROBIN HOOD**

The person sees himself as a romantic figure. He is taking from those who have and giving to those who have not. Of course, nobody else gets much of anything, because Robin usually keeps all of it.

## **THE REBEL**

The view that the person as being at war with the system. Because he is at war, everything and everybody are fair game. It is fair to take other people's property because they are not one of "us," so they must be one of them. It may even seem okay to them to steal from family members.

## **THE VICTIM**

This person breaks the law because of something that has happened to him. It can be a lot of different things, it might include growing up in an abusive home or in the foster care system or it might be skin color or social abuse. This list goes on and on.

## **THE INNOCENT**

This offender does not consider that he committed the crime. If you confront him, he will admit some parts of a crime, such as being in the wrong place at the wrong time, but he will never take responsibility for his actions.

## **THE GODFATHER**

The person has delusions about being the next head of a crime empire. He is full of plans and wants the power and fear that he believes goes with being a big player.

There are many different ways the criminal addict views himself and his addiction magnifies his self-thoughts.<sup>52</sup>

## **DRUGS AND ADOLESCENTS**

Drug abusers are getting younger. In a 2015 Global School-based Student Health Survey on Drug Use among 13 to 17-year-olds in the Philippines, showed an increase in use from 2003 to 2015. One out of 10 have used drugs, with males more prone to drug use. Eight out of 10 high school students reported to have used drugs for the first time before they turned 14 years old. About of third of students were taught in school the problems associated with using drugs and where to get help.<sup>53</sup>

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<sup>52</sup> Understanding Addiction and Criminal Behaviour, The Institute for Addiction & Criminal Justice Studies, [https://www.ceumatrix.com/wp-content/uploads/2017/09/Understanding\\_Addiction\\_and\\_Criminal\\_Behavior.pdf](https://www.ceumatrix.com/wp-content/uploads/2017/09/Understanding_Addiction_and_Criminal_Behavior.pdf). Accessed October 30, 2022.

<sup>53</sup> Philippine Statistics Authority, <http://rssocar.psa.gov.ph/sites/default/files/CAR-SR-2018-15-GSHS-Drug-Abuse.pdf>. Accessed November 5, 2022.

Of the 4,170 children involved in illegal drug activities who were rescued during operations from July 1, 2016 to January 31, 2022, 6 out of 10 are involved in drug pushing, all the rest are possessors, users, visitors or employees of a drug den, runners, and cultivators.<sup>54</sup>

The statistical figures over the last decade revealed a trend towards a decreasing age. In the 50s, the age of drug offenders ranged between 40-55 years. In the 80s the average age of drug users was 25. More recent data indicate that initiation to drug use starts at the young age of 8 to 9. One sector of this young population that is particularly vulnerable to drugs are the street children. In one country survey the percentage of drug and substance users among street children was estimated to be between 60 to 100 percent.<sup>55</sup>

Half of the estimated 1.5 million street children in the country are believed to have at one time or another snorted “rugby” and other aromatic solvents.<sup>56</sup>

A study suggests that adolescents whose parents are involved in illegal behavior and the use of drugs are more likely to be involved in delinquency and substance abuse conduct. Furthermore, the perception of lacking family support, negative climate, and communication and of having justice-involved parents might contribute to developing risky trajectories among young people. Moreover, there is a connection between criminal activities and substance abuse, which can lead to a future criminal career and addiction in later adolescence and adulthood.<sup>57</sup>

## DRUGS AND CRIME

Certain drugs are strongly associated with criminal activity due to their psychoactive effects and the socio-economic consequences of addiction. Drugs like gamma hydroxybutyrate (GHB), ketamine, and Rohypnol, often referred to as “date rape” drugs, are linked to sexual crimes because of their ability to incapacitate victims, making them vulnerable to assault.<sup>58</sup> The sedative properties of these substances reduce resistance and can cause memory loss, leading to an inability of victims to recall or resist

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<sup>54</sup> Philippine Drug Enforcement Agency, <https://www.ddb.gov.ph/realnumbersph>, Accessed November 5, 2022.

<sup>55</sup> (Postupniy et al., 2002)

<sup>56</sup> (Bordadora, 2003)

<sup>57</sup> The Vicious Cycle: Problematic family relations, substance abuse and crime in adolescence: A narrative review, *Frontiers in Psychology*, <https://www.frontiersin.org/articles/10.3389/fpsyg.2021.673954/full>. Accessed October 30, 2022.

<sup>58</sup> Gilman, S. (2018). *Pharmacology and the criminal justice system: A study of psychoactive drugs*. Routledge.

criminal acts, which makes them particularly dangerous in sexual assault cases.<sup>59</sup>

On the other hand, stimulants like methamphetamine, heroin, and cocaine are closely tied to theft and robbery. Addiction to these substances often drives individuals to commit money-generating crimes, as they need to sustain their drug habits.<sup>60</sup> Economic necessity and the desperation brought on by addiction can cause individuals to engage in robberies, muggings, and other property crimes, as these are easier and quicker ways to obtain money.<sup>61</sup>

Addiction creates a significant economic burden on individuals, as the cost of maintaining drug use can become overwhelming. Without the means to legally support their drug habits, many addicts turn to property crimes, which explains why there is a substantial connection between drug use and crimes like shoplifting, car theft, and home invasions.<sup>62</sup> This correlation has been consistently observed in various studies of drug-related criminal behavior.

The relationship between drugs and crime is further exacerbated by the specific pharmacological effects of the substances. For instance, methamphetamine can induce aggressive or erratic behavior, leading to impulsive and often violent crimes.<sup>63</sup> Cocaine and heroin, both highly addictive drugs, are also associated with crimes of desperation, as individuals struggle to secure their next fix. These substances impair judgment and lower inhibitions, increasing the likelihood of criminal behavior.<sup>64</sup>

For drugs like GHB, ketamine, and Rohypnol, the effects are primarily linked to sexual crimes. These drugs depress the central nervous system, causing victims to lose consciousness or motor control, making them particularly vulnerable to sexual assault. Courts have dealt with numerous

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<sup>59</sup> ElSohly, M., Salamone, S. J., & ElSohly, H. N. (2014). Detection of gamma-hydroxybutyrate (GHB) in urine and its role in drug-facilitated sexual assault. *Journal of Analytical Toxicology*, 38(8), 662-667.

<sup>60</sup> Bennett, T., & Holloway, K. (2005). *Understanding drugs, alcohol, and crime*. McGraw-Hill Education.

<sup>61</sup> Levy, K. B., & Goldman, M. (2018). Economic compulsivity: How addiction influences criminal behavior. *Journal of Crime and Justice*, 41(3), 415-427.

<sup>62</sup> Bennett, T., Holloway, K., & Farrington, D. (2008). The statistical association between drug misuse and crime: A meta-analysis. *Aggression and Violent Behavior*, 13(2), 107-118.

<sup>63</sup> Rawson, R. A., Gonzales, R., & Obert, J. L. (2002). Methamphetamine abuse and addiction: Advances in treatment. *Addiction Science & Clinical Practice*, 2(1), 24-30.

<sup>64</sup> Gossop, M., Marsden, J., Stewart, D., & Rolfe, A. (2002). The relationship between alcohol, drugs, and crime: A review of the literature. *Addictive Behaviors*, 27(2), 193-207.

cases where perpetrators administered these drugs to victims to commit non-consensual sexual acts.<sup>65</sup>For instance, Rohypnol has been implicated in many high-profile sexual assault cases, and toxicology reports often play a critical role in the prosecution of these crimes.

In terms of law enforcement, combating drug-related crimes requires a multifaceted approach. It is not just about addressing the direct criminal actions but also tackling the root cause of addiction. Rehabilitation programs, regulations on the availability of certain substances, and addressing socio-economic factors that drive individuals toward drug use are necessary steps in reducing drug-related criminal activity (World Health Organization, 2016).

The prosecution of drug-related crimes often hinges on forensic evidence and the behavior caused by the drug in question. For cases involving sexual assault with substances like Rohypnol, toxicology reports are essential to establishing the presence of the drug in the victim's system, along with corroborative evidence linking the assailant to the crime.<sup>66</sup>

Thus, different types of drugs have varying effects on individuals and society. While some drive users to commit economic crimes to fund their addiction, others are used in the commission of violent and heinous acts. The legal framework must account for the complex relationship between drug use and criminal behavior, ensuring that addiction is treated as a significant factor in both the prevention and prosecution of crimes.

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<sup>65</sup> Hall, J., & Moore, C. (2008). Drug-facilitated sexual assault: The role of Rohypnol and other depressants. *Forensic Science International*, 168(1), 122-125.

<sup>66</sup> Sathyanarayana Rao, T. S., & Suresh Kumar, P. N. (2012). Drug-facilitated crimes: Need for forensic awareness. *Indian Journal of Psychiatry*, 54(3), 203-206.

# 3 PROSECUTION OF DRUG CASES

The prosecution of drug-related offenses in the Philippines involves a systematic approach to evidence gathering, analysis, and courtroom procedures. These cases often center on charges of possession, use, trafficking, and distribution of illegal drugs. The prosecution has the burden of proof, is responsible for forensic testing, keeping evidence integrity, and obligation to follow the procedural requirements in drug cases, including buy-bust operations and the chain of custody rules, to ensure the effective prosecution of drug-related crimes.

## BURDEN OF PROOF IN DRUG CASES

The prosecution bears the responsibility of proving beyond reasonable doubt that the accused committed the drug offense. In drug possession cases, the prosecution must establish that the accused was in actual possession of illegal drugs (*People v. Asignar*, G.R. No. 206593, November 10, 2015). This requires clear evidence showing the presence of illegal substances, the intent to possess, and knowledge of the drug's illegal nature (Republic Act No. 9165, 2002).

The elements of the crime of drug use and possession under Philippine law, specifically Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002), are as follows:

The elements of the crime of **Drug Use** (Section 15) are:

(1) The accused knowingly and willfully used or consumed dangerous drugs; and (2) Proof of drug intake through forensic testing (urine, blood, or hair). Courts have consistently upheld the use of such tests in convicting offenders.

In *Office of the Court Administrator vs. Salazar*,<sup>67</sup> despite the inadmissibility of drugs obtained from a search warrant and the results of the confirmatory test on the respondent, the Court found sufficient evidence to hold the respondent administratively liable. The respondent's admission of drug use, alongside the positive confirmatory test result, provided substantial evidence for the claim that the respondent was a drug user. The admission, being testimonial and not related to physical evidence, was validly admitted in the administrative proceedings, as it was not excluded by the trial court's decision to quash the search warrant.

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<sup>67</sup> A.M. No. 15-05-136-RTC, December 04, 2018.



In another case, the appeal of Leonardo Yanson, convicted of transporting prohibited drugs, was upheld. The Court ruled that the warrantless search and seizure was invalid, as the tip alone did not establish probable cause. Without admissible evidence, including the drugs, the prosecution failed to prove the accused's knowledge of the drugs. Consequently, Yanson and his co-accused, Jaime Sison and Rosalie Bautista, were acquitted.<sup>68</sup>

The elements of **Drug Possession** (Section 11):

For a successful prosecution for illegal possession of dangerous drugs, the following elements must be established: (1) the accused is in possession of an item or object identified to be a prohibited or a regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed said drug.<sup>69</sup>

### **MALUM PROHIBITA**

This crime is *mala prohibita*, as such, criminal intent is not an essential element. The prosecution, however, must prove that the accused had the intent to possess (*animus possidendi*). Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession or control of the accused. Constructive possession, on the other hand, exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found. Exclusive possession or control is not necessary. The accused cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located, is shared with another.<sup>70</sup>

In possession of illicit drugs cases, ownership is inconsequential. Mere possession of the illicit drugs is *malum prohibitum* and the burden of proof is upon the accused to prove that they have a permit or clearance to possess the prohibited drugs.<sup>71</sup> The burden then is shifter to the accused to prove absence of *animus possidendi*.

### **POSSESSION WITHOUT LEGAL AUTHORITY**

Once possession is established, the next element requires that it be unauthorized. Individuals are not legally allowed to possess dangerous drugs unless they fall under the limited exceptions provided by law, such as possessing drugs for medical use with proper authorization. The

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<sup>68</sup> People of the Philippines v. Yanson, et al.no, G.R. No. 238453, July 31, 2019.

<sup>69</sup> People v. Conception, 414 Phil. 247, 255 (2001).

<sup>70</sup> People v. Tira, 474 Phil. 152, 173-174 (2004).

<sup>71</sup> Arcilla v. Court of Appeals, 463 Phil. 914, 926 (2003).

burden of proving that the possession of the dangerous drugs was with legal authority is on the part of the accused.

## **KNOWLEDGE AND INTENTIONAL POSSESSION**

Perhaps the most critical element in drug possession cases is proving that the accused knowingly and intentionally possessed the illegal substance. The Supreme Court has consistently held that knowledge and intent are necessary for a conviction. Despite the offense of illegal possession of dangerous drugs being *malum prohibitum*, "[t]his, however, does not lessen the prosecution's burden because it is still required to show that the prohibited act was intentional."<sup>72</sup>

In cases involving the illegal possession of dangerous drugs, "the prosecution is not excused from proving that possession of the prohibited act was done 'freely and consciously,' which is an essential element of the crime."<sup>73</sup> Hence, a critical element of the crime of illegal possession of dangerous drugs is the element of intent to possess or *animus possidendi*. The Court has held that in criminal cases involving prohibited drugs, there can be no conviction unless the prosecution shows that the accused knowingly, freely, intentionally, and consciously possessed the prohibited articles in his person, or that *animus possidendi* is shown to be present together with his possession or control of such article.<sup>74</sup>

Stated differently, the concept of possession contemplated under Section 11 of R.A. No. 9165 goes beyond mere actual and physical possession of the drug specimen. Otherwise, an unsuspecting person who is victimized by the planting of evidence will be unjustly prosecuted based on the sheer fact that illegal drugs were found to be in his possession. It must be proven that the person in whose possession the drug specimen was found knew that he/she was possessing illegal drugs. Therefore, to prosecute an accused for illegally possessing illegal drugs, it is not enough to show that the accused knowingly and intentionally possessed the bag or or receptacle that contained illegal drugs. The prosecution must go beyond and provide evidence that the accused knowingly, freely, consciously, and intentionally possessed illegal drugs in the bag receptacle that contained illegal drugs. The prosecution must go beyond and provide evidence that the accused knowingly, freely, consciously, and intentionally possessed illegal drugs.<sup>75</sup>

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<sup>72</sup> *People v. Lacerna*, G.R. No. 109250, September 5, 1997, 278 SCRA, 561, 581.

<sup>73</sup> *Id.*

<sup>74</sup> *People v. Peñaflorida, Jr.*, G.R. No. 175604, April 10, 2008, 551 SCRA 111, 126.

<sup>75</sup> *Luna v. People of the Philippines*, G.R. No. 231902, June 30, 2021.

## THE BUY-BUST OPERATION PROCEDURE

A buy-bust operation is a highly effective law enforcement strategy for catching drug offenders in the act of selling illegal drugs. It is a common method used in drug-related cases, and its procedures are guided by the Comprehensive Dangerous Drugs Act of 2002 (Republic Act No. 9165).

The process begins with **pre-operation planning**, where law enforcement officers prepare and document the operation. This stage includes selecting a target, organizing the buy-bust team, and marking the buy-bust money to ensure it can later be identified as evidence.

The next stage involves the **transaction** itself. An undercover operative, posing as a buyer, engages in a transaction with the suspect. The law requires that the drug transaction be witnessed by two non-participating witnesses, usually including a media representative and a member of the local Barangay. These witnesses are critical for maintaining the integrity of the process, and their presence ensures that any potential issues regarding the legality of the arrest or the evidence can be resolved later in court. This requirement was reinforced in *Tan v. People* (G.R. No. 232611, April 26, 2021), where the absence of required witnesses during the buy-bust led to questions of evidence credibility.

Immediately after the transaction, officers seize the drugs and arrest the suspect. The seizure and arrest must be done quickly, leaving no room for tampering or loss of evidence. Following the arrest, the confiscated drugs and marked money are photographed, inventoried, and subjected to chain-of-custody procedures as required by law. The Supreme Court, in *People v. Almayda and Quiogue*, (G.R. No. 227706 June 14, 2023), stressed the importance of properly marking the confiscated drugs to establish their integrity as evidence.

In buy-bust operations, the key pieces of evidence include the marked money, which links the accused to the transaction, and the drugs, which must be accounted for through an unbroken chain of custody from the time of seizure to their presentation in court. The testimony of the undercover officer is also crucial, as it establishes the direct link between the suspect and the illegal sale of drugs. The Supreme Court has consistently upheld convictions based on the testimonies of credible witnesses, provided the chain of custody is properly followed. The chain of custody refers to the documented process that tracks the movement and handling of the seized drugs from the time of confiscation to their presentation in court. This ensures that the drugs presented as evidence are the same as those seized during the operation. Under Section 21 of Republic Act No. 9165, the officer seizing the drugs must immediately inventory and photograph them in the presence of the accused, their counsel, and required witnesses (DOJ and Barangay representatives).

In *People of the Philippines v. Asaytuno, Jr. et al.* (G.R. No. 245972, December 02, 2019), the chain of custody was not strictly followed. There were no third-party witnesses present during apprehension, and the marking, inventory, and photographing of the seized drugs did not adhere to the legal requirements. The miniscule amount of drugs recovered also raised doubts about the veracity of the operation. The failure to establish an unbroken chain of custody was the key factor in the court's decision to acquit the accused.

In sum, buy-bust operations involve detailed planning and precise execution, with the integrity of the process depending on the proper documentation and preservation of evidence. The courts have repeatedly emphasized the need for adherence to procedural requirements, especially regarding the chain of custody and the role of witnesses. Failure to comply with these procedures risks the admissibility of the evidence, which can result in the acquittal of the accused, as demonstrated in several cases.

## **FORENSIC TESTING AND CHALLENGES IN EVIDENCE COLLECTION**

Forensic testing plays an essential role in determining drug use in criminal cases. Among the most common methods are urine, blood, and hair analysis, each with distinct advantages and challenges.

### **URINE TESTING**

Urine drug tests are the most common method used in the Philippines to detect the presence of illegal drugs, primarily due to their affordability and ease of administration. These tests are widely used by law enforcement agencies in drug-related cases, particularly under the mandates of Republic Act No. 9165, also known as the Comprehensive Dangerous Drugs Act of 2002.

### **METHODOLOGY AND EFFECTIVENESS**

Urine tests primarily detect drugs like methamphetamine (shabu) and marijuana, which remain detectable in urine for a short period after use. Urine tests can usually detect recent drug use within hours to several days, depending on the substance. For example, methamphetamine can be detected in urine up to 72 hours after consumption, while marijuana may stay detectable for up to 30 days depending on the frequency of use.<sup>76</sup>

While urine tests are effective for detecting recent drug use, they have limitations. They may not distinguish between one-time use and habitual

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<sup>76</sup> Capili, M. A. (2013). Forensic Testing in the Philippines: Challenges and Opportunities. *Philippine Journal of Forensic Medicine*, 2(3), 45-60.

use, as the detection window is brief. As noted by forensic experts, urine testing is a snapshot of drug use within a narrow time frame, and drugs that have been metabolized or are no longer in the system may go undetected.

### **CHALLENGES IN ACCURACY AND RELIABILITY**

Several factors may affect the accuracy of urine tests. False positives can occur due to the ingestion of certain over-the-counter medications or foods that trigger similar chemical reactions in the test. False negatives are also possible when the user consumes masking agents, which can obscure drug presence.<sup>77</sup>

Contamination and improper sample handling can also affect test results. Chain of custody is critical in ensuring that the urine sample is not tampered with or contaminated, and strict adherence to this process is necessary to uphold the credibility of the evidence in judicial proceedings. Failure to maintain a secure chain of custody can lead to the dismissal of drug-related charges, as courts place a high premium on the integrity of evidence.<sup>78</sup>

### **JUDICIAL STANDARDS AND CASE LAW**

In the case of *Gutang v. People* (G.R. No. 161375, 2004), the Supreme Court affirmed that urine tests, when properly administered and handled, are admissible as evidence of drug use. The court, however, reiterated the importance of ensuring that the accused's constitutional rights are upheld during the collection of such samples. Additionally, the results must be corroborated by other evidence to establish guilt beyond reasonable doubt.

Courts have also considered the admissibility of urine tests in administrative cases. In instances where a positive result is obtained from a urine test, and other corroborative evidence is presented, administrative liability can be imposed even when the evidence might not meet the threshold for criminal conviction (*Gutang v. People*, 2004).

Urine drug tests are a crucial tool in the prosecution of drug-related offenses in the Philippines. While effective in detecting recent drug use, their accuracy can be affected by factors such as contamination, improper handling, and physiological variations in drug metabolism. Given these limitations, urine tests must be used alongside other forensic evidence to build a reliable case. The courts, recognizing these challenges, place significant emphasis on maintaining the integrity of the testing process to ensure justice is properly administered.

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<sup>77</sup> Id.

<sup>78</sup> *People v. Manlangit*, G.R. No. 183062, Supreme Court of the Philippines (2012).

## BLOOD TESTING

Blood analysis is often considered the most reliable form of drug testing, as it provides real-time data about the presence of drugs in a person's system at the time of testing. It can identify the precise concentration of drugs and their metabolites in the bloodstream, offering strong evidence in cases of intoxication or impairment. However, blood tests have a narrow detection window, typically only identifying drug use within a few hours to a day, depending on the substance.<sup>79</sup>

In the Philippines, blood testing is a valuable tool for determining the presence of illegal drugs in a suspect's system, but it also presents several challenges. The invasive nature of blood tests requires either the consent of the accused or a valid court order, as mandated by the Constitution (Art. III, Section 12). Furthermore, delays in the collection of blood samples can lead to inaccuracies due to the body's natural metabolism of drugs. Forensic experts emphasize the importance of timely and proper handling of blood samples to preserve their integrity and ensure that results are admissible in court. Any delay or mishandling of evidence may weaken the prosecution's case, underscoring the need for strict adherence to procedures to maintain the credibility of drug testing results.

## HAIR TESTING

Hair analysis is a more advanced method that can detect long-term drug use, often up to 90 days or more after consumption. This test is particularly useful in establishing patterns of habitual drug use, making it valuable in cases where the prosecution seeks to prove ongoing involvement with illegal substances. However, hair testing has its own set of challenges, including higher costs and the potential for external contamination. According to Kintz (2007),<sup>80</sup> contamination from environmental sources (e.g., exposure to drugs in the air or on surfaces) can compromise the integrity of the test results. Proper handling and chain of custody procedures are therefore critical to ensuring the accuracy of hair test results.

Moreover, hair testing's ability to detect long-term use makes it particularly relevant in cases where the defense may argue that drug consumption occurred long before the offense.

## CHALLENGES IN EVIDENCE COLLECTION AND CHAIN OF CUSTODY

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<sup>79</sup> National Institute on Drug Abuse. (2017). Drug testing in criminal justice settings. National Institutes of Health.

<sup>80</sup> Kintz, P. (2007). Hair analysis in forensic toxicology: an overview. *Forensic Science International*, 165(2-3), 190-195.

Forensic testing in drug cases must also contend with issues related to evidence collection and the chain of custody, which ensures the integrity of the sample from collection to court presentation. Section 21 of Republic Act No. 9165 requires that drug samples be properly inventoried, photographed, and sealed in the presence of the accused or their representative, along with two witnesses, including a representative from the Department of Justice and a Barangay official.

In *People v. Relato*,<sup>81</sup> the Supreme Court emphasized that strict compliance with the chain of custody is essential to maintain the integrity of drug evidence. In this case, the court acquitted the accused after finding that the prosecution failed to follow the proper procedures for securing and documenting the seized drugs, casting doubt on their authenticity. This ruling highlights the importance of maintaining an unbroken chain of custody to prevent tampering or substitution of evidence.

Forensic testing is a critical tool in prosecuting drug cases, but its efficacy depends on the proper collection, handling, and analysis of samples. While urine, blood, and hair tests each have their strengths and weaknesses, the accuracy and reliability of the results can be influenced by a variety of factors, including timing, contamination, and compliance with legal procedures. Courts must carefully weigh these factors when considering forensic evidence, and the prosecution must ensure that all legal requirements, particularly the chain of custody, are strictly observed to secure a conviction.

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<sup>81</sup> G.R. No. 173794, January 18, 2012.

# 4 DEFENSE IN DRUG CASES

In defending drug cases in the Philippines, particularly those involving individuals struggling with addiction, various legal strategies and considerations come into play. Defense counsel may challenge the prosecution's evidence, argue for diminished responsibility due to addiction, or seek rehabilitation as an alternative to incarceration.

A successful defense in drug cases may involve questioning the reliability of the prosecution's evidence or demonstrating issues with the handling of the case.

## CHAIN OF CUSTODY ISSUES

A common defense strategy is to challenge the prosecution's evidence by highlighting any flaws in the chain of custody of the seized drugs. If the prosecution fails to prove that the drugs were handled and stored properly from the time of seizure to presentation in court, the evidence may be deemed inadmissible.

## QUESTIONING THE LEGALITY OF SEARCH AND SEIZURE

The defense may argue that the search and seizure were conducted without probable cause, an improper warrant, or procedural violations. For instance, in *People v. Relato*<sup>82</sup>, the Supreme Court held that the failure to comply with the mandatory procedures in the handling of seized items led to the dismissal of the case.

## CHALLENGING THE RELIABILITY OF FORENSIC TESTING

In cases where forensic tests like blood or urine analysis are used, the defense may question the accuracy of the results. Factors such as improper handling of samples, the timing of testing, or contamination may be raised to undermine the prosecution's case.

## ARGUING DIMINISHED RESPONSIBILITY

The defense in drug cases often argues that the accused's drug addiction contributed to diminished responsibility for their actions. Since drug dependency is viewed as a medical condition, it can impair an individual's ability to control their behavior.

This argument may serve as a basis for seeking a reduced penalty or an alternative form of sentencing, such as rehabilitation instead of

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<sup>82</sup> Id.



incarceration. In such cases, the defense may assert that the accused was under the influence of their addiction, which affected their capacity to make rational decisions and exercise self-control.

Drug addiction is recognized by the Philippine legal system as a mitigating factor in criminal liability, especially when the offender's drug use significantly influences their actions (Republic Act No. 9165). As such, addiction may be presented as a key argument for reducing the severity of penalties and promoting rehabilitation over punishment.

## **MEDICAL EVIDENCE OF ADDICTION**

In drug-related criminal cases, a thorough medical evaluation of the defendant, including testimony from addiction experts, plays a crucial role in establishing whether the individual was under the influence of drugs or suffering from withdrawal symptoms at the time of the offense. This defense can significantly impact the legal outcome, as it may present a basis for diminished responsibility or reduced penalties.

### **Medical Evaluation**

A medical evaluation conducted by a licensed healthcare professional, such as a physician or psychiatrist specializing in addiction medicine, can provide evidence regarding the defendant's drug use and its effects on their behavior. The evaluation typically includes the following aspects:

#### **Drug Dependency Assessment**

A medical professional assesses whether the defendant is suffering from drug addiction or dependence, which is classified as a medical condition. According to the World Health Organization (WHO), substance dependence involves compulsive drug-seeking behavior and continued use despite negative consequences. In the context of Philippine law, addiction is recognized as a mitigating factor under certain circumstances (Republic Act No. 9165, Section 15).

#### **Impact on Mental State**

Addiction or withdrawal symptoms can significantly impair an individual's cognitive functions, judgment, and decision-making abilities. A medical expert may testify that the defendant's actions were influenced by drug-induced states, such as intoxication or the effects of withdrawal. These conditions can lead to diminished capacity to understand the nature of their actions or control their behavior (Psychiatric Association of the Philippines, 2019).

#### **Withdrawal Symptoms**

Withdrawal from certain substances, particularly opioids or methamphetamines, can lead to severe symptoms such as agitation, confusion, paranoia, and even psychosis. An expert's testimony can be

instrumental in demonstrating that the defendant's actions may have been driven by these symptoms, which could hinder their ability to act rationally during the commission of the crime.

### **Legal Implications**

In the Philippines, addiction is not automatically considered a complete defense but may be used as a mitigating factor in the sentencing phase. Under Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002), the law acknowledges drug addiction as a serious public health issue and mandates that rehabilitation be prioritized over incarceration for certain offenders. This opens the door for the defense to argue that treatment, rather than punishment, is more appropriate for those suffering from addiction.

In cases where the defendant was under the influence or experiencing withdrawal symptoms at the time of the offense, their actions may not have been entirely voluntary. Legal doctrines such as diminished capacity or temporary insanity may be invoked. While these defenses are not a complete exemption from liability, they may reduce the severity of the charges or penalties, especially when medical evidence shows that the individual was unable to fully comprehend the nature of their actions due to their condition.

### **Expert Testimony**

Testimony from addiction specialists or psychiatrists is key in helping the court understand the medical and psychological context of the defendant's actions. Addiction experts can provide testimony regarding the physiological and psychological impacts of drug use or withdrawal and how it may have influenced the defendant's behavior.

In *People v. Pana* (G.R. No. 214444, November 17, 2020), the Supreme Court focused on the mental state of the accused in determining criminal liability, specifically in drug-related offenses. The Court emphasized that in order to secure a conviction for illegal drug possession, the prosecution must establish not only the fact of possession but also the intent and knowledge of the accused. In this case, the mental state or consciousness of the accused, particularly whether they were aware that they were in possession of illegal substances, was key to the Court's analysis.

The defense in this case argued that the accused lacked the requisite mental state due to the absence of proper knowledge of the drugs' nature. However, the Court held that despite the defense's claim, the evidence was sufficient to show that the accused had the mental state required for the commission of the crime. The Court ruled that the mere possession of dangerous drugs, accompanied by the circumstances

under which the drugs were found, established the necessary mental state for criminal liability.

The ruling reinforced the principle that mental state—specifically intent and knowledge—is a critical factor in the determination of criminal responsibility, particularly in drug cases under Philippine law. This case highlights how mental state assessments are integral to evaluating whether the accused had the necessary awareness to be held criminally liable for drug-related offenses. The decision further aligns with the broader understanding in Philippine criminal law that mental state is an essential element in proving criminal intent or *mens rea*.

Additionally, addiction experts may testify about the defendant's history of drug abuse, which could demonstrate a long-standing pattern of dependency. In cases where withdrawal symptoms were particularly severe, expert testimony could provide evidence that the defendant's actions were involuntary or erratic, given the physical and psychological distress caused by the withdrawal process.

### **Legal Framework**

The Comprehensive Dangerous Drugs Act (RA 9165) does not explicitly address drug addiction as a defense but encourages rehabilitation through its provision for the creation of rehabilitation centers and programs. In the context of criminal law, courts have discretion in determining the weight given to addiction as a factor in the case. The law recognizes that addiction is a medical condition, and rehabilitation rather than punitive measures is encouraged, especially for first-time offenders or those who are addicted as a result of psychological or social factors.

Thus, a medical evaluation coupled with expert testimony can provide the court with a comprehensive understanding of the defendant's state of mind at the time of the offense. In the context of drug cases, where addiction plays a significant role, the Philippine legal system allows for the possibility of reduced sentences or rehabilitation rather than incarceration. However, the defense of diminished responsibility based on drug addiction requires strong medical evidence and expert testimony to establish that the defendant's actions were directly influenced by their drug dependency or withdrawal symptoms.

### **Diminished Capacity Defense**

Under Philippine law, this defense is rooted in the concept that an individual's capacity to understand the consequences of their actions may be impaired due to drug addiction. This defense is more often applied in cases involving violent crimes or actions committed under the influence where addiction could affect the defendant's mental state and capacity for criminal intent.

## REHABILITATION & PLEA BARGAINING

The Comprehensive Dangerous Drugs Act of 2002 (Republic Act No. 9165) provides avenues for drug offenders to seek rehabilitation rather than face lengthy imprisonment. This includes the possibility of entering a plea agreement and undergoing rehabilitation.

### PLEA BARGAINING

Under Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002), plea bargaining is explicitly provided for in drug-related cases, particularly in instances involving drug possession and use. Section 23 of the Act allows a defendant to plead guilty to a lesser offense—such as the use or possession of illegal drugs—under the agreement that the defendant will undergo rehabilitation rather than face incarceration. This provision reflects the Philippine legal system’s approach to drug offenses, balancing criminal accountability with the opportunity for rehabilitation, particularly for first-time offenders or those with a clear history of addiction.

### Plea Bargaining Procedure

Plea bargaining under R.A. 9165 is a formal process where the defendant, through their legal counsel, may offer a guilty plea for a lesser charge in exchange for a reduction in the penalty or, in some cases, a sentence that focuses on rehabilitation. The court, however, must approve this arrangement, ensuring that the plea is made voluntarily and with full knowledge of the defendant’s legal rights.

### REHABILITATION

One key aspect of Section 23 of R.A. 9165 is the emphasis on rehabilitation. Courts are empowered to recommend rehabilitation as a substitute for imprisonment, reflecting the recognition that drug addiction is a medical condition. This approach aligns with the broader policy objectives of the law, which prioritize rehabilitation over punitive measures, especially for those whose drug use is influenced by dependency. If an individual pleads guilty to drug possession or use, the court may grant a sentence of imprisonment, but it can be reduced or converted to rehabilitation, provided the accused has shown willingness to undergo treatment. This is consistent with the goal of R.A. 9165 to treat addiction as a medical issue rather than solely a criminal one.

### Challenges and Considerations

While the plea bargaining process is beneficial for individuals with drug dependencies, it has also faced challenges in terms of consistency and proper implementation. Courts must carefully assess the circumstances of each case, ensuring that the defendant’s plea is not made under duress and that the rehabilitation process is properly monitored. Furthermore,

there are concerns that plea bargaining could be used to reduce sentences for individuals who may still pose a risk to society, particularly if they fail to comply with rehabilitation programs.

## **Conclusion**

Overall, R.A. 9165 provides a structured pathway for those involved in drug offenses, especially those with addiction issues, to seek rehabilitation over incarceration. The practice of plea bargaining under this Act reflects the dual focus of the Philippine legal system on addressing criminal behavior while providing opportunities for reform. As the courts have illustrated in multiple cases, successful rehabilitation can be a mitigating factor, giving hope for reintegration into society while reducing the burden on the prison system.

# 5 A JUST AND HUMANE APPROACH

The battle against illegal drugs is a significant issue for many nations, including the Philippines. Drug-related offenses have long been a matter of grave concern for both law enforcement and society as a whole. Drug offenders, particularly those involved in possession, trafficking, and addiction, are often met with severe punitive measures. However, the question arises: are such punitive measures the most effective in creating a just and humane society, or do they exacerbate societal issues and fail to address the root causes of addiction?

There is a need to balance punitive action against drug offenders with the rights and welfare of society. By drawing on examples from other countries and emphasizing the importance of education, rehabilitation, and restorative justice, a more holistic and effective approach can be achieved, ensuring both the safety of society and the fair treatment of drug offenders.

## THE NEED FOR PUNITIVE MEASURES

Drug abuse and trafficking undoubtedly harm society. Addiction leads individuals to engage in criminal activities, such as theft and robbery, to support their habits, placing a financial burden on society.<sup>83</sup> Additionally, drug trafficking fuels organized crime, destabilizes communities, and contributes to violence.<sup>84</sup> Therefore, punitive actions—such as incarceration—serve as a deterrent, holding individuals accountable for their illegal actions and protecting the public from the harms associated with drug abuse and trafficking.

However, while punishment is necessary to maintain order and public safety, an excessive focus on punitive measures can lead to unjust outcomes. The Philippine legal system, for example, has historically favored severe sentences for drug-related offenses. Republic Act No. 9165 imposes stringent penalties, including life imprisonment, for certain drug-related offenses. While this may be necessary to protect society, such heavy sentences often fail to address the underlying causes of drug addiction and can perpetuate a cycle of crime and poverty.

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<sup>83</sup> Capili, R. A. (2013). The role of law enforcement in combatting illegal drug trade in the Philippines. *Philippine Journal of Criminal Justice*, 45(2), 123-135.

<sup>84</sup> United Nations Office on Drugs and Crime. (2020). *Global report on trafficking in persons*. United Nations.

## ADDRESSING THE ROOT CAUSES

An effective strategy to combat drug abuse must address the root causes of addiction. Drug addiction is a medical condition that affects the brain and behavior. In many cases, individuals become addicted to drugs due to socio-economic hardships, trauma, mental health issues, and other factors.<sup>85</sup> Thus, treating drug addiction as a health issue rather than solely as a criminal one is essential for a more just and humane approach.

Rehabilitation appears to be a more effective long-term solution to drug addiction than punitive measures. Programs that focus on drug rehabilitation, rather than simply incarcerating offenders, have shown success in several countries. In Portugal, for instance, the government decriminalized the possession of small amounts of drugs in 2001 and implemented a robust rehabilitation and harm-reduction strategy.<sup>86</sup> As a result, drug-related deaths, HIV infections, and incarceration rates have decreased significantly, while addiction treatment programs have flourished. A similar model in the Philippines could help reduce the burden on the justice system and offer a more compassionate response to those struggling with addiction.

Furthermore, the Philippine justice system already provides the possibility of plea bargaining and the recommendation for rehabilitation under Section 23 of Republic Act No. 9165. Through plea bargaining, offenders can seek rehabilitation instead of incarceration, particularly if they are first-time offenders or those whose crimes were influenced by addiction. This shift in focus can promote rehabilitation over punishment, allowing offenders the opportunity to reform and reintegrate into society.

## THE ROLE OF EDUCATION IN PREVENTION

To prevent drug abuse in the first place, it is essential to focus on values education and prevention programs at an early age. Educating children and young adults about the dangers of drugs, promoting healthy coping mechanisms, and encouraging positive decision-making can prevent drug addiction before it starts. Schools, community programs, and even family structures play a crucial role in shaping the attitudes and behaviors of young people.

Countries such as Sweden have implemented comprehensive school-based prevention programs that focus on educating young people about

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<sup>85</sup> United Nations Office on Drugs and Crime. (2021). World drug report 2021. United Nations.

<sup>86</sup> Hughes, C. E., & Stevens, A. (2010). What can we learn from the Portuguese decriminalization of illicit drugs? *British Journal of Criminology*, 50(6), 999-1022.

the dangers of drug use and building resilience to peer pressure.<sup>87</sup> (Palme, 2014). These programs have helped reduce drug abuse rates among young people in Sweden and serve as a model for other nations. In the Philippines, integrating values education and drug prevention programs into the school curriculum, alongside mental health support, could provide long-term solutions to the drug crisis, reducing the likelihood of addiction and its associated harms.

## **RESTORATIVE JUSTICE: A HOLISTIC APPROACH**

While punitive measures are necessary for some cases, it is crucial to incorporate restorative justice practices into the legal system. Restorative justice seeks to repair harm caused by criminal behavior by focusing on the needs of victims, the community, and the offender. This approach emphasizes accountability, empathy, and community involvement.

For example, community-based drug rehabilitation programs can incorporate restorative justice elements by allowing offenders to make amends to the community through community service or participation in rehabilitation efforts. Additionally, engaging victims of drug-related crimes in the justice process through victim-offender dialogues can promote healing and rehabilitation, rather than simply focusing on punishment.

## **Conclusion**

Balancing punitive actions against drug offenders with the needs of society requires a multifaceted approach that prioritizes both justice and compassion. While punishment remains an important tool for deterring crime and protecting the public, it must be complemented by rehabilitation programs, values education, and restorative justice practices. Drawing inspiration from successful models in other countries and integrating prevention programs in schools, the Philippine government can create a more just and humane society that addresses both the needs of drug offenders and the welfare of the wider community.

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<sup>87</sup> Palme, M. (2014). The Swedish approach to drug abuse prevention: Lessons for other countries. *Scandinavian Journal of Public Health*, 42(4), 342-348.



# About the author

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He is developing the Philippine Law and Practice website ([quantumlaw.info](http://quantumlaw.info)) to serve the needs of law students, BAR candidates, legal practitioners, and the general public. James' work focuses on ethical practice and legal accountability.