

# HOPE: Theoretical Underpinnings and Evaluation Findings

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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 growing and supervision and drug treatment resource are scarce. In this testimony, I describe a structured testing-and-sanctions model in Hawaii (*H*awaii's *O*pportunity *P*robation with *E*nforcement, 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, 2008).<sup>1</sup>

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 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, controlling for addiction severity at treatment entry, but rates of treatment entry among CJS-

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<sup>1</sup> 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.

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 offers an opportunity to study the effects of a swift and certain sanctioning program.

## **Testing With Swift and Certain Sanctions - The Theory**

Sanctions here refer to a penalty imposed for non compliance. 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).

## ***How HOPE works***

Probationers are assigned to the HOPE program when their noncompliance has reached a level at which revocation is a live possibility. The process starts with a formal warning hearing, delivered by a judge in open court that continued violations of probation conditions will not be tolerated: that each violation will result in an immediate brief jail stay. For some probationers,

the central issue is appearing as ordered for meetings with the probation officer and for services such as drug treatment or anger-management training. For others, continued drug use is a problem. Each probationer is assigned a color-code at his or her warning hearing. The probationer is required to call the HOPE hotline each morning. The probationer must appear at the probation office that day for a drug test if his or her color is called. During their first two months in the HOPE program, probationers are randomly tested at least once a week. A failure to appear for testing leads to the immediate issuance of a bench warrant. Probationers with positive tests (or other infractions such as failing to appear) are brought before the judge (most will appear within 72 hours). A probationer found to have violated the terms of probation is immediately sentenced to a short jail stay (typically only a few days servable on the weekend if employed, but increasing with continued non-compliance). On release, the probationer resumes participation in HOPE and reports to his/her probation officer. Unlike a probation revocation, a modification order does not sever the probation relationship.

HOPE targets behavior change, by creating a strong and immediate relationship between probationers' actions and their outcomes. Facing consistent sanctions, over 60% of HOPE probationers are able to desist from drug use on their own. For those who need treatment services, probationers may request a treatment referral at any time, and probationers with multiple violations are mandated to intense substance abuse treatment services (often residential care). The court continues to supervise the probationer throughout their treatment experience, and consistently sanctions non-compliance with provider's treatment plans. Under HOPE, the probationer's observed behavior guides treatment decisions. As such, HOPE-like programs can be viewed as Behavioral Triage Models. Rationing treatment resources this way, allows for more-intensive service provision for those with demonstrated need.

### ***Preliminary results from the evaluation of HOPE***

Evaluations of HOPE, including a randomized controlled trial, are underway, with support from the National Institute of Justice and the Smith Richardson Foundation. Final evaluation results will be released in May, 2009. A formal evaluation of HOPE in the specialized probation unit began in June, 2007 and involves the retroactive analysis of administrative records and includes a comparison group of similar probationers in the same unit. A common criticism of this study was that probation officers in this unit managed caseloads that were smaller (about 100:1) 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 new study (a true randomized controlled trial) in the General Probation unit where caseloads (about 170:1) would yield findings more-relevant to other jurisdictions. The randomized controlled trial to evaluate HOPE for drug offenders in the General Probation unit was launched in October, 2007. Evaluation findings show that HOPE probationers in the Specialized Probation Unit and in the General Probation Unit have reduced drug use, no-shows for probation appointments, new arrests, and probation revocations compared with probationers assigned to probation-as-usual.

The Specialized Probation Unit has shown stark reductions in probationer no-shows and drug use.<sup>2</sup> For probationers with 6 months of exposure to HOPE, missed appointments fall 85%

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<sup>2</sup> Outcomes data are from the Research Division of the Hawaii Office of the Attorney General.

over baseline<sup>3</sup>, and positive urinalyses fall by 91%. Positive findings persist and continue to improve for those with longer exposure to HOPE (up to 42 month followup data is now available for the original cohort placed on HOPE). By contrast, the non-compliance rate in the comparison group was high. There was no improvement in drug use, and the percentage of missed appointments *increased* with time (increased 23%). Other key outcomes from the Specialized Probation Unit evaluation include significant differences in followup recidivism and probation revocations. The arrest rate for comparison probationers was three times higher than HOPE probationers, and there were large differences in revocation rates (31% v 9%). The differences in revocation rates across groups yield significant savings in incarceration costs.

Effect sizes in the General Probation Unit were large, but smaller than those observed in the Specialized Probation Unit. Our study is unable to assess how much of this difference is due to the more-intensive supervision offered in the Specialized Probation Unit, or to starting differences in probationers across the units. Probationers in the Specialized Probation Unit were higher risk offenders to begin with, and therefore had more room for improvement. Nonetheless, effect sizes for probationers in the General Probation Unit were still impressive (results are both statistically significant, and policy significant<sup>4</sup>). In the Generalized Probation Unit, probationers in the control group had one-month notice of when their routine scheduled drug test would be administered, while HOPE probationers were subject to regular random testing. Despite advance warning, probationers in the control group were more than twice as likely to test positive on drug tests as probationers assigned to the HOPE condition (26% v 11%). Probationers in the control group were more than twice as likely to miss appointments with their probation officers (12% v 5%). Significant differences in arrest rates were found across groups. The control group's total arrests were 34% higher than HOPE probationers. For non-technical violations the control groups arrest rates were 111% higher than HOPE probationers. An analysis of disaggregated data showed outcomes were robust across judges and across probation officers (similar outcomes regardless of their perceptions of the program). We found that all judges delivered a sanction in response to a violation, 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.

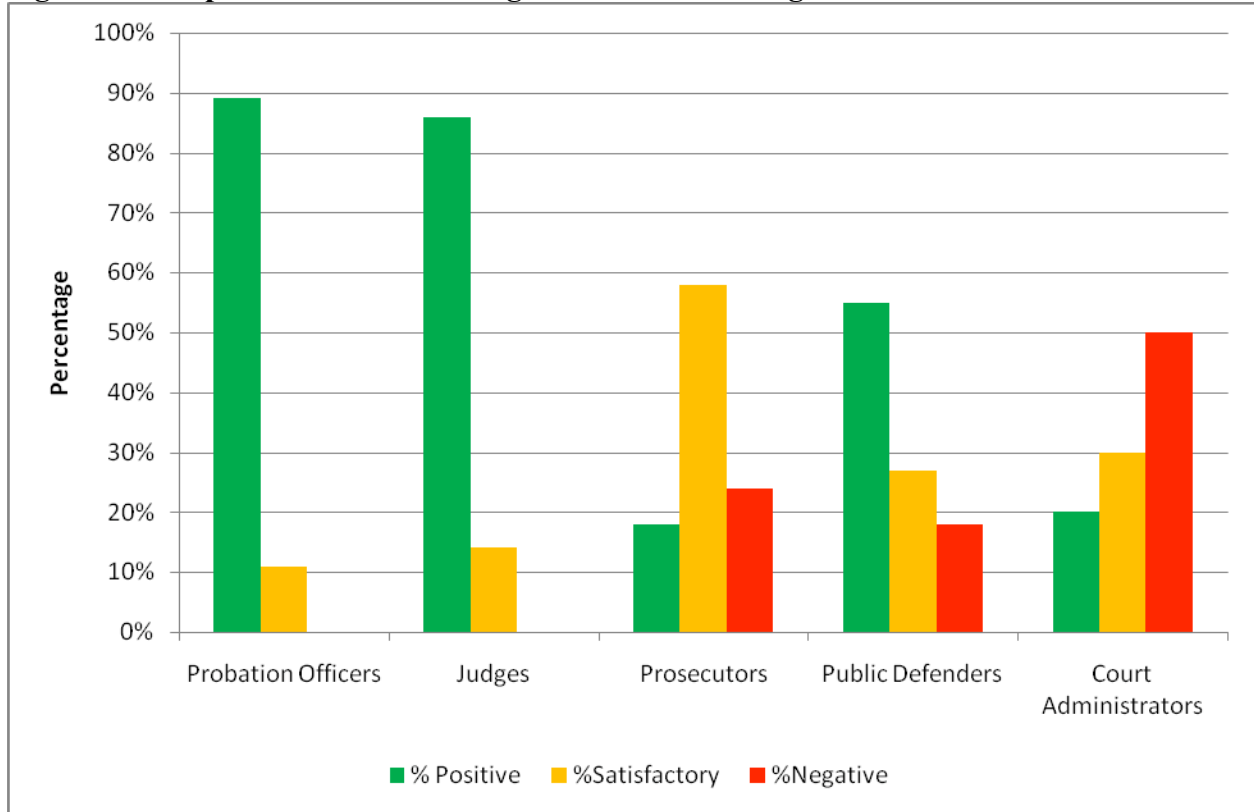
Our evaluation includes stakeholder and probationer surveys. Surveys of key criminal justice agents found positive general perceptions of HOPE, with the highest levels of satisfaction reported by judges and probation officers (see Figure 1). Four groups of probationers were surveyed (see Figure 2): in 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.

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<sup>3</sup> Baseline refers to the probationers observed outcomes for a three month follow-back period. For HOPE probationers this refers to the three month period prior to their entry into HOPE. For comparison offenders this refers to the three month period prior to their entry into the study group. For both groups (HOPE and Comparison), the study start dates (and follow back periods) are equivalent.

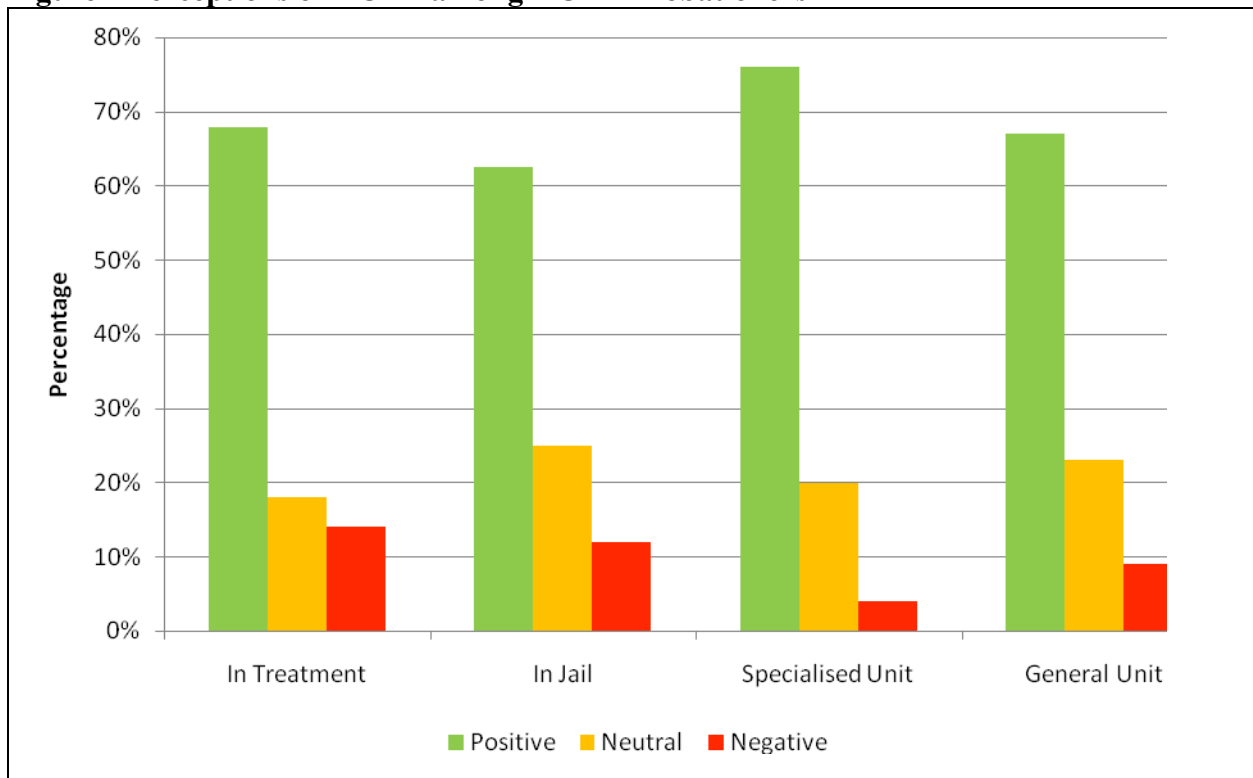
<sup>4</sup> The notion of statistical significance and policy significance are distinct. Findings can be statistically significant but underlying effect sizes may not be large enough for these differences to be of policy consequence. In the HOPE evaluation, effect sizes are both statistically significant and sufficiently large to be policy relevant.

**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 Administrators (n=11).

**Figure 2 Perceptions of HOPE among HOPE Probationers**



Note: Data are from the 2009 HOPE Probationer Surveys. Four groups of probationers were surveyed. A total of n=211 probationers were surveyed. In Treatment (n=28); In Jail (n=16); In community supervised by Specialized Probation Unit (n=50); In community supervised by General Probation Unit (n=117)

HOPE outcomes demonstrate that when the rules are clearly laid out and credibly enforced, behavior change is possible even among the highest-risk drug-involved probationers.

### ***HOPE for All?***

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. 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 strong leadership that motivated and coordinated the implementation of the program. If such leadership is lacking, the expected potential of a HOPE program will 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 these 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.

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