Non-violent drug offenders are rarely given straight jail time; they are typically placed under community supervision. This puts probation and parole departments on the front lines of the struggle to reduce drug dependence, but caseloads are large and supervision and drug treatment resource are scarce. In this testimony, I describe findings of Hawaii’s experiment with a structured testing-and-sanctions model (Hawaii’s Opportunity Probation with Enforcement, known as HOPE) that has dramatically improved probationer compliance without draining department resources.

The Motivation for Programs such as HOPE

Referrals from the criminal justice system (CJS) account for 36% of substance abuse treatment admissions nationwide (SAMHSA, 2006). That proportion is growing with the expansion of drug diversion programs and drug courts. However, diversion programs and probation have a poor record of securing continuation in treatment; both the national TASC program and California’s Proposition 36, the largest single diversion program, have treatment-completion rates of approximately 25%. Compliance under Proposition 36 is so poor that support among treatment providers for a change in the program to allow the use of short jail stays to motivate treatment compliance has grown to 80.1% (Hawken and Poe, 2008).¹

Most jurisdictions have a poor track record for supervising drug-involved probationers. Rather than consistently sanctioning probation violations, such as failure to adhere to conditions on illegal drug use and treatment attendance, the system tends to allow repeated violations to go unpunished and when punishments are meted out, they tend to be lengthy (and costly) jail or prison terms. Inconsistent punishment and long delays between the violation and the delivery of the sanction add to the inability to effectively change probationer behavior and sends a message to probationers that probation compliance is not a priority.

Most systems make poor use of available treatment resources. Previous studies have shown that CJS-referred clients have outcomes comparable to those of self-referred clients.

¹ Data are from the 2007 UCLA Provider Survey. The providers (n=87) constitute a representative sample of California treatment providers who serve Proposition 36 clients.
controlling for addiction severity at treatment entry, but rates of treatment entry among CJS-referrals are often low as the treatment mandate is not enforced. CJS referrals also include many offenders without diagnosable substance abuse disorders, thus wasting scarce treatment capacity and displacing voluntary clients in greater need of care.

From a strategic perspective, many experts believe that a probation system that consistently enforces conditions of probation, but with milder sentences, would be more effective in inducing behavioral changes than the current much more haphazard system. Hawaii has been the innovating state in this regard, and its experience with HOPE provided an opportunity to study the effects of a swift and certain sanctioning program.

The Theoretical Underpinnings of HOPE

HOPE consistently and rapidly delivers a modest sanction in response to every violation of a condition of probation. Drug testing with swift and certain sanctions has a strong theoretical basis for promoting behavioral change. Testing and sanctions programs that follow these basic tenets (clearly articulated sanctions applied in a manner that is certain, swift, consistent, and parsimonious) are research based:

A clearly defined behavioral contract
Probationers should be informed about the conditions for compliance with the terms of their probation and consequences for each violation should be carefully explained (Taxman, 1999). A clearly defined behavioral contract has been shown to enhance perceptions of the certainty of punishment which improves compliance (Grasmack & Bryjak, 1980; Paternoster, 1989; Nichols and Ross, 1990; Taxman, 1999).

Consistency
Agents in the criminal justice system and treatment providers need to enforce the stated rules (Harrell and Smith, 1996). The consistent application of a behavioral contract has been shown to improve compliance (Paternoster et al., 1997) and enhance perceptions of fairness (Taxman, 1999).

Swift delivery
Sanctions should be delivered in a timely fashion (Taxman, 1999). A swift response to infractions improves the perception that the sanction is fair (Rhine, 1993). The immediacy, or celerity, of a sanction is also vital for shaping behavior (Farabee, 2005).

Parsimony
Parsimonious use of punishment (i.e., the least amount of punishment necessary to bring about the desired behavior change) enhances the legitimacy of the sanction package and reduces the potential negative impacts of tougher sentences, such as long jail or prison stays (Tonry, 1996).

Results from the evaluation of HOPE
I was the principal investigator of two evaluations of HOPE, including a randomized controlled trial. These evaluations were conducted with support from the National Institute of Justice and the Smith Richardson Foundation and evaluation results were released in December, 2009. The formal evaluation of HOPE in the Integrated Community Sanctions probation unit began in June, 2007. This evaluation involved the retroactive analysis of administrative records and included a comparison group of similar probationers in the same unit. Two common criticism of this study were: 1. the study did not include an experimental design and 2. the probation officers in the Integrated Community Sanctions unit managed caseloads that were smaller (about 80:1) than caseloads typically supervised in other jurisdictions. To address the caseload concern, and to improve the rigor of the HOPE evaluation methodology, we launched a second study (a true randomized controlled trial) in the Adult Client Services unit where caseloads (about 170:1) could yield findings more-relevant to other jurisdictions. The randomized controlled trial was launched in October, 2007 and entailed a one year study of probationers assigned to one of two conditions: 1) HOPE or 2) Probation-as-usual. Evaluation findings show that HOPE probationers in both units have reduced drug use, no-shows for probation appointments, new arrests, probation revocations, and days incarcerated, compared with probationers assigned to probation-as-usual.

In the Integrated Community Sanctions Unit, the rate of positive drug testing by fell 93 percent for HOPE probationers during the first six months (from 53 percent to 4 percent), compared with 14 percent for comparison probationers (from 22 percent to 19 percent). Only 40 percent of HOPE probationers had any post-warning violation within the first year; of those who had one violation, only half had a second violation; of those with two violations, only half (10 percent of the total) a third or subsequent violation. Thus HOPE identified a small minority of probationers who did not desist from drug use under sanctions pressure alone. I refer to this as the “behavioral triage” function of HOPE—the program identifies those most in need of treatment by documenting their actual conduct rather than relying on assessment tools (see Hawken, 2010). Similarly, we found large significant reductions in no-shows for probation appoints for probationers assigned to HOPE, but no meaningful improvement for the offenders in the comparison group.

From a cost perspective, the most meaningful finding is the large differences in revocation rates between HOPE and comparison offenders. Probationers assigned to HOPE were revoked only one-third as often as offenders assigned to the comparison group. We found large significant differences in the average number of prison-days sentenced (an average of 303 days for comparison probationers compared with 112 days for HOPE probationers). This translates into large savings on incarceration costs.

The randomized controlled trial of HOPE was implemented in the Adult Client Services unit and used an intent-to-treat design, i.e., all offenders assigned to the HOPE condition were included in the HOPE group, even if they failed to appear for their warning hearing to formally enter the program. This distinction had important implications for our study, as 30 percent of the offenders who had their probation revoked and were sentenced to an open term under HOPE had never appeared for a warning hearing. The results of the RCT are summarized in Table 1. There were large reductions in missed appointments, positive drug tests, recidivism, revocation and incarceration days.
Table 1. Summary of RCT Findings

<table>
<thead>
<tr>
<th>Outcome</th>
<th>HOPE</th>
<th>Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>No-shows for probation appointments (average of appointments per probationer)*</td>
<td>9%</td>
<td>23%</td>
</tr>
<tr>
<td>Positive urine tests (average of tests per probationer)**</td>
<td>13%</td>
<td>46%</td>
</tr>
<tr>
<td>New arrest rate (probationers rearrested)</td>
<td>21%</td>
<td>47%</td>
</tr>
<tr>
<td>Revocation rate (probationers revoked)</td>
<td>7%***</td>
<td>15%</td>
</tr>
<tr>
<td>Incarceration (days sentenced)</td>
<td>138 days</td>
<td>267 days</td>
</tr>
</tbody>
</table>

*The no-show results are calculated as follows: The percentage of missed appointments is calculated for each offender. The average of these percentages is reported in Table A2. This approach gives equal weight to each offender, irrespective of how many appointments were scheduled for that probationer. An alternative measure calculates the total number of missed appointments divided by the total number of appointments. Using this approach, the frequency of missed appointments was 5 percent for HOPE probationers and 18 percent for control probationers.

**Positive urinalyses results are calculated as follows: The percentage of positive urinalyses tests is calculated for each offender. The average of these percentages is reported in Table A2. This approach gives equal weight to each offender, irrespective of how many tests that probationer is subjected to. An alternative measure calculates the total number of positive urinalyses divided by the total number of tests. Using this approach the frequency of positive urinalyses was 9 percent for HOPE probationers and 41 percent for control probationers.

***Thirty percent of the HOPE probationers who had their probation revoked had never appeared for their HOPE warning hearings. The revocation rate among those who appeared for a warning hearing was 5 percent.

An analysis of disaggregated data showed outcomes were robust across judges and across probation officers (similar outcomes regardless of their perceptions of the program). In our Process Evaluation of HOPE, we found that judges consistently sanctioned probationers in response to probation violations, but that the severity of the sanction was uneven. As offender outcomes were close to equivalent across judges, judges who issued longer sentences were unnecessarily adding to incarceration costs.

Our evaluation included surveys of key staff involved with implementing HOPE, and the HOPE probationers themselves. Surveys of key criminal justice agents found positive general perceptions of HOPE, with the highest levels of satisfaction reported by judges and probation officers (see Figure 1). Prosecutors were the most critical of HOPE, with close to 20% reporting negative perceptions of the program. “Net-widening” was the primary concern raised by prosecutors; that is, under HOPE some more serious offenders who would otherwise be incarcerated are allowed to remain in the community. These concerns could be mitigated by establishing eligibility guidelines that would exclude certain probationers from entry into HOPE.

Four groups of probationers were surveyed (see Figure 2): in jail; in treatment; in community under supervision of the Specialized Unit; and in community under supervision of the General Probation Unit. Across supervision conditions, probationers reported positive general perceptions of HOPE.
Figure 1 Perceptions of HOPE among Criminal Justice Agents

Note: Data are from the 2008 HOPE Evaluation Stakeholder Surveys. Probation Officers (n=38); Judges (n=7); Prosecutors (n=12); Public Defenders (n=11); Court Staff (n=11).
COST

The feasibility of HOPE as an alternative to existing methods of community supervision, will depend in part on whether it adds to, or rather subtracts from, the total costs of operating the criminal justice and treatment system. We are not yet able to assign a final value to the cost savings under HOPE, but can speak to the direction of the finding. Savings from prison days avoided dominate the HOPE savings and more than offset the increase in supervision and treatment expenditures associated with the program. For Adult Client Services (high risk, but lower risk than offenders in ICS) we estimated a savings in incarceration costs of $4,140 per offender assigned to HOPE. For Integrated Community Sanctions (the higher-risk probationers) we estimated a savings in incarceration costs of $6,157 per offender assigned to HOPE. These estimates are based on the conservative assumption that offenders sent to prison serve 50% of their term.

HOPE for All?

Our findings show that not all probationers succeed on HOPE. We found that a minority of probationers (28 %) did not respond to the credible threat of sanctions and accumulated three or more violations (of any sort). These probationers have identified themselves as either a. not amenable to supervision in the community or b. better suited to closer judicial monitoring such as that provided by a drug court. As such, HOPE should be part of a continuum of supervision options available.
Since most heavy illicit drug users move in and out of criminal-justice supervision, success in reducing their drug use via HOPE-style probation supervision could drastically shrink both the drug markets and the fiscal and human costs of drug law enforcement. There is no doubt that what has been achieved with HOPE in Hawaii is exceptional. But it remains to be seen whether the HOPE effects will generalize to other jurisdictions. Programs such as HOPE require that judges, probation officers, police, corrections officials, and treatment providers cooperate towards a common goal. An important feature of the Hawaii experience was the strong leadership that motivated and coordinated the implementation of the program. If such leadership is lacking, the expected potential of a HOPE program may not be realized. A number of states are now considering implementing HOPE models and much will be learned as the number of jurisdictions and evaluations increase. Our evaluation in Hawaii leaves us cautiously optimistic. If the Hawaii findings hold in other jurisdictions, HOPE-like principles might make “community corrections” once again a credible alternative to incarceration, reducing the need to continue the trend of rising incarceration.
References


