



Expat Counsel

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CRIMINAL LAW IN THAILAND

Part LXXX: Drugs — penalties and rehabilitation

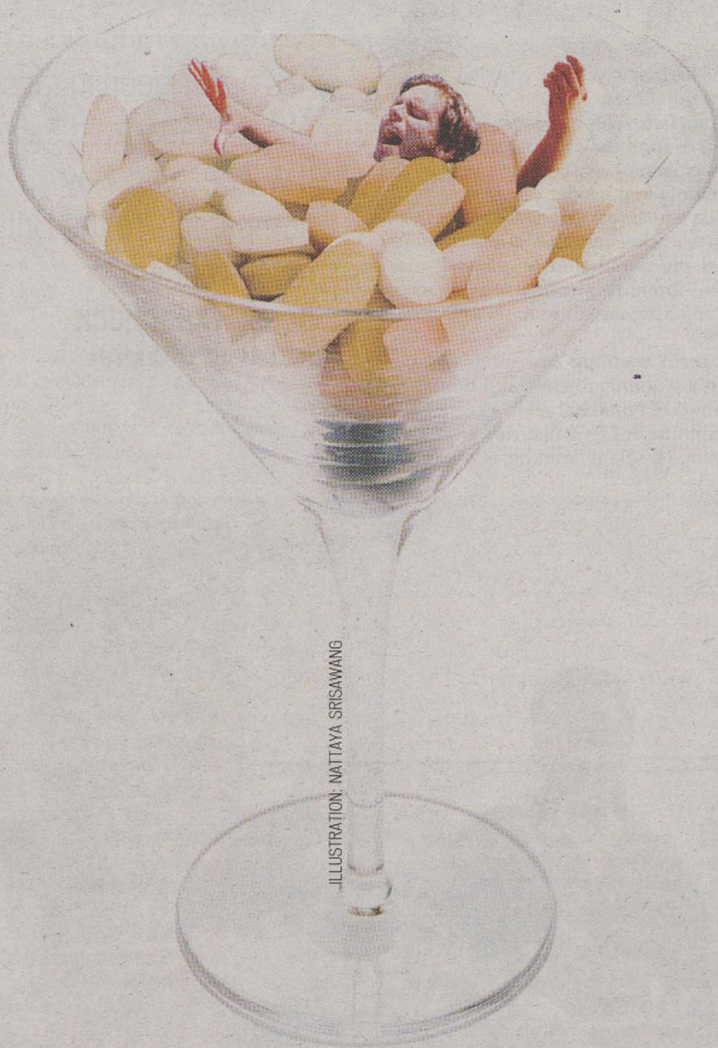


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This time we're going to discuss the penalties that go with drug offences. As discussed in earlier columns, the most serious penalties are attached to drugs in Category I of the Narcotics Act. These include heroin, methamphetamine, ecstasy and LSD.

Generally speaking, these are drugs taken for pleasure that have little medicinal use and have a high risk of adverse medical side effects, such as addiction, overdose and psychotic reactions.

(Since some readers have asked, cocaine is a Category II drug.)

The minimum penalty for possession of a Category I drug in a small quantity for personal use is a prison term of one to 10 years, or a fine of 20,000 to 200,000 baht — or both.

Let's say, then, that you're stopped on the road for speeding.

You're acting funny and are arrested and taken to the police station. There you are lawfully searched, because the police can legally search someone who has been arrested at a police station. They find an envelope in your pocket with some methamphetamine pills or powder (often called ice) in it.

There isn't much, just enough to get you high for a few hours. There's no evidence that you intended to sell it.

If you're convicted of possession of this small amount of the drug the judge has pretty wide discretion. The judge could decide only to fine you the minimum amount, 20,000 baht. Or he or she could decide on a larger amount, up to the maximum of 200,000 baht.

Likewise, the judge could decide on a prison sentence of one to 10 years. The judge could also decide on a fine and a jail term.

How do judges decide on an appropriate sentence?

As I've said, they have wide discretion. There are a few provisions in the law that give them guidance.

For example, Section 100/1 of the act provides that a judge may inflict both the specified fine and a prison term. Section

100/1 also provides that if the circumstances warrant, the judge can impose a sentence of less than the minimum set forth in the law.

Section 100/2 states the judge may impose less than the minimum sentence if the convicted party has provided informa-

tion to officials important for the suppression of narcotics offences.

Both the Narcotics Act and the 2002 Narcotics Addict Rehabilitation Act, make provisions for the treatment of addicts. Under Sections 19, 22, and 33 of the Rehabilitation Act, a judge can send an

addict to treatment. If the addict successfully completes the programme, prosecution for minor narcotics offences prior to the programme, such as possession of small amounts, may be waived. Section 94 of the Narcotics Act provides that an addict may voluntarily apply for treatment before he or she is discovered as an offender or arrested for narcotics violations and, if the treatment is successful, avoid later prosecution for offences committed before the programme.

Section 98 of the Narcotics Act also requires mandatory treatment for Category I offenders who have been convicted more than twice.

What about disposal of Category I drugs? You'll recall from recent columns that disposal means sale, distribution, exchange or gift.

Let's look at an example. You're at a party. You have the same amount of ice you had in the previous example — just enough for a couple of doses. You meet an attractive woman and start talking to her. At some point you pull out a pipe and you both smoke a little of the ice.

Not a wise gift. She turns out to be a police informant and you are arrested for giving the drug to her. Now you've disposed of the drug.

The penalty is much stiffer than that mentioned above, even if the quantity of the drug with which you've been arrested is the same. It's a prison term of four to 15 years or a fine of 80,000 to 300,000 baht — or both.

Next time we'll further discuss penalties for drug offences. ■

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