State of the Art of HOPE Probation

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I. Introduction to the HOPE Probation Strategy

Are you interested in preventing victimization and crime, helping offenders and their families, and saving taxpayers millions of dollars in prison costs? Now there is an answer: HOPE Probation.

HOPE Probation was conceived and established first in Honolulu as Hawaii's Opportunity Probation with Enforcement; however, the HOPE strategy is widely applicable to community corrections populations across the country. From its start in 2004, with research from the Hawaii Attorney General's Office showing dramatic reductions in positive drug tests and missed probation officer appointments, there has been considerable interest in the HOPE strategy across the country. Following the release of results in 2009 from a randomized control trial of Honolulu's HOPE Probation showing dramatically improved outcomes among HOPE probationers compared to offenders on standard probation,[1] new strategies based on HOPE began rapidly spreading across the United States. Additionally, many jurisdictions have sought assistance and guidance in establishing their own HOPE-like supervision strategies in various areas of community corrections (i.e., pretrial, parole, and juvenile justice agencies).

To-date there has not been a comprehensive description of the HOPE Probation strategy. This document meets that need. It defines the essential elements of the HOPE strategy and defines additional recommended, but not essential, elements that enhance HOPE and ensure its success. This report also describes in detail how the originating HOPE Probation strategy has evolved over 10 years of innovation and practice in Honolulu, Hawaii. The experience from Honolulu's HOPE Probation provides an example for how other jurisdictions implementing HOPE can adjust and adapt to changing needs and make improvements to their own HOPE strategy over time.

This report is written for a broad audience of criminal justice professionals including representatives from the judiciary, probation supervisors and officers, prosecutors, public defenders, defense attorneys, law enforcement (e.g., police, sheriffs, marshals), and substance abuse treatment providers – all of whom play important roles in the successful implementation of HOPE. It can also be a valuable resource for legislators and other policymakers who are considering changes to criminal justice systems.

How HOPE Probation Works

HOPE Probation is a strategy to effect positive behavioral change for those under court supervision. The premise is that clearly stated, easily understood rules are more readily followed by offenders when any rule violation quickly results in a brief stint in jail. Offenders who are willing to roll the dice with repeated violations of probation when the consequences are delayed and uncertain on probation-as-usual are far less likely to risk going to jail *today* even for a single violation as is the case when in HOPE Probation. The logic of HOPE Probation is that clear and easily understood rules are more readily followed by offenders.

[1] Hawken, A. & Kleiman, M. A. R. (2009). *Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii's HOPE.* Document No. 229023. Award No. 2007-IJ-CX-0033. Available: http://nicic.gov/Library/024156

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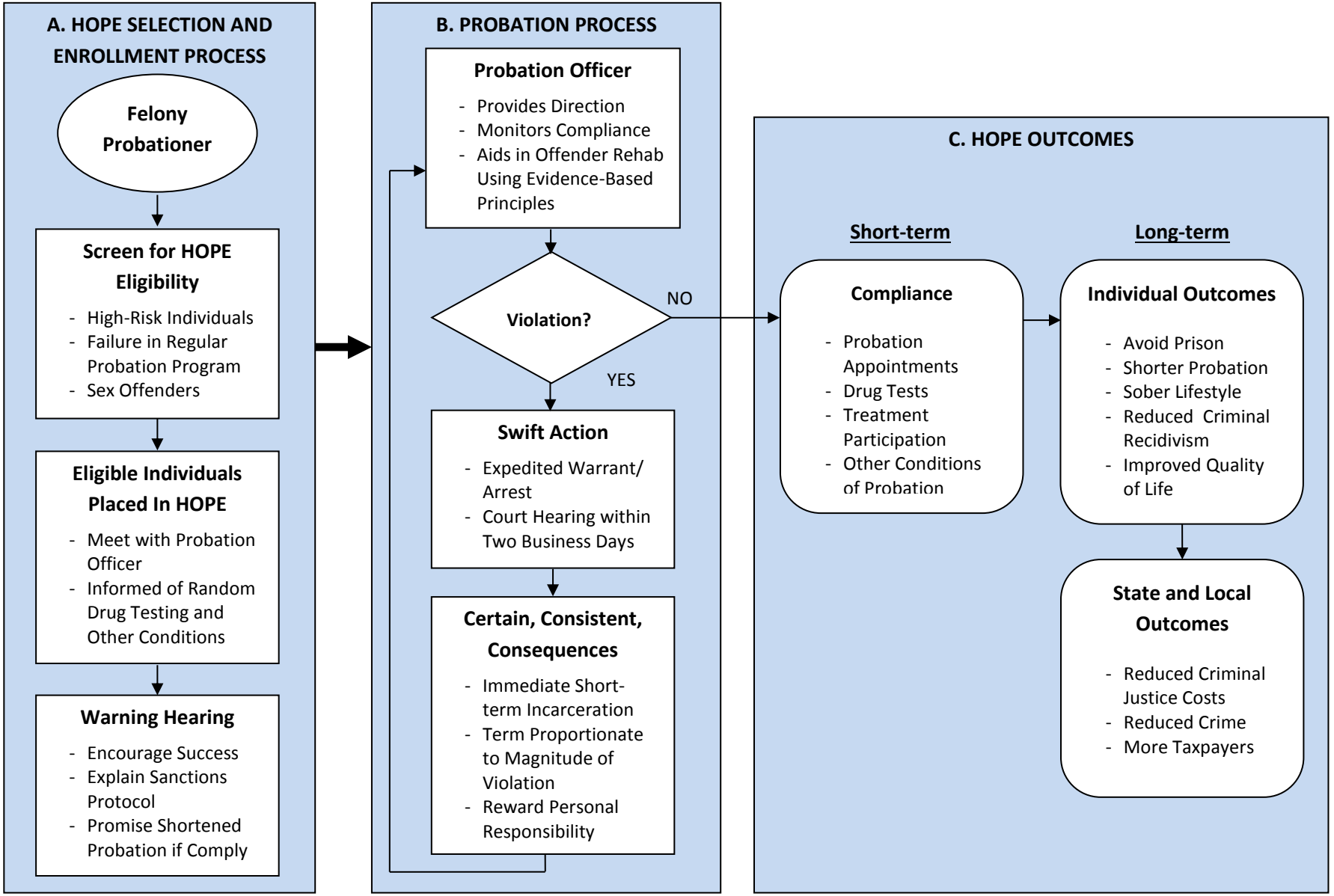
HOPE provides swift, certain, consistent, and proportionate consequences for misbehavior in an environment of caring support. That translates into a system that is seen as fair, both in perception and in reality, and that increases buy-in for those under supervision. HOPE is not meant to be a substitute for any other supervisory strategy (e.g., evidence-based principles for recidivism reduction) but rather complements those efforts and makes them work more effectively. HOPE markedly reduces drug use and increases compliance with the other conditions of community release.

HOPE Probation is not a diversion program. It does not remove offenders from community supervision. Unlike diversion programs that are typically aimed at non-violent, first-time offenders, HOPE Probation ideally targets higher risk, felony offenders (this is consistent with the risk principle of targeting those at higher risk of recidivating). This includes probationers with the most serious criminal histories, the worst substance abuse problems, those who have failed at regular probation, as well as those the system is committed to most closely monitoring, including sex offenders.

Often, new start-up correctional programs develop narrow admissions criteria that focuses on the lower-risk population or those who are most likely to succeed ("cherry picking") to ensure successful results. Research, however, has shown that supervision and treatment resources that are focused on lower-risk offenders tend to produce little, if any, net positive effect on recidivism rates. At the same time, research has also shown that focusing on the higher-risk offenders produces greater recidivism reductions. HOPE effectively targets resources and attention on the higher-risk population (those who are most likely to commit new crimes), thereby achieving a greater "bang-for-the-buck."

Figure 1. Logic Model for HOPE Probation depicts the principles and procedures under which HOPE Probation operates and is discussed in the following text.

Figure 1. Logic Model for HOPE Probation



A. HOPE Selection and Enrollment Process

HOPE Probation specifically targets higher risk felony probationers.

Probationers at risk for recidivism are identified through validated risk assessment tools (e.g., Level of Service Inventory-Revised [LSI-R]) to identify those with high levels of criminogenic risk factors in multiple areas, including criminal history, substance abuse, attitudes, personal companions, employment, and family and marital relationships. Other felony probationers have demonstrated that they are good candidates for HOPE by multiple failures in regular probation such as missed appointments, continued drug use, and violations of their conditions of probation. Often these individuals are just one violation away from being sent to prison for many years to serve their original sentence. Sex offenders in Honolulu are automatically placed into HOPE because the judiciary is committed to monitoring them as closely as possible.

HOPE Probation differs from probation-as-usual in several key ways. While HOPE is much more than just a sanctions strategy, it does include swift, certain, consistent, and proportionate sanctions for targeted violations of probation. First, frequent random drug testing is a condition of HOPE Probation (for those probationers with drug conditions), rather than the typical testing done only at the time of scheduled meetings with probation officers on standard probation. Second, in HOPE Probation, failure to abstain from drugs or failure to show up for random drug testing always results in a brief jail sanction, usually 2 to 15 days depending on the nature and severity of the offense. HOPE probationers are jailed briefly for violating other conditions of probation including not reporting to the probation officer as scheduled. Third, upon placement in HOPE at a Warning Hearing, probationers are encouraged to succeed, are fully informed of the length of the jail sanctions that will likely be imposed for each type of violation, and are assured of the certainty and speed with which the sanctions will be applied. Probationers (apart from sex offenders because their treatment will typically take longer) are told that if they can be compliant with the terms of their probation for two years without a violation, their probation can be terminated early. Fourth, jail sanctions for violations of probation are applied swiftly with certainty. For example, probationers testing positive for drugs and admitting drug use are jailed immediately and court hearings are held within two business days. Bench warrants are also issued and executed promptly when there is a failure to appear for a drug test.

An important part of the HOPE enrollment process is the Warning Hearing. The hearing is typically conducted for multiple probationers at the same time. This is done both to save court time and to send the important message that all probationers will be treated consistently and thus fairly. The hearing functions as an “induction ceremony” for HOPE probationers during which the judge explains their responsibilities for participating in HOPE, describes the likely sanctions that will be imposed for failure to live up to these responsibilities, and obtains probationers’ public affirmation that they understand these rules and conditions. Sanctions are applied consistently and impartially to ensure fairness for all. Offenders are told that everyone – the judge, the probation officers, probationers’ families and taxpayers – wants them to succeed in HOPE Probation and to remain in the community.

B. Probation Process

Probation officers (regardless of whether or not they are part of HOPE Probation) are responsible for two primary supervisory functions. The first primary function of probation officers is to be change agents. The probation officers use the probation process to provide direction and guidance to probationers to help them make positive changes in their lives and thus reduce their chances of criminal recidivism. Probation officers with training in areas including effective case planning, motivational interviewing, cognitive behavioral therapy, and evidence-based practices in recidivism reduction use these skills in combination with referrals to appropriate programs – drug treatment, mental health counseling, domestic violence classes, etc. – to help probationers improve their lives, their ways of thinking, and make better choices that result in improved outcomes.

To assist in this process, the second supervisory function of probation officers is to monitor probationers' compliance with the terms of their probation and takes corrective actions when there is non-compliance. The ultimate corrective action when there are egregious or repeated violations is to ask the court to revoke probation and send such offenders to prison.

Probation officers and judges working with HOPE probationers can use these skills and tools but they also have the additional tool of swift and certain jail sanctions for all violations. They use this additional tool as a powerful form of operant conditioning to shape positive behaviors and reinforce successful compliance with probation. When there is a violation of probation, including any drug use, action is initiated immediately to arrest or apprehend the probationer and hold a court hearing within two business days of arrest to address the transgression. The penalty is always some period of incarceration; however, the term is proportionate to the magnitude of the violation tempered by the degree to which the probationer takes responsibility for the violation. For example, probationers who test positive for drugs and admit use will be arrested immediately and serve a 2-day jail sentence; probationers who deny drug use after a positive test result will receive a 15-day jail sentence if subsequent analysis by a certified laboratory confirms the positive test result. Probationers who abscond and have to be arrested face a minimum 30-day sanction. Because these sentences are handed out in open court in the presence of other HOPE probationers, by highly visible example, they shape the behavior of others. They also make it clear that sanctions are being applied fairly and consistently to all offenders. The idea is to encourage probationers to make good choices so as to avoid sanctions and to accept responsibility for their bad decisions to avoid the longer sanctions.

Jail sanctions are not incrementally increased for each subsequent violation. For example, a failed drug test with admission of drug use will net a 2-day jail sentence the first time as well as the third time. Repeated failures of this sort over an extended period of time are interpreted by the probation officer and the judge as evidence that sanctions *alone* are not sufficient deterrents to drug use and that other interventions are needed *in addition to sanctions* to help the probationer overcome this problem. Requiring probationers to be evaluated and enrolled when advised to do so in substance abuse treatment and/or move out of housing where others are using drugs are examples of the types of additional interventions used in HOPE Probation. By relying on jail sanctions as the first action, HOPE Probation provides "behavioral triage," reserving the use of costly substance abuse treatment programs

and other intensive interventions such as drug court for offenders who either request such treatment or who demonstrate through their behavior, through repeated violations, that they require these more expensive programs to succeed.[2]

C. HOPE Outcomes

Effective implementation of the HOPE strategy produces a series of short-term and long-term positive outcomes for high-risk probationers that also result in positive outcomes for the state and local communities. The logic is that swift, certain, consistent and proportionate sanctions for violations of probation raise compliance so that more probationers keep appointments, participate in mandated drug and alcohol testing, and complete court-ordered treatment, education, and training programs. This allows probation officers to use all of their training in evidence-based principles (EBPs) to be change agents and work more effectively with the probationers. Success in these areas results in long-term positive outcomes for probationers such as prison avoidance, reduced probationary periods, sustained abstinence from alcohol and drugs, improved health, reduced criminal recidivism, greater employment and income, and ultimately an improved quality of life. Offenders who are willing to roll the dice with repeated violations of probation when the consequences are delayed and uncertain on probation-as-usual are far less likely to risk going to jail *today* even for a single violation as is the case when in HOPE Probation. The logic of HOPE Probation is that clear and easily understood rules are more readily followed by offenders.

State and local communities benefit from the changes produced by HOPE Probation through reduced crime, fewer costly imprisonments, reduced costs to the criminal justice system, and an increase in the number of working individuals who pay taxes. Crime victims also benefit since a common requirement for leaving probation is to complete payment of court-ordered restitution, which HOPE probationers can do more easily because they are more likely to remain drug-free and employed in the community.

In 2007, the National Institute of Justice (NIJ) and the Smith Richardson Foundation funded a gold standard randomized control trial evaluation of HOPE Probation conducted under the leadership of Angela Hawken, PhD and Mark A. R. Kleiman, PhD.[3] Among 493 felony offenders, two-thirds were randomly assigned to HOPE Probation and a control group of the remaining one third was assigned to probation-as-usual. As shown in **Figure 2.** Outcomes: HOPE Probation vs. Probation-As-Usual, compared to offenders on probation-as-usual, HOPE offenders at one-year follow-up were:

- 55% less likely to be arrested for a new crime;
- 72% less likely to test positive for illegal drugs;
- 61% less likely to skip appointments with their supervisory officer; and,
- 53% less likely to have their probation revoked.

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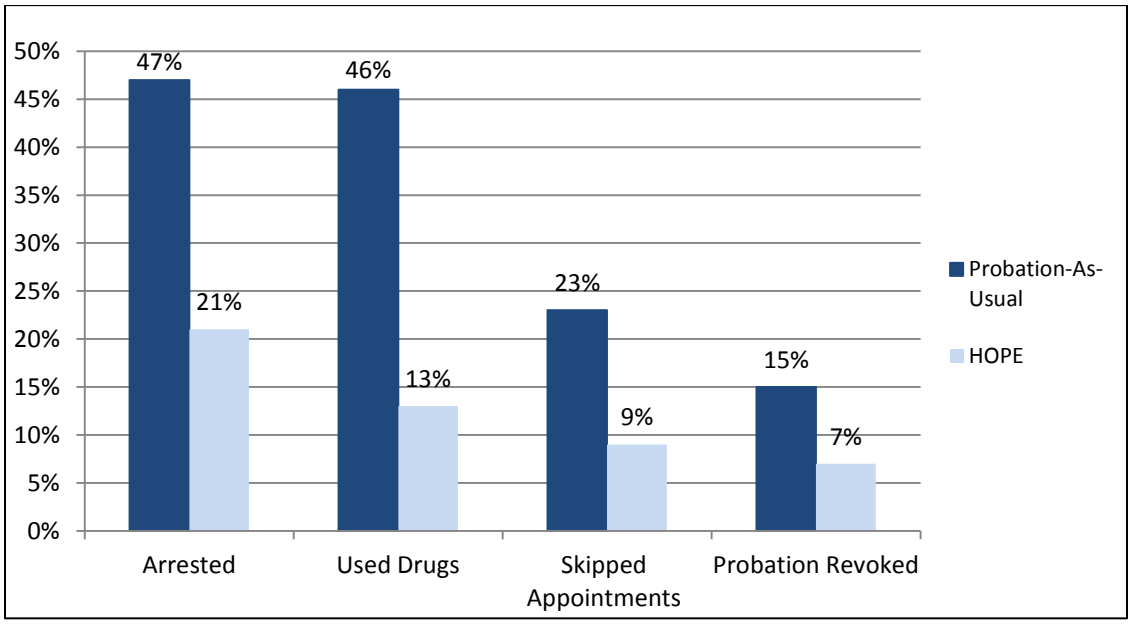
[2] Hawken, A. (2010). Behavioral triage: a new model for identifying and treating substance-abusing offenders. *Journal of Drug Policy Analysis, 3*(1), 1-5.

[3] Hawken, A. & Kleiman, M. A. R. (2009). *Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii's HOPE.* Document No. 229023. Award No. 2007-IJ-CX-0033. Available: http://nicic.gov/Library/024156

Figure 2. Outcomes: HOPE Probation vs. Probation-As-Usual



As a result, the HOPE probationers were significantly less likely to receive lengthy prison terms (an average of 112 days for the HOPE group compared with 303 days for the standard probation group). The evaluation found that HOPE was "jail-utilization neutral" in that HOPE probationers averaged 19 days in the county jail compared to 20 days for the comparison probationers, despite the fact that HOPE used jail as the universal initial sanction for every violation of probation. These findings indicate that it was the swift and certain use of jail sanctions, coupled with the efforts of the probation officers using the HOPE strategy, rather than the jail time itself, that helped HOPE probationers stay out of prison.

State of the Art of HOPE Probation

Although the current findings of HOPE Probation have provided compelling support for expansion of the HOPE strategy, as HOPE continues to spread across the country, additional randomized control trial evaluations in different settings are needed.

Many people working in community corrections who hear about HOPE Probation believe that it is more or less what they already are doing: drug testing with resulting consequences for violations of the various conditions of probation. This is incorrect. HOPE Probation is completely new and distinctive. HOPE Probation is simple in concept but not easy to achieve because its successful implementation requires many different parts of the justice system to work together in a coordinated way to produce better offender outcomes.

No two implementations of the HOPE strategy will be identical due to the needs, constraints, systems, and leadership in place in various jurisdictions; however, HOPE can be implemented with great success in probation, parole, pretrial, and even prison settings with a strong commitment to the core principles of HOPE. This report identifies the crucial elements of the HOPE strategy and how they fit into a comprehensive monitoring system. HOPE Probation changes processes within community corrections, making them work together more effectively in the interest of the offenders and of the community.

II. Elements of HOPE Probation

The following Essential Elements and Recommended Elements comprise HOPE Probation. This section helps practitioners seeking to establish a comprehensive HOPE strategy identify the steps required to initiate this criminal justice innovation. Over the last decade, HOPE Probation has evolved in Honolulu, Hawaii. That experience and many efforts to extend the HOPE strategy throughout the country are the basis for these Essential and Recommended Elements. In these Essential Elements and Recommended Elements when "probation" is used, it serves as a placeholder for other areas of community corrections (i.e., pretrial, parole, prison and juvenile justice agencies). Similarly, when "judge" is mentioned, it is equivalent to the relevant sanctioning authority (e.g., parole board, parole chair, or hearings officers).

Essential Elements of HOPE Probation

Essential Elements should be used as a guide for jurisdictions interested in adopting the HOPE Probation strategy. They serve as benchmarks to which other supervision strategies that aspire to HOPE can compare themselves. They are elements that any successful HOPE strategy should have. Though the specific details in which these elements are implemented differ from jurisdiction to jurisdiction, deviations from the core principles are a cause for concern as such differences may undermine a jurisdiction's chances of success. Active monitoring of conditions of community release is crucial, and imposition of brief incarceration is critical to the HOPE mission: swift, certain, consistent and proportionate consequences for every instance of probation violation that has been targeted with zero tolerance.

1. Shared Leadership

To make the HOPE strategy a success takes shared leadership. This leadership is needed in at least four areas. First, someone has to bring all of the criminal justice partners together. A judge is a natural for this, but a well-respected probation supervisor can play this role as well.

Second, the judge needs to show leadership, initially with his or her own staff. Implementing the HOPE strategy will cause more work for the staff, including more hearings; however, if the judge cares about doing something, his or her staff will care about it as well. The judge also needs to show leadership with the prosecution, the defense, law enforcement and the jail. All four groups are critical to the success of HOPE in any jurisdiction.

Third, the probation officer needs to provide leadership within the probation department. Doing HOPE right means responding swiftly to probation violations and preparing paperwork (but hopefully not having to appear for) for more hearings in court. Doing something new is hard. Deciding to try the HOPE strategy is not a criticism of current probation practice, but a recognition that things could be done better. There is no question that probation officers (like judges) will lose some discretion up front. In order for the sanctions to be consistent, the probation officers need to treat the probationers consistently. The loss of discretion, however, only refers to the initial decision to arrest or not arrest an individual. The probation officers will still have discretion regarding the recommended sanction for the

probationer, the appropriate case plan, which treatment program to which the probationer be referred if needed, etc.

In addition, as Honolulu and other jurisdictions have found, a benefit of HOPE is that the probation officer is no longer the "bad guy" who decides to revoke the offender's probation. The HOPE strategy requires an arrest every time and it is not a personal decision on the part of the probation officer. This also improves officer safety as both the probation officer and the probationer knows that it is the offender's behavior that drives the outcome and any arrest, and not the individual decision-making of the probation officer. This leads to less projection of blame by the offender onto the probation officer.

Finally, and perhaps most importantly, planning for and implementing the HOPE strategy takes shared leadership by the judge and probation. As co-leaders, the judge and probation supervisor will work with all of the other criminal justice partners to develop and integrate all of the moving parts of HOPE Probation to work together. Everyone's concerns and issues should be addressed openly at frequent regularly scheduled meetings of the HOPE principals.

In Honolulu, such meetings have been held once a month since November, 2004. The felony HOPE judge and the probation section administrator provided leadership from the start, serving as the points of contact to respond to questions about HOPE Probation and to participate actively in these scheduled meetings.

A central aspect of this joint leadership between the judge and the probation supervisor is to establish, from the start, an environment of mutual respect allowing for ongoing frank communication. Thus, if a judge is not following the appropriate sanctions strategy in court (e.g., giving a single father of three a stern "verbal reprimand" while giving a childless young male three days in jail for the same HOPE violation), the probation supervisor has to feel it's OK to call the judge and point out the lack of consistency. At the same time, the judge has to be willing to take that call and let it be known that he or she is open to getting that kind of feedback and then acting on that feedback to fix the inconsistency. Similarly, the judge should feel free to talk to the probation supervisor when he or she sees issues regarding probation officer performance and the probation supervisor has to be open to that feedback and act on it accordingly.

This frank give-and-take may not come naturally to some but it is absolutely critical to the success of the HOPE strategy. After all, if these two leaders cannot be honest with each other, nobody else will.

2. Integrating HOPE into the Existing Probation System

All probation systems have a mission or system or theoretical construct which guides their operations. It may, for example, be based on the National Institute of Corrections (NIC) Eight Evidence Based Principles (EBPs) for Recidivism Reduction (as is the case in Honolulu) or it may be based on restorative justice or some other construct. Indeed, in Hawaii and elsewhere, the penal code itself calls on probation officers to use all suitable methods to assist in the rehabilitation of probationers.

Whatever the system, care must be taken to figure out how HOPE and its policies and procedures will fit into and mesh with the current system in place. Unless and until that is done, the HOPE strategy cannot be implemented.

As Honolulu discovered, HOPE was a natural fit with the existing EBP culture in probation, though initially not an easy fit. While HOPE only directly addresses the substance abuse risk factor, its ability to reduce drug use, increase appointment attendance with probations officers, and reduce denial about substance abuse problems, helps to create an environment in which probation officers can more effectively work with offenders. For example, HOPE probationers have a more difficult time reporting to their probation officers that their substance abuse use is well-managed if they have tested positive multiple times in short succession followed by a brief stint in jail following each violation.

Other jurisdictions have similarly found that with the right initial upfront planning, discussion, and training with their probation officers and judges, HOPE can be made to work well with their existing systems and, indeed, make their systems work more effectively.

HOPE Probation is a tool for probation officers because it helps to make probationers amenable to change as opposed to continuing on with the status quo. While HOPE often serves as an external motivator initially ("I don't want to go to jail"), many offenders later experience the rewards of a clean and sober lifestyle, thereby impacting their values and intrinsic motivation. For example, they now find rewards in being good role models for their children, having stable employment and money in their pockets, and having long-term, meaningful relationships. With HOPE, probation officers can be more effective at helping the offenders examine the merits of change and facilitate the offenders' movement from a pre-contemplation stage of change toward one of action and maintenance.

3. Statutory Provisions that Allow for Sufficient Jail Terms for Non-Compliance with Conditions of Probation

There must be statutory provisions in place that allow for jail sanctions for violations of probation. Having a longer sanction in the case of a revocation can help compliance but shorter terms have been found to be effective as well.

It is helpful if the probation term can be extended (e.g., by continuing it or by revoking probation and imposing a new term of probation), when either of these two conditions are present: 1) when the probation officer wants to continue the offender on HOPE Probation but the offender has depleted the jail terms allowable for that probation sentence; and 2) when a probationer will not complete treatment within the current probation period and successful completion of treatment is a condition of probation. In the latter case in Honolulu, for example, a new term of probation can be imposed and then if the probationer successfully completes treatment and has a specified period of "good behavior" time afterwards, a Motion for Early Termination of Probation may be considered.

4. Buy-In Among Key Officials

Consensus and support for the HOPE strategy is essential among the judges, court staff, probation supervisor and officers, prosecutors, public defenders, defense attorneys, the jail, treatment providers,

and law enforcement (e.g., police, sheriffs, marshals—those who serve arrest warrants and those who take probationers into custody for violations at the probation office/drug testing site). Each of these groups serves an important role in HOPE Probation. Their buy-in is critical. All roles need to be identified and clarified. Each group must view their participation in HOPE as benefitting their own mission in a significant and tangible way. This will take leadership by the judge and probation supervisor. Change is hard, but often "a crisis can be an opportunity," and a shared understanding that supervision practices can be improved may well lead all of the criminal justice partners to give the HOPE strategy a try.

5. Staff Training in HOPE Principles

All staff members who participate in HOPE Probation should be trained, in particular probation officers, judges, court staff, drug testers, and treatment providers. Training is especially critical because HOPE Probation is so different from probation-as-usual.

To ensure fairness at all times, emphasis must be placed on consistency and maintaining fidelity to the HOPE strategy. It is by treating all HOPE probationers in a consistent manner that fairness is achieved. Leniency is not kindness and bending the rules for one probationer will not help that individual and acts to undermine HOPE Probation when that offender speaks to his fellow probationers. As we know, the probationers are in constant contact with each other in waiting rooms, treatment, jail, Alcoholic Anonymous meetings, and on the street. They will pick up on any inconsistencies in the process. Every sanction should be viewed as a learning opportunity for the offender. The concept of swift, certain, consistent and proportionate sanctions administered consistently over time is a new experience for most offenders.

Consistent and persistent leadership by probation and the judge are important to maintain this consistent approach both with new employees as well as to prevent backsliding by current ones.

***Visual Aids*.** The development and use of visual aids, specifically flow charts, is advantageous to HOPE personnel, and facilitates a better understanding of the HOPE process. These should be continually updated and the steps needed to ensure that key personnel—judges, probation officers, drug testers, and clerical staff, and the various law enforcement offices—have a solid grasp of how their role contributes to the smooth functioning of HOPE. **Figure 3. Processing HOPE Probation Drug Test Results** serves as useful example, addressing the urinalysis process, failure to report, and the referral process in Honolulu's HOPE Probation.

6. Identifying the Appropriate Target Population and the Means to Make Referrals

When identifying potential HOPE offenders, the guiding principle should be to target the higher risk population using a validated risk assessment instrument. Other offenders may be considered such as those needing to be watched more closely, including sex offenders. The principle of "behavioral triage" may also be used to identify HOPE participants; offenders who are failing at probation-as-usual have demonstrated the need for closer supervision and would likely benefit from HOPE. Jurisdictions seeking to implement HOPE Probation should ensure that the offenders entering HOPE are higher risk and therefore will benefit most from the HOPE strategy in comparison to probation-as-usual. HOPE

Probation applies a stricter regimen for higher risk offenders, in keeping with a strategy designed to get "more bang for the buck." There must be agreement between the judge and probation regarding the target population.

HOPE was created for offenders on probation; however, it can be applied to any criminal justice population. For example, a pilot of HOPE for pretrial is now underway in Honolulu for a limited caseload of offenders awaiting trial for serious felony crimes. Other jurisdictions, including Washington State, Colorado, Alaska and New York, are applying the HOPE strategy to high-risk parolees.

HOPE primarily targets felony offenders on probation convicted of various offenses, including violent crimes, drug crimes, and sex offenses; however, for example, there is also a separate HOPE effort for domestic violence misdemeanants in Honolulu.

The following three methods of referral to HOPE Probation in Honolulu can be used as a useful example for other jurisdictions implementing the HOPE strategy. First, probation officers can recommend placement in HOPE at any time during the course of the offender's probation term. Following the assessment of offenders for risk and criminogenic needs, probation officers weigh the nature of the presenting offense, substance use problems, and probationer's history, to determine which offenders are at the highest risk for recidivism and shall thus be placed in HOPE. In addition, those failing probation-as-usual are good candidates to be referred to HOPE Probation. In such cases, referral to HOPE Probation serves as an alternative to revoking probation-as-usual and thus serving a full prison term. Second, any judge, at sentencing, may recommend an offender to HOPE Probation for a felony conviction or misdemeanor domestic violence conviction.

Third, all offenders assigned to the Sex Offender Unit in Honolulu are automatically placed in HOPE after being sentenced to probation. These offenders include those whose instant offense is sexual in nature (e.g., Sexual Assault and Electronic Enticement of a Minor), and those who were previously convicted of a sexual-related offense and/or who are currently exhibiting inappropriate sexual behaviors.

7. Identifying Zero Tolerance Violations Requiring Immediate Arrest

When starting a HOPE strategy, it is important to identify those violations that will be targeted on a zero tolerance basis. In Honolulu, the initial zero tolerance conditions included admissions of drug or alcohol use, positive urinalyses that probationers subsequently admit to, missed drug tests or appointments with probation officers (as offenders may be avoiding being drug tested), and failure to participate satisfactorily in and complete treatment. For sex and domestic violence offenders in HOPE, zero tolerance violations include failure to satisfactorily participate in or complete treatment and unlawful contact with victims. Similarly, for HOPE offenders referred to substance abuse treatment, participation and successful completion of treatment is a requirement of their probation. HOPE probationers are informed that such violations will not be tolerated and will result in immediate arrest and incarceration. As time goes on and a HOPE strategy becomes more established, additional zero tolerance violations can be added.

8. Warning Hearing by the Judge

The Warning Hearing by a judge marks a probationer's first day in HOPE Probation. A primary purpose of the Warning Hearing is to encourage probationers to succeed and to convey the expectation that they will, in fact, succeed. The judge also explains how HOPE works, and answers any questions the probationers may have about the strategy. The Warning Hearing offers HOPE probationers the opportunity to face the judge with counsel present and understand the expectations for their behavior while on probation, as well as the likely expected consequences – jail sanctions – for not meeting those expectations.

Placement into HOPE (probationers are not given a choice), probationers are informed in writing of the Warning Hearing date, time, and location, and sign an acknowledgement of receipt of this information. The HOPE judge is provided the pre-sentence investigation report, the probation officer's recommendation for original sentencing, and any applicable prior motions to revoke probation. Offenders may be scheduled for the Warning Hearing individually or as a group; however, the HOPE judge typically holds Warning Hearings for several probationers at the same time, both to save court time and to send the important message that all of the probationers will be treated the same.

The court begins every Warning Hearing by addressing each probationer by name and stressing to the group of offenders that everyone – the judge, their probation officers, the prosecutor, defense attorneys, the probationers' families and taxpayers – all want them to succeed on probation.

The judge explains how HOPE Probation is different from probation-as-usual, and how there will now be a jail consequence for every single violation of probation, giving examples of the sanctioning system in place. The judge's message is that by abstaining from substance use, checking every weekday to see if they will be randomly drug tested, showing up for drug tests as needed, making probation appointments, working and paying their restitution, and otherwise adhering to the conditions of probation the offenders will do well. Probationers will be treated as adults responsible for their own actions – adults who know what is expected of them and that they will be held accountable immediately if they do not live up to their commitments. The HOPE judge acknowledges that as human beings we all make mistakes, but if probationers make mistakes while on HOPE Probation and promptly take responsibly for their mistakes, then the resulting jail sanction for violations of probation will be brief.

The judge individually asks all probationers when they last used drugs or alcohol and tells them (at least those who are not in custody) that they will be drug tested immediately after the hearing. If offenders are honest with the judge about recent drug use, they will not be arrested that day if they test positive. This is fair from a "notice" standpoint for the probationers and also serves to encourage personal responsibility and "coming clean" with the court. Probationers who admit to recent use, and test positive, however, will not be allowed to drive home from the courthouse if they brought their car.

The Warning Hearing is also the time in which the judge explains that succeeding on probation for an extended period of time without a violation may result in eligibility for early probation termination. For example, this is true for probationers in Honolulu who succeed on probation for two years without a violation with the exception of sex offenders whose treatment typically lasts longer than two years.

Other potential positive consequences for probationers in the HOPE strategy include reductions in the frequency of random drug testing and probation appointments once a pattern of abstinence and compliance with the terms of their probation has been established.

To ensure successful, consistent Warning Hearings, a script or checklist should be developed for the judge's use to ensure that each offender is provided the same information (the judge will no doubt find it useful in the future to remind certain probationers of what the judge had told them at the Warning Hearing). Having a script is particularly important when more than one judge handles HOPE cases.

After the Warning Hearing, probationers meet with their probation officers both for drug testing and to review, sign and date a document detailing specific conditions and sanctions for new HOPE probationers and confirming that they are aware of the strict and fair requirements of HOPE Probation.

If offenders believe the system is treating them fairly, they are much more likely to buy into that system. That is at the core of procedural justice.[4] HOPE Probation is procedural justice in action and starts at the Warning Hearing. HOPE Probation strives to be clear, transparent and predictable to offenders.

The consistent and proportionate treatment of probationers is a cornerstone of the HOPE strategy's success. HOPE Probation is both perceived by offenders and is, in fact, consistent and fair. Even offenders serving a jail sanction for a HOPE Probation violation told leading HOPE researcher Angela Hawken, PhD they felt HOPE Probation was firm but fair and accepted responsibility for their poor choices.[5] This language of personal responsibility by probationers for their actions will be heard on a regular basis in HOPE court.

On probation-as-usual, judges often receive requests from offenders that their probation officer be changed because they feel their probation officer is too strict and that they are not being treated fairly. In Honolulu, HOPE probationers feel they are treated fairly and consistently regardless of the probation officer handling their case as demonstrated by near absence of requests to change probation officers. In addition, since 2004, Judge Alm has only had approximately 30 contested HOPE hearings.[*] In the thousands of other hearings, the probationers have taken responsibility for their behavior, admitting to the violation of probation and proceeding to sentencing. This has been true even if the probationers will be sent to prison. They know that at that point they have had multiple chances and that it was their own behavior and choices that led to that result.

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[4] Meares, T. L., & Tyler, T. R. (2014, March 24). Justice Sotomayor and the jurisprudence of procedural justice. *Yale Law Review, 123.* Available: http://yalelawjournal.org/forum/justice-sotomayor-and-the-jurisprudence-of-procedural-justice

[5] Kornell, S. (2013, June 5). Probation that works: Swift and certain punishment reduces crime. Parolees love it. *Slate.* Available: http://www.slate.com/articles/health_and_science/science/2013/06/hawaii_hope_probation_program_reduces_crime_drug_use_and_time_in_prison.html

[*] A contested hearing is where a probationer chooses to have the prosecutor try to prove the motion. Witnesses are called, cross-examination is provided for, arguments are made and then the judge decides if the state has proven the violation.

As Honolulu HOPE probationer Michelle F. put it, "They have faith in you. They not only make it harder for you to use because of the hotline but HOPE Probation also gives you a chance to want to get a life. It's the best program in the world. This program is designed to help anybody who wants to help himself [sic]… It saved my life because I would still be running hard out there."[6] HOPE probationer Jonathan T. felt similarly, stating, "If you cannot love yourself, then the program, or your probation officer, or the judge will love you until you can love yourself. I started to experience that. I really felt that…HOPE helped me. It helped me change. Become more honest. Keep me in check."[7]

9. Drug Testing Strategy with Immediate Results

The most critical issues in establishing an effective HOPE drug testing strategy are making the tests random and the results immediate. Sanctions can then be applied for drug use swiftly, making offenders more likely to connect the jail time with their behavior. The strategy of performing a screening process first (e.g., with the use of a rapid urine drug screen cup or onsite oral fluid test) is cost-effective. Offenders often admit to substance use after seeing the immediate results, thereby reducing the time and expense for confirmatory testing. Urine tests must be observed by same-sex drug testers to try to avoid tampering with the testing process by the probationers.

There are other issues to consider when establishing a HOPE drug testing strategy to ensure that testing is routine, effective and truly randomized. The first issue is the **identification of substances to screen or test**; these may include but not be limited to cannabis, cocaine, methamphetamine, inhalants, prescription stimulants (e.g., Ritalin, Adderall, etc.), sedatives or sleeping pills (e.g., Valium, Ativan, Xanax, Librium, etc.), hallucinogens (e.g., LSD, acid, PCP, ecstasy, PCP, etc.), street opioids (e.g., heroin, opium, etc.), prescription opioids (fentanyl, oxycodone, methadone, buprenorphine, etc.). Check with drug test providers to be sure which drugs are identified and which are not. Second, consensus must be reached as to **whether to establish a drug testing hotline** for probationers to call on a regular basis to find out whether and when they should report for a drug test. Third, the **randomization and frequency of drug testing** must be established. How will testing be randomized? Will it be driven by phases? According to risk classification, or need? It is important to test often enough but not too often so that it becomes difficult to separate out which drug use event caused the positive drug test. After all, the primary purpose of the drug testing is not to catch the probationers but rather to deter them from using. Fourth, if the strategy is to screen first, a confirmation process must be established with **procedures to follow when the screening test is positive and the probationer denies substance use**. Related issues to a test which yields positive results include the **standard of measurement to be used** (e.g., Federal Workplace Guidelines or the Limit of Quantitation [LOQ], the latter being strongly preferred), as well as the **acceptable turnaround time for laboratory confirmation**.

[6] California Correctional Peace Officers Association. (2012). *Beyond Prison* (documentary). Available: http://www.ccpoa.org/beyond-prisons-video-2012/
[7] Ibid.

Honolulu's HOPE Probation has a robust drug testing system in place which serves as a useful example to other jurisdictions implementing the HOPE strategy. This system for processing drug test results are described below and depicted in **Figure 3. Processing HOPE Probation Drug Test Results**.

Screening Tests. HOPE Probation uses a standard 6-panel rapid onsite urine test; however, offenders may randomly be subject to a 10-panel test and/or an alcohol breath test at the discretion of the probation officers or drug testers. Through the random use of this additional testing, HOPE probationers are subject to testing for other illicit drug use such as prescription drugs, Spice/K2, bath salts, and alcohol, etc. HOPE contracts permit individual drug tests in addition to panel tests.

Rapid onsite urinalysis tests kits are most widely used in HOPE Probation; however, for offenders who are unable to provide urine samples due to known medical reasons or who otherwise fail to provide a urine sample, rapid onsite oral fluid drug tests are available. Oral fluid tests may also be used as a backup method of testing in cases of suspected but unverified tampering with urinalysis. Additionally, HOPE offenders with known alcohol problems and any offender suspected of being under the influence of alcohol (e.g., alcohol on a probationer's breath) may be subject to an alcohol breath test. Submitting an invalid sample (e.g., a non-human sample; a diluted sample) is a violation of probation.

Master List of Probationers. A master list of HOPE probationers is maintained on a shared server so probation officers can provide updates for the drug testers regarding offenders, and testing and arrest instructions. This communication is critical because it is the drug testers and their supervisor (and not the probation officer who would be more familiar with the case) who prepare the Motions to Modify/Revoke upon positive test results/admission. The information in the master list assists in determining whether an offender is to be arrested or not.

Instructional notes to the drug testers may include, among others, the need to use an expanded drug test panel, to test for alcohol, to use collection "hats" for women suspected of using a tampering device, to provide descriptive features for offenders without proper identification, or to provide notification of new prescription medications that may produce positive tests. HOPE probationers are required to update probation officers regarding any prescription drugs they are legally prescribed for medical use. In turn probation officers update the master list of probationers.

The master list may also include instructions of no arrest for tetrahydrocannabinol (THC) in cases of longtime chronic cannabis users who may test positive for longer periods of time even when they have stopped using the drug. Instead of an arrest, the drug testers would be instructed to submit the sample for confirmatory testing. After the results are received, the probation officer would then determine the need to initiate a Motion to Modify/Revoke depending on whether there is an increase or decrease in THC levels (new use versus old use). Another occasion which would warrant an instruction of no arrest is when a motion has already been filed and is pending disposition. In this case, only a supplemental declaration would be submitted.

Individual probation sections are responsible for maintaining, updating, and archiving the master list for their respective probationers. The master list is also provided to the court so that the working files may be archived or purged when the offender is no longer active on supervision and the court would

otherwise not have known (e.g., when an offender's probation term has expired, the offender is deported or deceased, etc.).

Randomization. A randomization methodology is essential to HOPE drug testing. Drug testers use this randomization strategy to determine the monthly random drug testing schedule for the varying groups of HOPE probationers. The goal is to ensure that an offender has an equal chance of being tested each day. The randomized testing schedule has been referred to as a "chess game" by one of HOPE's drug testers because the goal is to keep probationers in the mindset that they could be tested at any time, and thus the message to not use substances is reinforced. The main purpose of the hotline is not to catch offenders; it is to deter them from using drugs to begin with.

Drug Test Hotline. A designated drug testing hotline was established for HOPE probationers to call every weekday morning. It allows for random scheduling of drug tests. The hotline is a pre-recorded message prepared a day or days (in the case of a weekend) in advance, and set to play starting at 4:00am every weekday morning. The telephone features allow staff to accomplish the recording functions during work hours; staff would otherwise need to perform this function at 4:00am every weekday morning. The telephone number and hours of the hotline are clearly stated and available to all HOPE probationers. Similarly, written procedures regarding the hotline and drug test requirements are provided to all probationers. Each day the HOPE drug testing hotline is automatically updated with a pre-recorded message indicating which HOPE offenders must appear during the pre-determined testing hours to provide a specimen.

Drug Test Requirements. HOPE probationers who have drug and alcohol conditions (over 90%), are required by the court as a condition of probation to provide valid urine samples within 30 minutes of instruction. Additional conditions include no tampering which includes but is not limited to providing diluted samples, use of adulterants and use of devices to swap or otherwise provide altered samples. Tampering during the drug testing process is subject to a sanction of 30 days in jail. HOPE offenders are also not permitted to associate with friends who use drugs (which avoids the argument of second-hand smoke producing positive drug test results). These rules also apply to HOPE probationers when they are tested outside of the hotline (e.g., when a drug test is required at a probation officer appointment).

Specimen Collection and Testing Procedures. Drug testing procedures are conducted within close proximity to the probation office. Drug testers administer drug tests during HOPE hotline hours. Drug testers are both male and female to accommodate observed urinalysis collections. Probation officers serve as backup to drug testers and also conduct observed drug tests during routine appointments with HOPE offenders.

HOPE probationers who test positive on a test and admit to use sign an admission form confirming that they used drugs and/or alcohol recently, and it is also signed by a witness (i.e., the drug tester or probation officer). The probationer is then taken into custody immediately. This is done both to help the probationer tie together the bad choice of using drugs with an immediate negative consequence, and for public safety reasons (e.g., a probationer who tested positive and admits recent drug use might leave and kill or injure others in a traffic collision). When HOPE probationers test positive but deny

substance use or when the sample collected is questionable, their drug tests samples are submitted to a laboratory for confirmation testing. The HOPE probationers sign a chain-of-custody form completed by the drug tester or probation officer confirming that the donor provided the sample. It is also signed by the observer and lists the drug(s) to be confirmed. Offenders who deny use are not arrested but are given a court date and time 10 days hence.

Testing Frequency. The individual testing frequency is determined by the probation officer based on the probationer's assessed risk level and history of use. Many probationers enter HOPE Probation at the highest frequency of drug testing, an average of 1-2 tests per week, for a maximum of 5 tests per month, in addition to testing during scheduled probation office visits. Every HOPE offender is assigned a color that corresponds to the frequency of random drug testing (e.g., red = low; blue = high; white = medium). Offenders referred to HOPE by judges at sentencing without any indication of current substance use may be classified as low testing frequency. These offenders may be placed on the hotline for a short period of time as a precautionary measure.

There should be a minimum number of tests defined for each level, with a "bonus" feature. The bonus is the number of tests that may be added to the minimum so that offenders are not conditioned into thinking, for example, that they will only be subject to four tests per month, and once the fourth test is done, they would be free to use. Honolulu uses 0, 1 or 2, as the added bonus number of tests and this, too, is randomized each month. Typically, the frequency of randomized drug testing gradually reduces over time with the offender's decrease in risk level, partly demonstrated by their testing negative on the drug tests.

Hours of Operation. The hours of operation for daily HOPE drug testing procedures are between 7:45am and 1:00pm daily Monday through Friday. Offenders with verified employment, job training or school may report beginning at 6:30am (made possible by drug testers on flex time and a security guard at the back entrance of the building).

Laboratory Confirmation Testing. The only specimens that are submitted for laboratory confirmation testing are those of HOPE probationers who test positive but deny recent substance use, and those who provide diluted samples with inconclusive results or a faint positive result who also deny recent use.

The laboratory used to test HOPE Probation samples uses the Limit of Quantitation (LOQ), the smallest concentration of a drug that can be reliably measured to determine the test result (this standard is stricter than federal workplace drug testing guidelines and more in keeping with the requirement that probationers abstain from drug use). Samples are sent by FedEx to the testing laboratory and results are typically posted on a secure website within two days. The laboratory confirmation report includes whether the results were "positive" or "detected" or "negative" for the specific drug or drugs tested for, and whether the sample was diluted. Positive and detected confirmation tests results and confirmed dilution results are considered violations of HOPE Probation.

Documentation of Drug Test Results. Drug testing results and "no shows" are compiled every day by drug testers and sent by email to every probation officer as a single PDF file. Drug testers draft the

Motion to Modify/Revoke to be signed by their probation officer supervisor upon positive test results and subsequent admissions. Drug testers also note the results in the probationers' case records.

Failure to Report for Drug Tests or Office Visits. A 15-minute grace period for offenders who fail to report for an office visit is allowed before they are considered in violation of probation (unless reporting late becomes habitual). For drug testing, the 1:00pm deadline is strictly enforced. Offenders running late are encouraged to still report. If they then test negative, the probationers are not taken into custody but are given a court date in a few days for a likely cellblock sanction (in which they will spend several hours in cellblock at the courthouse). When HOPE probationers fail to report for drug testing, probation officers are informed through the compiled drug test results sent out by the drug testers. In such cases the probation officers immediately attempt to contact the offenders via telephone so that they can report for testing that day or the next day. Reporting at those times and testing negative will likely result in a cellblock sanction. In cases when the probationers turn themselves in for immediate testing, the probation officer files a Motion to Modify the terms of probation and a hearing is set with the judge. (This process may reduce the need to recall bench warrants.) If probation officers are unable to reach the probationer and/or the probationer fails to report within five business days, a Motion to Modify/Revoke is filed and a bench warrant issued. This process is similarly followed when offenders fail to report for office visits. The offenders are subject to testing once contact is made and the offender reports to the probation office.

10. Means to Effect Immediate Arrest and Take into Custody

Timeliness in effecting the arrests and transporting the offenders into custody is critical. The arresting authority must be identified with this in mind. If the authority is not vested in the probation officer, the appropriate agency and officers must be designated to ensure that offenders who have violated the conditions of their probation are swiftly taken into custody, either at the probation office or apprehended for non-appearance.

Immediate arrests should be made for zero tolerance violations such as a positive drug test with admission of drug/alcohol use by the probationer. This procedure promotes public safety (e.g., release of a probationer that recently used drugs, as indicated by a positive drug test and admission of use with an instruction to report later to court could result in death or serious injury of innocent others such as in a traffic collision).

Procedures must also be developed to deal with any children the offender brings to the office and they should not be used as a "shield" to delay arrests.

In some jurisdictions, the available testing site and/or probation office may be some distance from available law enforcement resources. Efforts should be made to have probationers taken into custody or ordered to report to the courthouse for arrest as soon as possible.

Following positive drug tests results and offender admission to recent drug use, probation officers or drug testers contact law enforcement. The law enforcement officers then report to the probation office as quickly as possible to take probationers into custody. During this time, personal items and inventory

should be collected from offenders, questions answered and appropriate information provided to offenders as needed particularly when it is a first-time arrest on HOPE. Probation officers should recommend to their probationers to bring their daily medications with them to every probation office visit. This ensures the inventorying of their medications and uninterrupted use of prescription drugs when offenders are taken into custody (the jail will not let probationers take their own medications but will know which ones are appropriate to give them). HOPE probation officers must always have a backup individual designated in the event the probation officer is absent. Offenders are brought directly to a holding cellblock onsite at the courthouse which is managed by the sheriffs to be held until transfer to the jail later that day.

It is beneficial, though not necessary, to separate the administration of random drug testing from the duties of probation officers. Such action, with adequate funding and when geographically possible for taking offenders into custody, serves to both separate out the enforcement function from the counseling function for probation officers and frees up their time to meet with offenders.

An example of the system in place to process HOPE violations and failure to report in Honolulu is depicted in **Figure 4. Processing HOPE Violations / Failure to Report**.

11. Expedited Warrant Service

The law enforcement officials responsible for serving expedited bench warrants for probationers must be identified from the outset. It is essential that the perception among probationers, beginning from the time of the Warning Hearing, is that they will be found and arrested swiftly if bench warrants are issued. That perception, and the communicated fact that they will serve at least 30 days in jail for absconding, generally deter offenders from running away.

The arrest warrant and attachments in files provided by probation officers should include necessary information regarding the absconder's full name, social security number, date of birth, health or any injury, prescribed medications, and property, and a recent digital photograph of the probationer.

There is no question that a HOPE strategy will result in more warrants being issued and served than in probation-as-usual. That will take a dedicated commitment by law enforcement. That is their role in a successful HOPE strategy. It may well be helpful to share the research from HOPE in Honolulu to show that HOPE results in less victimization and crime, and fewer probationers failing and being sent to prison. The fewer arrests for new crimes also mean that the police or sheriff detectives will have fewer time-consuming investigations to do.

12. Means to Hold Violation Hearings Swiftly

The HOPE Probation strategy requires violation hearings to be held swiftly with predictable consistency. Transport of offenders to jail and the scheduling of hearings must be prompt. Furthermore, statutory requirements must be met including providing proper notification of hearing dates to defense and prosecution.

Following a violation, probation officers prepare and file a Motion to Modify or Revoke the terms and conditions of probation and the court sets the hearing date. Prosecution and defense counsel are notified. Hearings for violations and non-compliance are typically held within two to three days following arrest. (The evaluation of HOPE Probation in Honolulu found that 70% of the hearings were held within 72 hours of arrest.[8]) In the event of absconding, where the sanction will be longer, this quick setting of hearings is not as important. The swiftness of the process contributes to probationers' perceptions that their violation or non-compliance will receive immediate attention and appropriate sanctions, as promised.

For jurisdictions interested in implementing HOPE, there may be concerns about overtaxing judges' schedules. While there is no question that HOPE will make the judges' calendars busier, judges can manage large caseloads of HOPE offenders because these offenders are seen at the initial Warning Hearing and following, only when they violate the conditions of probation. Judges, while busier, typically like HOPE because they now feel like they are actually involved in the supervision of probationers and they enjoy seeing them succeed.

13. Means to Timely Report to the Court: Probation Officers' Violation Reports and Recommendations

A timely report by probation officers of violations (including history of violations and sanctions, the circumstances of the current violation and a treatment plan) as well as their recommendations to the court are essential. Their distribution to relevant parties must be consistently prompt.

The experience of Honolulu's HOPE provides an example for how this process can work successfully. The violation report and sanction recommendation are transmitted to the HOPE judge at the same time via email. The recommendation is provided in the text of an email with the violation report as an attachment; however, the recommendation is made available only to the judge and chamber staff. A template violation report has been developed to list prior violations and sanctions, the current violation, and the probation plan. After the original template is created, the probation officer only has to update the report for subsequent violations for the individual offender. The violation report is then distributed to counsel in hardcopy by court staff.

In any HOPE strategy, milder sanctions (i.e., shorter jail stays) should be recommended by probation officers to reward HOPE offenders who accept personal responsibility for their offense (e.g., if offenders admit to drug use after screening positive rather than requiring a laboratory confirmation, and when offenders turn themselves in right away rather than requiring a law enforcement search and arrest to be consistent with the judge's sanctioning guidelines). Recommendations may also include an assessment for substance abuse treatment or placement in clean and sober housing in cases where probationers

[8] Hawken, A. & Kleiman, M. A. R. (2009). *Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii's HOPE.* Document No. 229023. Award No. 2007-IJ-CX-0033. Available: http://nicic.gov/Library/024156

repeatedly test positive for recent substance use, an assessment for a mental health evaluation, or participation in domestic violence batterer classes.

14. A Sanctions Strategy that is Consistent and Proportionate

The sanctions strategy for violations of HOPE Probation must be consistent and proportionate, and recognize that in HOPE, offenders are held accountable by the court and take personal responsibility for misconduct. There needs to be a sharp distinction between sanctions administered for immediately acknowledging responsibility for a violation such as producing a positive drug test and admitting to drug use on the one hand, and, on the other hand, absconding (e.g., 2 days vs. 30 days in jail).

HOPE Probation requires a comprehensive, utterly consistent and widely understood sanctioning strategy. Discussion of the sanctions and encouraging the probationers to make good decisions begins at the Warning Hearing and is continually reinforced at subsequent violation hearings. To be successful, there must be an immediate sanction for *every* detected zero-tolerance violation of probation. That requires the probation officer to take action every time there is such a violation *and* it requires the judge to impose a jail sanction for every violation. Immediate arrest is remarkably effective, even when the sanction may last only a few days in jail. Offenders benefit more from the structure and certainty of the sanction that is immediate and predictably proportionate to the specific violation than to a much longer term of imprisonment (e.g., for the remaining portion of the prison sentence) that is long-delayed and uncertain as is typically the case with probation-as-usual. If short jail sentences seem too harsh for violations, recall that the randomized control trial of HOPE in Honolulu showed that the strategy reduced the likelihood of a long prison term by half,[9] which is clearly a much harsher and more expensive punishment.

At the outset, it is imperative that clearly described sanctions for HOPE violations be established. The sanction administered for violations of HOPE Probation is always jail. It is immediate, impactful, and unpleasant.

Sanctioning guidelines should be developed to ensure that HOPE probationers are subject to swift, certain, consistent – and proportionate – sanctions (i.e., jail time) for every targeted violation of probation (see **III. Appropriate Sanctions for Offender Non-Compliance, Referral to Treatment, Referral to Drug Court, and Revocation**). Sanctions are directly related to how offenders conduct themselves in the aftermath of a violation. If offenders violate the terms of probation and take responsibility right away for their actions, the resulting sanction of jail will be brief; if not, the sanction will be meaningfully longer.

Where multiple judges are supervising HOPE probationers, it is imperative that the sanctions remain swift, certain, consistent, and proportionate. Otherwise, any inconsistencies, if outside the range of

[9] Hawken, A. & Kleiman, M. A. R. (2009). *Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii's HOPE.* Document No. 229023. Award No. 2007-IJ-CX-0033. Available: http://nicic.gov/Library/024156

appropriate sanctions, may erode the foundation upon which HOPE is based. Probationers find HOPE to be fair because it is consistent.

15. Continuum of Treatment

A continuum of drug treatment services is essential to HOPE, although special circumstances (e.g., rural and/or sparsely populated areas) may make this difficult. In such circumstances, key stakeholders must collaborate in finding ways to remedy the situation.

Resources and funding must be identified and sought and, if possible, having available a continuum of graduated treatment services is ideal. A probation condition should be established to allow HOPE offenders who want treatment and those with substance use problems that cannot be managed without it to progress between varying levels of treatment. These may include drug education classes, one-on-one counseling, outpatient, intensive outpatient, and residential treatment. If treatment services are unavailable, strategic interventions should be initiated by the probation officer. HOPE probation officers should ideally be skilled in substance use relapse prevention, cognitive behavioral therapy, and motivational interviewing.

One of the features of the HOPE strategy is that offenders who need or ask for substance abuse treatment receive it. It is possible, as is the case in Honolulu, that a general special condition may allow probation officers to place probationers at varying levels of treatment. Needs may change over time and probationers' levels of treatment are reevaluated periodically through the use of validated risk assessments, a review of drug test results, and in collaboration with treatment providers. Satisfactory treatment participation by the probationer can be required as part of HOPE Probation and monitored.

A continuum of care of drug education classes, one-on-one counseling, outpatient, intensive outpatient and residential treatment can be provided through contracted and non-contracted providers. Contracted providers may be required to exhaust all insurance coverage before using purchase of service funds. HOPE probation officers and the court must work with treatment providers to create and maintain good lines of communication about how HOPE Probation works. Care should be taken to inform treatment providers that HOPE sanctions should not be used in lieu of administering their own internal sanctions for treatment program rule infractions.

The treatment providers should also be made aware, however, of the benefits of short jail "time-outs," if internal measures like behavioral contracts are not successful in ensuring program compliance by HOPE Probationers. In such cases, the treatment provider should contact the probation officer to address the matter and the probation officer may file a Motion to Modify/Revoke on the grounds that offenders are not adhering to treatment program requirements. It is imperative that probation officers, the court, and service providers have a shared understanding of how to address offenders' shifts from in and out of treatment and relapses. Probation officers and treatment providers should collaborate as much as possible in treatment planning.

Treatment programs in Honolulu are very supportive of HOPE Probation. They appreciate its model of "behavioral triage". Probationers are typically first given the chance, if they request it, to prove that

they can abstain from drugs on their own without treatment by showing up for all HOPE drug tests and testing negative. If they are successful, then they are not referred for a substance abuse assessment or treatment. The randomized controlled trial of HOPE in Honolulu showed that most of the 330 probationers in the HOPE study group, selected for the study because they were active drug users, were able to stop using drugs on their own without going to treatment (51% had zero positive drug tests the first year and 28% had one).[10]

When probationers test positive two or more times in short order with corresponding jail sanctions, they are then referred for a substance abuse assessment and instructed to follow any recommended treatment. These substance abuse assessments can be arranged by probationers. If probationers fail to follow through, assessments can either be done at the jail or by the probationers on a temporary pass provided by the court. Treatment programs like HOPE because the probationers are more likely to be honest at their assessments (when denial has been reduced) and more likely to attend and persevere in treatment as they know there are certain jail consequences for failing to report to, stay in, and participate satisfactorily in treatment.

This close coordination among the judge, probation officers and the treatment providers has resulted in the HOPE judge becoming very familiar with the various treatment programs. This helps to support the probation officers and their choice of specific programs. It also reduces the likelihood of the offender misleading the judge in court.

For offenders in HOPE having difficulty refraining from drug use even with treatment (but not repeatedly absconding or they would be in prison), drug court may be an option for the probation officer and judge to consider (see **Role of Drug Court** in Section IV).

16. Quality Assurance for Fidelity Monitoring and Feedback

During the HOPE implementation period and beyond, monitoring helps ensure fidelity to the HOPE strategy. For example, probation officers' case actions should be monitored to ensure that every zero-tolerance violation is brought before the court and sanctioning recommendations are appropriate. Similarly, judges' rulings should be monitored to ensure that every target violation is sanctioned according to the sanctioning strategy. Steps must be taken to ascertain that feedback is provided to the judge. Other key components of the HOPE strategy (e.g., a court hearing conducted within 72 hours of arrest) should be monitored continuously to ensure that standards are being met and remain consistent over time. There must be preliminary consensus as to who will check compliance, and how and the frequency to which such information will be communicated to the judge and probation. As a new HOPE strategy proceeds, it is important to continue this fidelity monitoring as there will always be the tendency for probation officers and judges to start to let violators "slide" and not be sanctioned. All parties need to be reminded that a bedrock principle of the HOPE strategy is consistency. That consistency is crucial to the perception among the probationers that HOPE is fair.

[10] Hawken, A. & Kleiman, M. A. R. (2009). *Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii's HOPE.* Document No. 229023. Award No. 2007-IJ-CX-0033. Available: http://nicic.gov/Library/024156

Following implementation of a HOPE strategy, it is also essential to gather and periodically review statistics on offenders' degree of compliance with those conditions of probation or parole that are being targeted as well as on key outcome variables such as criminal recidivism and imprisonment. These statistics can be used to identify problems and improve performance in a HOPE strategy as well as demonstrate its effectiveness to stakeholders, funders, and the public. HOPE Probation in Honolulu, for example, has been able to use measures of its success (e.g., decline in positive urinalyses, increased attendance at appointments and hearings, and reduced imprisonment) to secure legislative funding and support.

Recommended But Not Essential Elements of HOPE Probation

The following Recommended Elements of HOPE Probation are not essential but greatly enhance HOPE Probation and help ensure its success. Not all jurisdictions may be able to implement these recommended elements. They may be considered "best practices" for implementing the Essential Elements of HOPE Probation. They are offered as a framework for thinking through what processes and tools may be useful in other jurisdictions seeking a better way to provide probation services to high-risk offenders. To the extent these recommended elements are incorporated, efforts to implement HOPE Probation will be improved.

1. Pilot Period: Start Small

Ideally, a HOPE strategy will begin with a pilot of no more than 30-50 offenders. This will allow "bugs" to be worked out and changes to procedures made. Initially, staff will need to be identified and designated to work with the pilot. This can be done either with designated HOPE probation officers or a number of probation officers can have mixed caseloads of HOPE and probation-as-usual cases. If probation officers are designated to HOPE, staff resentments toward perceived caseload disparities can be expected and need to be addressed. Challenges in implementation will need to be confronted and resolved. New procedures will need to be established and solidified.

Following the conceptualization of HOPE Probation in Honolulu, HOPE began on October 1, 2004 with only 34 probationers. HOPE has been so successful there that it has now expanded to include as of June 30, 2015, over 2,200 felony probationers out of approximately 8,000 in Honolulu County. In order to start the initial effort, input was sought from all relevant stakeholders: the judge, probation supervisor and officers, court staff, jail officials, prosecutors, public defenders, and other defense attorneys, police, sheriffs, marshals, as well as cellblock officers and treatment providers. All suggestions, concerns, and complaints were addressed to obtain the commitment and support of these stakeholders.

2. Probation Officers Skilled in Evidence-Based Principles (EBPs) for Recidivism Reduction

Probation officers skilled in EBPs will avoid the dangers of implementing HOPE as a punitive strategy. Evidence-based principles and practices in Risk-Needs-Responsivity (RNR), developing a working alliance, motivational interviewing (MI), cognitive behavioral therapy (CBT), and assessing risk/needs and targeting criminogenic needs are crucial skills/interventions for working with offenders. Cognitive skills deficits (e.g., in problem solving) must be addressed. The appropriate use of HOPE sanctions is helpful for moving the probationer through stages of change that will help to change behavior, but the probation officer must also have a range of skills that are not simply instinctive or "common sense." Officers with EBP training are better able to help offenders see and appreciate the merits of change by using motivational techniques. They can also more effectively assist them in connecting thoughts, feelings, attitudes and beliefs with behaviors and consequences—skills that many offenders lack, and all offenders need.

Honolulu's HOPE Probation reaps the benefits of a probation department that has sought and received numerous training programs (often through technical assistance provided by the National Institute of

Corrections [NIC]) in techniques found to be especially helpful in working with offenders, including those outlined above. In addition, many probation officers have master's degrees in social work or criminal justice. HOPE Probation strives to optimize the efficacy of the sanctioning process by linking tools for probation officers to use with offenders to change negative behavior with the use of NIC's EBPs model and it is facilitated by the four core training curricula for staff: (1) the Level of Service Inventory-Revised (LSI-R) and other validated risk instruments for specific populations; (2) motivational interviewing; (3) cognitive behavioral therapy; and (4) collaborative case work (case planning).

Jurisdictions will no doubt vary in the degree to which they have adopted EBPs for use by their probation officers. Wherever they are in that process, HOPE can be a useful strategy to improve outcomes by offenders, and appropriate training to combine HOPE with the EBPs is important. Figuring out how to integrate the HOPE strategy into an existing probation system is so important that it is listed as the second of HOPE's Essential Elements. After all, it was the combination of the HOPE strategy working together with probation officers using EBPs that produced the best research outcomes in Honolulu.[11]

3. Evaluation Component

HOPE functioning and results can be enhanced by implementing a strong evaluation component. A randomized controlled trial (RCT) study conducted by an independent evaluator or researcher is the best way to assess effectiveness; however, such studies can be expensive, time consuming, and impractical to carry out in some settings. Even if an RCT is not possible, other evaluation designs using comparison groups or pre- and post-implementation comparison of results can be used to demonstrate effectiveness. It is recommended that the evaluation be conducted by an independent agent or agency to ensure objectivity and lend credibility to findings when they are used to make programmatic changes or secure more funding for the strategy. However, even an in-house evaluation, if done properly, can provide much useful information and should be performed if there is no independent alternative. Continuous data feedback can be used to inform criminal justice partners as to its progress and to provide quality assurance. For example, the Hawaii Department of the Attorney General provided data on the effectiveness of Honolulu's HOPE from inception for several years. Feedback was routinely provided to probation staff when there were inconsistencies in applying the HOPE strategy. A Likert survey was conducted to assess probation officer satisfaction with HOPE Probation and challenges they identified. HOPE probation officers in Honolulu are now among the staunchest supporters of the HOPE strategy.

Moreover, although HOPE Probation was started in Honolulu without any new funding, subsequent legislative funding has been based on measures of success (e.g., decline in positive urinalyses and failure to report by HOPE probationers) identified and recorded by the Hawaii Department of the Attorney General. These data were critical when the state legislature was approached in 2006 for funding to

[11] Hawken, A. & Kleiman, M. A. R. (2009). *Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii's HOPE.* Document No. 229023. Award No. 2007-IJ-CX-0033. Available: http://nicic.gov/Library/024156

increase the number of probationers served. The RCT study was very important in demonstrating the effectiveness of the HOPE Probation strategy in showing fewer arrests for new crimes and in sending half as many probationers to prison when compared to probation-as-usual, saving taxpayers millions of dollars.[12] This research ensured continued funding by the Hawaii State Legislature. A follow-up study was completed in the fall of 2014 and its forthcoming results should provide useful information on offender outcomes and longer-term effectiveness.

HOPE Implementation Needs Assessment Worksheet

The following planning worksheet developed by Probation Section Administrator Cheryl Inouye and Judge Steven S. Alm can be used by jurisdictions as they implement the HOPE strategy. This needs assessment is aligned with the Essential Elements and Recommended Elements of HOPE and can be useful for jurisdictions to identify their strengths and weaknesses in implementing the strategy. It is now an integral part of training all new HOPE sites. The worksheet is designed to allow for continuous charting of a jurisdiction's progress in each of the Essential and Recommended Elements.

[12] Ibid.

HOPE Implementation Needs Assessment Worksheet: Essential Elements and Recommended Elements

	ESSENTIAL ELEMENT	SITE STATUS	%	√
1	Shared Leadership • Judge and probation provide leadership and collaboration to drive the process • Each open to constructive criticism from the other regarding fidelity to the HOPE strategy • Address emergent issues • Hold regular meetings	Status:		
		Judge (POC): Probation/Parole (POC): Comments:		
		Follow Up:		
2	Integrating HOPE into the Existing Probation System • Ensure congruency of HOPE with the system's vision and mission • Integrate HOPE procedures into the system's policies and procedures • Integrate HOPE with other efforts (e.g., evidence-based principles)	Status:		
		Comments:		
		Follow Up:		

	ESSENTIAL ELEMENT	SITE STATUS	%	√
3	Statutory Provisions that Allow for Sufficient Jail Terms for Non-Compliance • Maximum allowable jail term with probation • Maximum amount of prison time possible in the event of revocation of probation • Means to add more, if necessary and possible (e.g., revocation and resentence to probation)	Status:		
		Statute(s):		
		Comments:		
		Follow Up:		
4	Buy-in Among Key Officials (probation, court, corrections staff, prosecutor/ defense counsel, jail administrators, sheriffs/police, treatment providers) • Identify roles of each participant • Ensure challenges/barriers are addressed	Status:		
		Comments:		
		Follow Up:		
5	Staff Training in HOPE Principles • Include all key staff (probation officers, judges, clerical staff, drug testers, law enforcement, etc.) • Emphasize consistency and the need to maintain fidelity to the HOPE strategy to promote fairness	Status:		
		Comments:		
		Follow Up:		

	ESSENTIAL ELEMENT	SITE STATUS	%	√
6	Identifying the Appropriate Target Population and the Means to Make Referrals • Higher risk offenders (validated risk instrument) and/or high needs in alcohol and other drugs (AOD) domain • Nature of crime (e.g., drug offenders, sex offenders, violent offenders) • Poor probation adjustment	Status:		
		Comments:		
		Follow Up:		
7	Identifying Zero Tolerance Violations Requiring Immediate Arrest for Non-Compliance • Positive urinalysis for illicit and unprescribed drugs • Missed probation appointments • Failure to attend, satisfactorily participate in, or complete treatment • Unlawful contact (e.g., victim)	Status:		
		Comments:		
		Follow Up:		
8	Warning Hearing by the Judge • Encourage success • Identify likely sanctions for non-compliance • Procedural justice	Status:		
		Comments:		
		Follow Up:		

	ESSENTIAL ELEMENT	SITE STATUS	%	√
9	Drug Testing Strategy with Immediate Results • Screen first • Randomness (hotline?) • Targeted substances (include EtG?) • Frequency (phase-driven, risk classification or need?) • Confirmation process when positive result is denied (turnaround time, Fed Workplace Guidelines or LOQ)	Status:		
		Comments:		
		Follow Up:		
10	Means to Effect Immediate Arrest and Take into Custody • Arresting authority? If not the probation officer, who will take the offender swiftly into custody. How much time will it take? • Immediate arrest for zero tolerance violations	Status:		
		Comments:		
		Follow Up:		
11	Expedited Warrant Service • Who is responsible (e.g., police, sheriff) • Offender's perception (that s/he will be found and arrested) is key	Status:		
		Comments:		
		Follow Up:		

	ESSENTIAL ELEMENT	SITE STATUS	%	√
12	Means to Hold Violation Hearings Swiftly • Statutory requirements met (e.g., proper notification) • Jail/detention facility transport • Calendaring hearing	Status:		
		Comments:		
		Follow Up:		
13	Means to Timely Report to the Court: Probation Officers' Violation Reports and Recommendations • Short form probation officer violation report and recommendation • Distribution to parties	Status:		
		Comments:		
		Follow Up:		
14	A Sanctions Strategy that is Consistent and Proportionate • Sharp distinction between immediately taking responsibility and absconding (e.g., 2 days vs. 30 days) • Immediate sanction for every targeted violation	Status:		
		Comments:		
		Follow Up:		

	ESSENTIAL ELEMENT	SITE STATUS	%	√
15	Continuum of Treatment (resources, funding, probation condition that allows movement between levels of treatment) or, if Absent, Treatment Strategy (e.g., interventions by PO) • Individual counseling, outpatient, intensive outpatient, residential • Statutory provision and means to order treatment • If treatment unavailable, probation officers skilled in relapse prevention, cognitive behavioral therapy	Status:		
		Comments:		
		Follow Up:		
16	Quality Assurance for Fidelity Monitoring and Feedback • Probation officer: every target violation brought before sanctioning authority • Judge/hearings officer: every target violation sanctioned according to sanctioning strategy • Good internal communications on fidelity and responsiveness to shortcomings • Examine possibility of ongoing monitoring	Status:		
		Comments:		
		Follow Up:		

	RECOMMENDED ELEMENT	SITE STATUS	%	√
1	Pilot Period: Start Small • 30-50 offenders • Designated staff: weigh pros/cons (e.g., staff resentment toward caseload disparities) • Identify and resolve challenges • Solidify procedures	Status:		
		Comments:		
		Follow Up:		
2	Probation Officers Skilled in Evidence-Based Principles for Recidivism Reduction (e.g., RNR, working alliance, MI, CBT, case plans that target criminogenic needs) • Use of sanctions in moving offender through stages of change • External motivator to internal motivators (values/appreciates the merits of change) • Connecting thoughts, feelings, attitudes/beliefs with consequences • Address cognitive-skills deficits (e.g., problem solving)	Status:		
		Comments:		
		Follow Up:		
3	Evaluation Component • Continuous data feedback to evaluate and report program results	Status:		
		Comments:		
		Follow Up:		

HOPE Procedures Checklist

There are many specific issues that require strategic planning for any jurisdiction interested in implementing HOPE Probation to have success. The following HOPE Procedures Checklist can be used as a checklist for jurisdictions of such issues.

HOPE Procedures Checklist

Collaboration	Develop planning and implementation committees	• Inclusive membership from various areas including judges, probation supervisors and officers, law enforcement, prosecutors, public defenders and treatment programs • Schedule ongoing meetings between judge and probation following HOPE start-date
Target Population	Identify target population	• Determine the maximum number of cases for HOPE • Determine how offenders will be selected for HOPE • Align protocols with evidence-based practices • Determine if HOPE will include new and/or old probation cases • Develop referral process to HOPE
Implementation Strategy	Timeline	• Develop initial pilot first and determine timeframe for implementation and pilot period
	Staffing	• Determine if there will be dedicated probation officers for HOPE probation or if probation officers will have cases in HOPE and in probation-as-usual
	Target violations	• Identify target violations for HOPE with zero tolerance (e.g., positive urine drug test, failure to report, etc.)
	Quality assurance	• Develop system to monitor HOPE procedures and outcomes (e.g., tracking number of violations, responses to violations, sanctions, treatment completion, etc.) • Develop means of reporting on quality assurance to academia/relevant government offices
	Court response	• Determine turnaround time for hearings following violations • Consider availability of court staff and counsel • Determine if there will be a dedicated public defender and/or dedicated prosecuting attorney for HOPE cases • Identify defense counsel to serve as backup for private counsel • Develop procedure for defendants to waive counsel when given sanction by judge • Determine any exceptions to arrest for violations of probation (e.g., positive drug test awaiting confirmation by laboratory)

Motion Declaration / Affidavit	Development of motion and declaration/affidavit	• Identify means to initiate action; develop necessary paperwork form(s) • Procedure for prosecutor and defense counsel to review motions • Determine violations to include in motion and ability to add "other" violations with explanations • Determine if the same form can be used for Motion to Modify (or declaration) as Motion to Revoke with appropriate box selected • Determine timeline for when motions are to be developed – same day as violation or next day? • Determine electronic filing system of motions to provide access to clerical staff, probation officers and drug testers
	Initiating party	• Determine who has the statutory authority to initiate motion • Determine if notary is required and notary availability
	Tolling	• Identify statutory mandates regarding tolling time served • Determine how time is tolled (e.g., between filing date of motion and filing date of dispositional order) • Determine who is responsible for calculating toll time and mechanism for reporting
	Jail credits	• Identify statutory mandates regarding jail time • Determine how jail credits are calculated and who is responsible for reporting jail credits • Ensure that motions for revocation are initiated when maximum allowable jail term has been served and inform judge when filed for sole purpose of providing more jail days to probation term
Warning Hearing	Preparing and scheduling	• Develop letter for probationers to sign acknowledging date, time and location of Warning Hearing • Provide judge with list of cases, including pre-sentence investigation and synopses of probation adjustment • Develop script for judge to use to ensure Warning Hearings are consistent
Urinalysis	Court order	• Determine special conditions for HOPE probationers related to drug test specimen collection: providing valid samples, time restrictions for sample collection and no tampering

	Urinalysis/specimen collection	• Determine location of specimen collection (on- or off-site from probation offices) • Determine schedule for testing (days of the week and testing hours) • Ensure male and female collectors are available for testing and prepare backup plan • Develop procedures for observed testing collection • Develop procedures for tracking and reporting known prescribed medications • Provide offenders with written procedures related to determining testing days, testing requirements and collection procedures
	Drug testing frequency	• Identify testing frequency categories • Determine how offenders will be classified into testing frequency categories • Determine how testing groups will be identified (color-coded, numbers, etc.) and develop a corresponding matrix
	Testing strategy	• Determine the substances that will be tested (e.g., 6-drug test panel or 10-drug test panel), other illicit drugs (e.g., prescription drugs, Spice/K2) • Ensure contract allows variances for specific drugs (e.g., if alcohol use is suspected, ability to conduct alcohol breath test) • Determine process for confirmatory laboratory testing • Develop admission of substance use form for offenders • Develop procedures for addressing diluted samples and unclear screening results (e.g., faint positive result)
	Process for confirmation testing	• Determine cut-off levels for testing (e.g., limit of quantitation) • Identify laboratory to conduct confirmation testing with firm turnaround time • Develop procedures for transporting samples for confirmation testing (e.g., FedEx for off-site testing or staff daily transport of samples to local confirmation testing facility)
	Randomization	• Determine how testing will be randomized • Develop testing schedule (e.g., month-by-month)

	Hours of operation	• Specify drug testing collection hours • Determine any allowances for employed offenders (e.g., early morning collection)
	Master list of offenders	• Develop master list of HOPE offenders and ensure access by probation officers and drug test collectors • Determine who maintains list • Develop protocol for informing drug test collector of relevant information regarding testing (e.g., if offender should be tested for an additional substance or if offender should not be arrested for positive for specific drug)
	Reporting results	• Determine how drug test results are transmitted to probation officer (e.g., saved to server, sent as email, etc.) • Identify who initiates a motion when substance use violation occurs • Develop protocol for attempting to contact offenders when they fail to report for drug test
Failure to Report	Procedures	• Determine if there is a grace period for testing hours/appointments and threshold for repeat tardiness • Determine provisions for turning self in, including taking offender into custody and recalling bench warrants • Determine who is responsible for following up and making contact with offenders when they fail to report
Arrest	Responsible party	• Determine who is the arresting party • Determine how long it will take for arresting party to report to probation officer's office or drug testing center • Identify safety issues related to transporting offender • Determine the expectations of the probation officer when awaiting arrest of offender • Identify who assumes responsibility of the offender when the probation officer is absent • Determine if there are time limitations to transporting offenders to the cellblock/jail • Develop procedure for incident reports regarding arrest (e.g., resisting arrest or cooperative)

	Information for arresting party	• Determine what information the arresting officer needs from the probation officer regarding the offender (e.g., name, social security number, date of birth, medical status/injuries, prescriptions, and property) • Develop process for communicating this information (e.g., oral communication or form to complete)
	Court notification	• Determine how the court is notified of an arrest • Determine if an order pertaining to bail can be issued the same day
	Special issues	• Develop plan for handling children accompanying offenders (e.g., child protective services) • Develop plan for handling offenders' motor vehicles (e.g., telephone call to have someone pick up the vehicle) • Develop plan for handling offender personal property • Develop procedures for security offender property, including develop property inventory list for arresting officer • Develop plan for addressing medication needs of offenders
Court Information for Dispositional Purposes	Violation reports	• Determine what information is needed by the judge (e.g., history of violations and sanctions, drug test results and offender responses, circumstances of violations, treatment plan) • Determine deadline for submitting violation reports • Develop transmission procedures (e.g., email, fax) • Determine how report is provided to counsel
	Probation officer recommendation	• Determine what information is needed by the judge • Determine deadline for submitting probation officer recommendation • Develop transmission procedures (e.g., email, fax) • Determine if probation officer recommendation will be available to counsel and how it will be delivered • Recommendations should reflect lesser sanctions for offenders taking responsibility for actions (e.g., admitting drug use vs. denying use and confirmatory testing resulting in positive; turning self in vs. arrested by law enforcement on bench warrant) • Provide probation officers with judge's sanctioning guidelines

	Bench warrant information	• Determine what information the court needs to issue bench warrants (e.g., last known address, telephone number)
Disposition	Court order	• Develop template for Court Order Granting Motion to Modify with options for special conditions • Develop sample court orders for reference
	Information loop	• Determine how the court disposition is reported back to the probation officer (e.g., court minutes, court orders, email) • Consider timeliness in maintaining information loop
	Reporting instructions	• Determine who instructs offenders to report to their probation officer and when, if the probation officer is not present in court
Treatment	Court order	• Determine how probation officers can add treatment as a special condition of probation and require satisfactory participation • Consider change in treatment needs over time
	Services	• Determine the treatment programs available for HOPE offenders and levels of care (e.g., outpatient, intensive outpatient, residential) • Develop treatment options for indigent offenders
	Collaboration	• Educate treatment program providers about HOPE probation • Determine how treatment programs will address relapses to drug use and treatment program infractions (which are separate from HOPE) • Develop communication strategies for shared treatment planning with treatment program and probation officers
Training	Training plan	• Determine who needs to be trained on what areas of HOPE and when training will take place (e.g., one-time, monthly, ongoing) • Consider training and education for probation officers, judges, judicial clerical staff, drug test collectors, sheriffs, jail staff, et al. • Identify appropriate points of contact for various groups to manage troubleshooting
	Aids	• Develop, update and revise flow charts of the HOPE system to ensure that all parties understand the process • Include flow charts for addressing positive drug test results, failure to report, and referral process to HOPE

Research	Outcome measurements	• Determine if there are outcome measurement requirements to secure/maintain HOPE funding
		• Identify measures of HOPE success
		• Determine how information is collected and by whom
		• Develop protocol for conducting analysis and collecting feedback
		• Areas of measurement may include:
		  ○ Likert survey of probation officers to determine satisfaction with HOPE
		  ○ Active case summary totals
		  ○ Quality assurance report on probation officers
		  ○ Quality assurance report on judges
		  ○ Outcome measures (e.g., positive drug test results, failure to report)
		  ○ Randomized control trials

Maintain Congruency Between HOPE and Other Evidence-Based Practices	Optimizing efficacy of sanctioning process	• Provide tools for probation officers to use with offenders to effect behavioral changes • Assess offenders' motivation to change • Use motivational interviewing techniques to move offender from one stage to another • Use decisional balance scale to assess pros and cons of changing behavior and pros and cons of maintaining status quo • Use cognitive restructuring techniques to show the relationship between thoughts, feelings, attitudes, beliefs that drive substance use and criminal behavior • Teach offenders cognitive skills such as problem solving and impulse control through rehearsal and coaching

HOPE Probation Violation Flow Charts

The creation, use and continual revision of flow charts are advantageous to facilitate a better understanding of the HOPE process among personnel. Honolulu HOPE Probation Section Administrator Cheryl Inouye developed and updated the following flow charts. **Figure 3. Processing HOPE Probation Drug Test Results** describes the drug testing process and procedures while **Figure 4. Processing HOPE Violations / Failure to Report** describes the system in place to manage HOPE offenders when they fail to report. Together, these flow charts help clarify the roles of key personnel—judges, probation officers, drug testers, clerical staff, and the various law enforcement officers—within HOPE Probation.

Figure 3. Processing HOPE Probation Drug Test Results

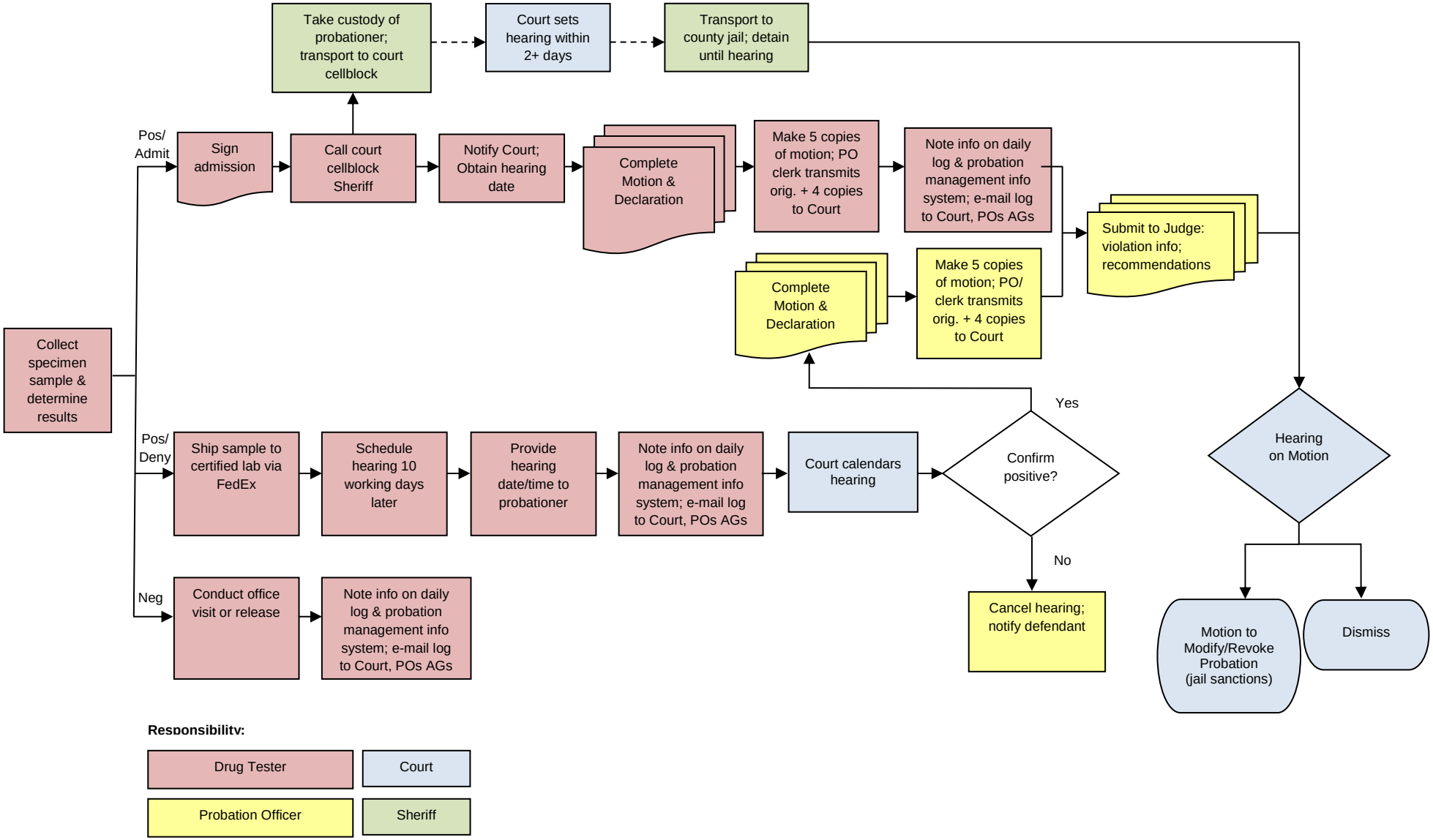
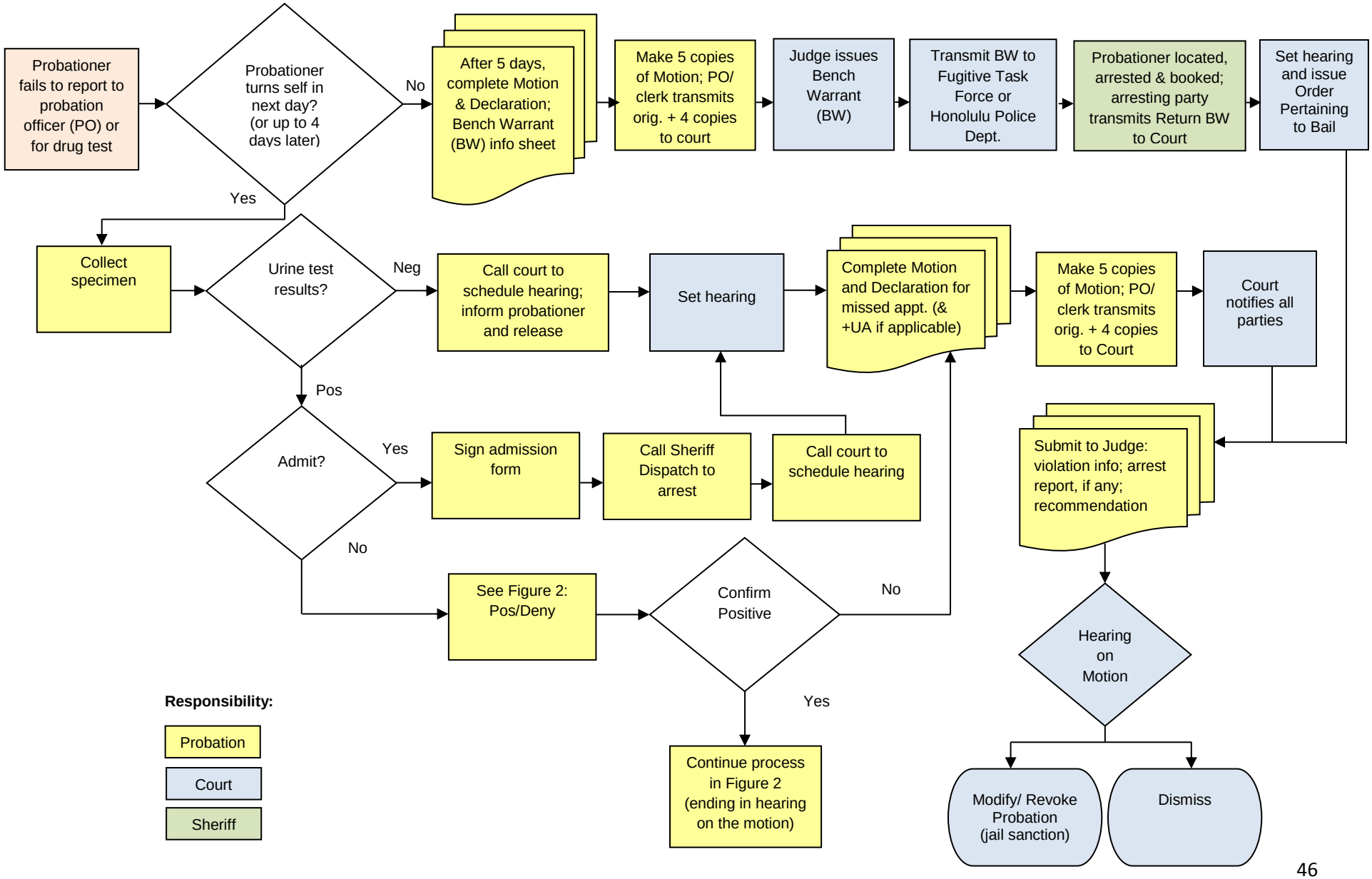


Figure 4. Processing HOPE Violations / Failure to Report



III. Appropriate Sanctions for Offender Non-Compliance, Referral to Treatment, Referral to Drug Court, and Revocation

The success of the HOPE strategy is dependent on the implementation of an effective system that holds offenders accountable for their actions while under community supervision. The following section addresses how violations of probation should be handled in HOPE Probation, which is vastly different from probation-as-usual.

With probation-as-usual, there is rarely a jail consequence for missing an appointment with a probation officer or a drug test or for testing positive for drugs. Probation officers have a great deal of discretion in making decisions about managing offenders on probation-as-usual. As a result, there are frequently inconsistencies and discrepancies among probation officers in how they manage offenders. Because of this wide variation, there may also be considerable variation among offenders as to when probation is revoked. Different probation officers have different tolerance thresholds as to how long they are willing to allow probationers to miss appointments, use drugs and alcohol, and ultimately, as to when probation is revoked. This variation leads to a lot of confusion among probationers, and widespread dissatisfaction, as there may be a perception that certain probation officers are "unfair" while others are "fair" or not as strict. Perhaps of even more concern to criminal justice stakeholders is the fact that there may be a prevailing belief that the "system" is unpredictable and arbitrary. HOPE Probation was developed to address many of these perceptions among offenders, and also to provide a blueprint for probation officers to use with a court that is built on a foundation of consistency in the use of sanctions. In this strategy, not only can the probationers depend on consistency in sanctions—probation officers can, too.

Unlike probation-as-usual, offenders in HOPE Probation are subject to swift, certain, consistent – but proportionate – sanctions (i.e., jail time) for every violation of probation. In HOPE, probation officers adhere to and enforce HOPE policies that require all violations to be reported immediately to the court through the filing of Motions to Modify/Revoke probation, and hearings are promptly scheduled. In every instance, the probationer will face the judge.

On entering HOPE Probation, offenders attend a Warning Hearing where they are promptly and personally told by the judge what to expect. They are encouraged to succeed on probation and are told that as adults, they are responsible for the consequences of all of their actions. The judge tells them that unlike probation-as-usual, now all probation violations will be met with a jail sanction. They are informed that sanctions will be directly tied to how they conduct themselves while on probation. The court makes every effort to make the system as transparent as possible to the offender so there will be no surprises. The sanctioning system is spelled out and repeated at appropriate times by probation officers, defense counsel and the judge, to ensure that HOPE probationers understand what will happen if they violate the terms of their probation.

Although every violation of HOPE Probation has a consequence, sanctions are less severe when the offenders take responsibility for their actions. In this way, HOPE Probationers are encouraged to be honest about their behaviors, including, in particular, substance use behaviors.

There are four primary recommended sanctions—terms of incarceration—for a single discrete probation violation in HOPE Probation: cellblock sanctions (measured in hours), 2 days, 15 days, and 30 days in jail. Judges may at their discretion order that the jail time be served on weekends if the probationer is gainfully employed. A multiple weekend sanction is typically a one-time-only deal as it requires more intake work at the jail. Multiple violations may well result in an increased or aggregate sanction.

Although each HOPE case must be judged on its own merits when a violation of probation occurs, it is essential for HOPE Probation to provide clear guidance on sanctions to implement that are consistent. Probationers are praised when they take responsibility for their actions and behave appropriately (e.g., admitting after drug use rather than compounding the problems by lying about the drug use or absconding).

Cellblock Sanctions

Missed Appointment or Drug Test, Promptly Turns Self In and Tests Negative. When HOPE probationers miss appointments or drug tests, the probation officer makes every effort to call and speak to them or leave a message that same day. If HOPE probationers report to their probation officer the same day or the following day *and* test negative, there is no immediate arrest. They are allowed to go to work and are ordered to report to court but are not arrested on the spot. If unemployed, offenders are also not arrested, but are instructed to continue with their job seeking efforts and are given a court date.

At the hearing, offenders are typically given a cellblock sanction, in which the violators are temporarily locked in the cellblock at the courthouse for several hours. The offenders are then released from the cellblock and must report to their probation officer.

In such cases, the violation of probation is met with a sanction, but the sanction is lesser because the offender behaved responsibly in making the mature decision to come in for the appointment and drug test as soon as possible and is rewarded for not using drugs as demonstrated by the negative drug test result.

At the Warning Hearing, the new HOPE probationers are told to make sure their probation officer has their cell phone number and a back-up number e.g., that of their girlfriend, boyfriend, mom, etc.) so that their probation officer can reach them as soon as possible if they miss a probation appointment or a drug test.

2-Day Jail Sanctions

Positive Drug Test, Admission of Substance Use. When probationers test positive on drug tests – whether the testing is done at the request of a probation officer or due to random selection that day – they are best served by admitting their recent substance use. In such cases, when probationers admit recent substance use, either before or after the rapid drug screening procedure, they are immediately

arrested and taken into custody. It would be a public safety hazard to release them (e.g., they might get into a crash and injure or kill themselves or someone else). A Motion to Modify/Revoke probation is then filed and a hearing is set. Hearings are usually held two days after arrest, at which time the judge typically sanctions the probationer with credit for time served.

Missed Appointment or Drug Test, Turns Self In, Positive Tests and Admission of Use. The same procedure is followed in cases when offenders miss appointments or drug tests, turn themselves in promptly and test positive and admits recent drug use. Offenders will immediately be taken into custody and serve 2 days in jail.

15-Day Jail Sanctions

Missed Probation Appointment or Drug Test, Delayed Reporting. When probationers miss appointments or drug tests and delay turning themselves in (e.g., miss an appointment or test on Monday and then report to probation officer for testing on Thursday), the offenders will be arrested and brought before the judge and face a 15-day jail sanction. In such cases, the probationers are likely delaying reporting and drug testing in hopes that drugs will clear out of their systems. The judge warns probationers about this at the Warning Hearing and encourages them to report as soon as possible if they miss a drug test or a probation officer appointment.

Positive Drug Test, Denial of Use. When probationers test positive for drugs or alcohol and deny recent use, the test sample is sent out for laboratory confirmation using gas chromatography-mass spectrometry (GCMS) for drugs and/or ethyl glucuronide (ETG) test for alcohol. Probationers are allowed to leave the testing site or probation office and a hearing is scheduled for 10 days from the testing date. As soon as results of the laboratory tests are received, probation officers take action. When samples confirm drug use, probationers are ordered to report to their probation officers to be arrested. Probationers will serve 15 days in jail for denial of their substance use, compared to the 2 days they would have served if they had admitted it at the outset. This choice on the probationers' part is discussed with them at their hearing. This issue is raised at the Warning Hearing as well. The probationers are told that if they ever relapse in the future and know they will test positive, they should take the bus or get dropped off at the courthouse and are instructed not to bring their car or their children with them. If they do, it is up to the probation officer to let them try to contact someone to pick up their car and/or their children.

If the laboratory tests do *not* confirm drug use, the probation officers inform probationers that their hearing is cancelled and a motion is filed to withdraw the earlier Motion to Modify/Revoke.

Failure to Provide a Urine Sample within 30 Minutes. A failure to provide a urine sample within 30 minutes is met with an immediate arrest and a 15-day jail sanction. The probationers are told at the Warning Hearing that the judge will assume they will test positive in such a situation and they are avoiding giving a sample to avoid detection. This is thus treated the same as a denial.

30-Day Jail Sanctions

Absconding. When probationers miss probation appointments or drug tests and do not report within five days, a warrant is issued for their arrest. Following their arrest, either on a bench warrant or after finally turning themselves in, they will face a sanction of at least 30 days in jail. This is because law enforcement resources were expended to look for these absconders. The judge reminds the probationers that the police and sheriffs can either be patrolling their families' neighborhoods and preventing crime or they can be looking for them to serve the warrant, but the sheriffs and police cannot do both. The judge emphasizes this fact to the probationer in court. This is to help the offender understand the court's decision-making.

Tampering. Tampering with the drug testing procedure (e.g., providing diluted samples, using adulterants, using devices such as a "Whizzinator" to swap or otherwise provide altered samples) will result in 30 days in jail.

Referral to Substance Abuse Treatment

Referrals for assessment and substance abuse treatment are made when probationers request it or the probation officers or judge determine that probationers are unable to stop using substances on their own. This is demonstrated when offenders repeatedly test positive for substances despite swift, consistent short-term jail stays for each of these violations of probation, and is known as "behavioral triage".[13] The court will be clear with probationers who demonstrate that they need to get an assessment that if they do not follow-up with getting the assessment on their own, the judge will hold the probationers in custody for the assessment at the jail or on a temporary pass. Failure to attend or complete treatment will result in a jail sanction.

Referral to Drug Court

The HOPE strategy can work successfully in conjunction with drug court to provide a continuum of probation supervision services. There are so many offenders under community supervision with substance use problems that it is important to have these two powerful tools, HOPE Probation and drug court, work together successfully. Drug courts, with their wrap-around services, can be an extremely effective means of supervising offenders. Due to their intensive design (and time requirements of both judges and court staff), however, drug courts will necessarily be limited in the number of offenders they can serve. Therefore, to make the best use of their precious limited resources, drug courts should follow the lead of the National Association of Drug Court Professionals (NADCP) and direct their efforts to target higher risk probationers, including those with violent histories, rather than focusing on the non-violent often lower risk pre-trial population.[14]

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[13] Hawken, A. (2010). Behavioral triage: a new model for identifying and treating substance-abusing offenders. *Journal of Drug Policy Analysis, 3*(1), 1-5.

[14] Marlowe, D. B. (2010, December). Research Update on Adult Drug Courts. *Need to Know.* Alexandria, VA: National Association of Drug Court Professionals. Available: http://www.nadcp.org/sites/default/files/nadcp/Research%20Update%20on%20Adult%20Drug%20Courts%20-%20NADCP_1.pdf

When recommended, drug court can provide an important referral source for drug-involved HOPE probationers who are failing in HOPE Probation but not repeatedly absconding (or they would be in prison). These offenders have identified themselves through their behavior as having the most serious substance use problems and require wrap-around services which are available in the Honolulu Drug Court. Drug court is most effective for the highest risk/highest need offenders who have failed at community supervision and/or HOPE Probation which are not able to provide the required structure and services. Drug court and other long-term residential drug treatment programs then become the last step on the continuum before prison.

Revocation

When HOPE probationers demonstrate repeatedly that they are unable to succeed under community supervision, and are not referred to the Honolulu Drug Court, their probation may be revoked and the probationer sent to prison. Offenders in HOPE Probation have often been referred to HOPE after doing poorly on probation-as-usual. HOPE Probation is most often revoked when offenders have repeatedly absconded and/or been convicted of new crimes. In other cases, where probationers appear to be trying to succeed, the court will keep working with the offenders through many violations in hopes that they will eventually succeed.

Other HOPE Probationer Circumstances

Arrest for New Crime. Sanctions are only given in instances of violations of HOPE Probation. When HOPE probationers are arrested for new crimes, no action is taken by the HOPE judge because the probationers are presumed innocent until the legal outcome is known. Action is only taken in cases when there has been a clear violation of probation (e.g., an admission to drinking alcohol when arrested for Driving Under the Influence). In such cases of clear violations of probation, the probationers will face the judge and an appropriate sanction for the violation will be imposed. (As a practical matter, depending on the nature of the new arrest, the probationers may be held in custody until bail or trial.)

Conviction of New Crime. When HOPE probationers are convicted of a new crime, it is clear that a violation of probation has occurred. The HOPE judge reviews the consequences imposed by the sentencing judge of the new case. If the new crime is a misdemeanor or petty misdemeanor and the offenders received jail time for the new crime, the HOPE judge will typically not impose any additional jail time for the violation of HOPE probation. However, if offenders received no jail time for new crimes, an appropriate sanction will be imposed by the HOPE judge, consistent with the violation of probation. If the new crime is a felony, the HOPE judge and the trial judge will handle it on a case-by-case basis. Some HOPE probationers will be allowed to continue on HOPE Probation and some will be sent to prison.

***Weekend Jail Stays*.** The court seeks to allow probationers who are gainfully employed or in school to serve jail time for violations of probation in ways that do not jeopardize public safety or their job, or cause them to miss classes. Probationers may be permitted one time by the judge to serve a longer jail sanction time on weekends (e.g., serving 15 days jail over five consecutive weekends for an initial denial and a later admission to drug use). It is a one-time-only deal because of the added intake work required at the jail.

***Apprehension Reports of Law Enforcement*.** Upon locating offenders who have absconded, law enforcement officials are encouraged, when they believe it is appropriate, to provide apprehension reports to the probation officer for the judge's consideration. These reports describe any attempts made by offenders to evade apprehension (e.g., hiding in closets, escaping through the window, needing to be subdued, etc.) as well as when offenders fully cooperate with the arrest. These factors may be taken into consideration at the violation hearing. The judge should do so in a manner that will not require the law enforcement officers to be called as witnesses at the hearing.

Summary

In addition to encouraging the probationers to succeed, expectations for behavior are made explicit to all HOPE probationers by the judge at the Warning Hearing and are repeatedly reinforced by the judge as appropriate in the context of other hearings, as well as reinforced by the probation officers and defense counsel. While HOPE is much more than a sanctions program, typical sanctions for violations of HOPE Probation are clearly articulated to encourage HOPE probationers to make mature decisions when facing violations of probation. For example, probationers are repeatedly told that when they know they are going to test positive on a drug test, they should ignore what may be their first instinct and not abscond or otherwise delay turning themselves in for a test or appointment with their probation officer. Higher penalties for lying and absconding are used to encourage probationers to be accountable for their behaviors. Sanctions are less severe when probationers take responsibility for their actions. The purpose is not to catch probationers when violating. The purpose is to have them not violate the terms of their probation in the first place. They will then be able to work together with their probation officers to succeed on probation.

IV. Changes and Improvements to HOPE Probation Since 2004

HOPE Probation has been in place for more than a decade in Honolulu, during which time many lessons have been learned – sometimes the result of procedures that were tried and found lacking. In addition, numerous improvements have been made with suggestions coming from many sources. At all times, the judge and the probation administrators have looked for ways to refine, simplify, and expedite the HOPE process, while simultaneously adhering to legal and evidence-based principles.

The implementation of HOPE Probation requires not only training for stakeholders and a transition period of learning, but it also requires changes that will simplify and expedite the new probation process and procedures. These may manifest themselves as the HOPE strategy is implemented. Those involved in the process may develop innovative solutions along the way. The following changes made to Honolulu's HOPE Probation serve as valuable lessons for jurisdictions implementing HOPE.

Drug Testing Procedures and Staffing

Urinalysis Hotline. In March 2005, six months after the start of HOPE Probation, a hotline was established to randomize the drug testing for HOPE probationers which is now in use for all HOPE offenders who have had drug/alcohol conditions (over 90%). The hotline is updated each weekday morning at 4:00am with a pre-recorded message to inform HOPE probationers of those subject to testing that day. Upon entrance to HOPE, each probationer with drug/alcohol conditions is assigned a color that corresponds to the frequency of drug testing. At the outset of HOPE Probation, offenders' colors are selected by the probation officer based on their assessed risk level and history of drug use. Offenders are tested up to five times per month, but are also subject to testing during regularly scheduled office visits. Over time with consistently negative drug test results and a decline in risk classification, probation officers change offenders' colors so that they are tested less frequently. The Honolulu HOPE Probation hotline can be accessed at 808-441-8989.

Drug Testers. Full-time drug testers were hired at a rate of $25,000/year to handle most of the drug testing of HOPE probationers. Previously, probation officers conducted all drug testing. This change helped facilitate the separation of the enforcement function of drug testing, now performed by drug testers, from the counseling function of probation officers and to allow the probation officers to spend more time with offenders.

Check-In Procedures. Upon notification of their color being called via the drug testing hotline, HOPE probationers are required to check-in at the reception desk of adult offender services at the Honolulu courthouse with a photo identification to provide a urinalysis sample between 7:45am and 1:00pm. Probation officers take photographs of all probationers and drug testers may refer to the file photograph to confirm the probationers' identities in the absence of a valid identification. Photographs are updated when there are significant changes in the probationers' appearance. (These images are also included in paperwork that is transmitted to the arresting parties when bench warrants are issued.)

Early Morning Drug Testing. HOPE probationers may obtain permission from their probation officers to submit to drug tests as early as 6:30am if they are gainfully employed, in job training or in school. To facilitate early morning drug testing (before the courthouse opens), a security guard was hired and drug testers rotate schedules to be available to oversee the testing.

Location of Drug Testing. Drug testing of HOPE probationers was initially conducted off-site at a probation office and was later moved to the courthouse. Subsequently, all HOPE probation officers and all drug testing were relocated to the courthouse as well.

Specimen Collection Procedures. At the inception of HOPE Probation, offenders were given the typical probation condition with 2 hours to provide a urine sample upon arrival at the testing site. To avoid wasting the time of drug testers and probation officers as well as to prevent late afternoon arrests, the conditions of HOPE probation were changed, requiring probationers to provide a urine sample for drug testing within 30 minutes of arrival. This is fair because the probationers have a lot of notice before any drug test.

Although drug testing of HOPE probationers has always been observed by a same-sex collector, tampering is still a concern. To reduce tampering of urinalysis specimens of males, HOPE offenders are required to stand on painted footprints on the floor which provide drug testers a clearer view of the collection process.

As a result of past suspected or confirmed tampering of urinalysis specimens, female HOPE offenders may be required to use a "collection hat" which sits in the toilet for urine collection.

Master List. Probation officers provide the drug testers with a master list that contains information regarding the offenders, and testing and arrest instructions. It includes information about the offenders' prescriptions which are continually updated as prescriptions change. The master list provides the drug testers with the necessary information to determine whether a drug test is positive due to nonmedical drug use or due to prescribed medications (e.g., opioids to treat pain), and whether to initiate an arrest or not.

The master list also contains testing instructions such as collecting a sample for ETG testing for alcohol, not arresting on a positive THC screen, etc. This master list is a necessary tool through which probation officers communicate instructions to drug testers.

Bringing Medications When Testing Positive. Probation officers instruct HOPE offenders to bring all medications with them to appointments and/or drug tests if they know that they may test positive for an illicit (nonmedical) drug. This is a precaution to ensure medical safety of offenders who know that they will be taken immediately into custody by law enforcement. It ensures uninterrupted pharmaceutical therapy when they are in jail confinement.

Urinalysis Log. A daily urinalysis log is used to document all urinalysis results for probationers, including whether HOPE offenders admitted to recent drug use after positive drug test results or whether these individuals refuted the result and required laboratory confirmation testing. The urinalysis log also

records the names of those who did not show up for a drug test. Drug testers update the urinalysis log and send out a daily report on all probationers to each of the probation officers via email. This information assists in the process of setting up appropriate court dates for HOPE offenders.

Conditions of HOPE Probation

Since the inception of HOPE Probation, the conditions of probation for HOPE offenders have changed, reducing the time permitted to provide a urine sample from 2 hours to 30 minutes. As is now the case with all probationers, HOPE offenders are prohibited from associating with friends, acquaintances, or family members who use drugs. In addition, drug testing conditions have been changed to prohibit tampering and adulteration:

> *Submit to urinalysis and/or other alcohol/drug testing protocol, at your own expense as directed by your probation officer. Any positive finding(s), a failure to provide a valid specimen within 30 minutes, the use of a tampering device or a specimen determined to be adulterated or inconsistent with human urine by laboratory testing may be considered prima facie evidence of probation violation*

HOPE probationers should be truthful at all times with probation officers. In HOPE Probation, while every violation has a consequence, honesty about violations is rewarded with lesser sanctions.

Warning Hearing: Updates/Improvements

When new sanctions are added to a HOPE strategy (e.g., cellblock sanctions), the Warning Hearing should also be updated to ensure the probationers have proper notice of those sanctions. Over time, the following additions have been made to Warning Hearings:

- Upon check-in for drug testing, HOPE offenders must submit a valid urine sample within 30 minutes (rather than 2 hours).
- Offenders are to refrain from all alcohol use, including the use of over-the-counter medications that contain it (e.g., Nyquil).
- Offenders should avoid poppy seeds which may result in a positive drug test result for opiates.
- Offenders are responsible for everything they put in their body (e.g., they should avoid smoking other people's cigarettes, and avoid use of e-cigarettes which may contain drugs).
- Offenders should not drive to the courthouse for urinalysis if they expect to test positive for recent drug use as their vehicle may be towed. Conversely, they may deny drug use to deal with their vehicle but then will face a likely 15-day sanction for a confirmed positive drug test.
- Offenders should not bring their children with them to the courthouse for urinalysis if they expect to test positive for recent drug use, as Child Protective Services may be called if a responsible adult cannot be located to pick up their child or children. A confirmed denial will lead to a similarly longer sanction.

- The only excuse for a missed appointment with a probation officer or missed urinalysis test is hospitalization that can be confirmed (e.g., not a visit to the emergency room at 12:00pm). A physician's note will not excuse a probationer from a drug test or a probation officer appointment. If probationers are not sick enough to be hospitalized, they are well enough to report for drug tests and probation officer appointments.

Law Enforcement / Arrest Procedures

Streamlined Arrest Procedures. All offices related to HOPE Probation are now located in the courthouse. This has facilitated the streamlining of procedures for taking offenders into custody. Previously, the initial probation office was located off-site. At that time the probation officers administered the drug tests to HOPE offenders. When HOPE offenders tested positive, sheriffs would have to travel to the probation office and take the probationers into custody and return them to the courthouse cellblock. Today the sheriffs responsible for taking HOPE probationers into custody are located on-site at the courthouse. Similarly, the drug testers who conduct drug testing are based onsite at the courthouse, permitting a large scale drug testing operation and the swift and efficient means of taking offenders into custody and transporting them to the cellblock.

Late-Day Arrests and Transport of HOPE Probationers. Probation officers may elect to additionally drug test HOPE offenders during regularly scheduled office visits. Those who produce a positive drug test result (and admit to recent use) are taken into custody at the courthouse by the on-site sheriffs, brought to the cellblock and await transport to the local jail, O'ahu Community Correctional Center (OCCC). Arrests of HOPE probationers occurring late in the day, however, posed an additional challenge because the vans providing transportation to OCCC typically depart at 3:30pm, leaving sheriffs with the additional responsibility of providing separate (later) transport of some HOPE offenders to the jail. To try to avoid late-day arrests and subsequent OCCC transport problems, several solutions were implemented:

- Probation officers with split caseloads of HOPE offenders and individuals on probation-as-usual schedule appointments with HOPE offenders earlier in the day. Appointments with those on probation-as-usual are held later in the day because even if they produce a positive drug test, they typically are not arrested.

- The reduction in time permitted for providing a urine specimen to 30 minutes helps ensure that HOPE probationers do not waste others' time when reporting for a random drug test and/or when providing a test during an appointment with a probation officer.

Sanctions

In HOPE Probation, every violation results in a swift jail sanction. HOPE has adopted new sanctions schedules for HOPE probationers who are late but test negative or who are employed, in job training, or enrolled in school. The purpose of having alternative sanctions schedules is to support the employment and academic success of the individual. These are important "protective" factors for probationer success.

Weekend Sanctions. When HOPE probationers are subject to longer sanctions such as 15 days jail for a violation and they are gainfully employed, in job training, or are enrolled in school, the judge may order a one-time-only weekend jail sanction. In such cases, the individuals will serve 15 days in jail over a period of five weekends. The jail counts the day probationers enter as one day, and the day they leave as a day, so entering jail on Friday and leaving on Sunday is considered three days. It is a one-time-only arrangement as it results in additional intake work for the jail. This one-time-only option is clearly explained to the probationer when it is imposed.

Cellblock Sanctions. If HOPE offenders miss an appointment with their probation officer or a drug test but turn themselves in later that same day or the following day and test results are negative, they typically are not arrested. In lieu of arrest, they may be ordered to appear in court on their next day off or at the end of the week, at which time they may be given a cellblock sanction by the judge. In such cases, the probationers will face the judge in court, admit to the violation and be sentenced to the cellblock located at the courthouse where they will serve their brief sanction until 3:00pm. They are then instructed to report to see their probation officer. This maintains the incarceration-only sanctions element while rewarding the probationer for responding appropriately and demonstrate they were not using drugs.

Early Termination of Probation

At the initial Warning Hearing, the judge informs probationers that if they succeed on HOPE Probation for two years without a violation, their probation will be terminated early (felony probation in Hawaii is typically four years long). If the probationers can be supervised that long without a violation, they have demonstrated to the judge and the probation officer that they no longer need to be supervised in the community. (Early termination is available for probation-as-usual but is rarely used.)

Terminating probation early will reduce the caseloads of probation officers and give them more time to work with probationers who are having problems and are in most need of probation supervision. Many probationers can visualize being fully compliant for two years, enabling them to stick to the terms and conditions of probation and subsequently be released early. Probation officers in Honolulu report that the probationers are motivated by the prospect of early termination and discuss it with them. Data collected by Angela Hawken, PhD shows that individuals who are granted early termination of their probation have turned their lives around and have avoided further involvement with the criminal justice system. Within the last three years, more than 100 HOPE probationers have been granted early termination of their probation and not a single one has been arrested since.

This offer is not extended to sex offenders in HOPE Probation as treatment will typically take longer than two years.

HOPE Probation Personnel

Expansion and Reduction of HOPE Judges. From 2004 to the summer of 2006 all of the HOPE cases were with Judge Steven S. Alm. From 2006 to 2009 HOPE Probation was handled by all 10 felony judges in Honolulu. During this time research showed that there was no “operator effect” with regard to reductions in missed appointments and positive drug test results among HOPE probationers (i.e., all the

judges received similar outcomes). There were differences, however, among judges in eventually sending HOPE offenders to prison. Subsequently, in 2009 all HOPE cases were consolidated to Judge Alm's caseload to improve consistency and ease logistics for the prosecuting attorney, defense counsel and probation officers. In 2012, Judge Rom Trader became the second HOPE Probation judge. While maintaining a caseload of trials, Judge Trader oversees about 275 HOPE cases. The remaining estimated 1,900 felony HOPE cases are with Judge Alm. HOPE is also used in a separate courthouse with a smaller number of domestic violence misdemeanors.

Back-Up Judges for HOPE Cases. To resolve problems caused by the unavailability of either of the two HOPE judges, Judges Alm and Trader, other designated judges may serve as back-up for handling routine HOPE cases. Such hearings include HOPE probationers who had a positive drug test result and admitted use, or missed an appointment and turned themselves in immediately. Typically in such cases, these individuals will serve two days following the violation and the back-up judge will give them credit for time served or the appropriate sanction. It is important to hear those cases on a timely basis to retain the short sanction consequence. If a probationer has absconded or otherwise committed a more serious violation of probation, then it is not as important to hear that matter within two days.

Dedicated Prosecuting Attorney and Public Defender. The Honolulu Prosecutor's Office has assigned a dedicated prosecuting attorney to oversee all HOPE Probation cases. Similarly, the Office of the Public Defender has two dedicated deputy public defenders for all HOPE cases (one in court and one for follow-up). The roles of the dedicated public defenders are rotated every six months. The dedicated prosecuting attorney and public defender provide consistency in the courtroom for overseeing cases; this dramatically simplifies the scheduling of HOPE case hearings. (Note: HOPE probationers are not required to use the public defender and may be represented by a private attorney.)

Streamlining HOPE Probation

A number of changes were made to simplify the HOPE Probation system to make it more efficient and successful. The Honolulu HOPE Probation team developed a number of time-saving legal forms, templates, and practices to accelerate the HOPE process.

HOPE probation officers have the statutory authority (along with the prosecutor, or even the court itself) to initiate Motions to Modify or Revoke probation. Motions may be partially prepared in advance (the day of or soon after placement in HOPE), and stored as a draft on a shared server. This provides access by all clerical staff, probation officers (particularly in the absence of the assigned probation officer), and drug testers when violations are detected and the Motions to Modify/Revoke have to be completed.

***Use of Declarations Rather than Affidavits*.** When probation officers prepared HOPE Motions to Modify/Revoke probation, they prepared affidavits which require the use of a notary. Now, based on a recent suggestion by the clerical supervisor (herself a notary!), rather than use affidavits, probation officers use a declaration to support a Motion to Modify/Revoke. This is done for each violation, rather than after a series of violations over an extended period of time as is done for probation-as-usual. A notary is not required for declarations (whether to modify the terms and conditions of probation, to

revoke probation, or to set aside an order of deferred acceptance of a guilty plea, or deferred acceptance of a no contest plea and acceptance of the defendant's plea for judgment of conviction and sentence). This change has greatly improved and expedited the HOPE process.

***Template Violation Reports*.** Probation Section Administrator Cheryl Inouye developed a template violation report which is completed by probation officers and submitted at least one day prior to the hearing. The court staff prints and distributes the violation report to the prosecuting attorney, defense attorney and judge. The template includes essential information about the defendant including:

- Offender/Case Information:
    - Name and criminal number
    - Level of Service Inventory-Revised (LSI-R) risk classification level
    - Recommended substance abuse treatment level (based on the LSI-R and the Adult Substance Use Survey [ASUS])
    - Original sentencing date, jail term and sentencing judge
    - Date(s) probation revoked, if any (including jail term)
    - HOPE Warning Hearing date
    - Probation officer name and phone number
- History of HOPE violations and sanctions in chronological order
- Current violation and other pertinent information (e.g., treatment, employment and school status)
- Proposed probation/case plan

This template takes a few minutes to prepare and, similar to the motions, are prepared in advance (as soon as offenders are placed in HOPE) and maintained on the server for access by everyone (probation officers, drug testers, clerical staff, etc.). Upon detection of a violation, the remaining data is inputted to complete the form. The form is simply updated as additional violations are detected. The template serves to add consistency and clarity to the probation officers' reports of violations for each HOPE motion. It makes preparing for court easier for the judge as well as the prosecutor and defense counsel. The same form may be used for a Motion to Modify and Motion to Revoke with the appropriate box to be checked.

When probation officers submit the violation reports to the court via email, they include in the body of the email their recommendation to the judge regarding an appropriate sanction for the probationer. This email replaces the confidential letter to the judge that was previously submitted for individuals on

probation-as-usual. The email is made privy only to the judge and chamber staff, while the violation report is submitted as an attachment for distribution to counsel.

Administrative HOPE Case Organization. The HOPE chamber staff has made several improvements to effectively deal with the challenges of supervising 2,000+ felony offenders:

- Color coding of HOPE case files to facilitate filing and prevent misfiling.
- Creation of a template form for court staff to complete when contacted by probation officers or drug testers to report HOPE violations. This form includes the following information:
    - HOPE offender name
    - Probation ID number
    - Caller name and phone number
    - Probation officer name (if call is from drug tester)
    - Whether offender is in treatment, school and/or working
    - Court date and time
- Completion of this form ensures both a record of the telephone call and documentation of the essential information provided. The consolidated information is then entered into the Circuit Court criminal case management system with the arrest and hearing date.
- Creation of a template for the daily cellblock list, known as the "fly sheet," of all HOPE probationers that have a hearing each day. The form indicates whether defendants are in custody or are walk-ins and whether they are represented by the public defender, a court-appointed attorney, or have private legal representation. The fly sheet helps the sheriffs in the cellblock organize the defendants in custody who must be interviewed by their attorneys prior to their courtroom hearings.

Courtroom and Judge Alm's Office Location. Two years ago, Judge Alm's courtroom was relocated to be right next to the cellblock. The sheriffs are now able to transport HOPE probationers more quickly to and from the cellblock at shorter intervals (usually two offenders at a time). Judge Alm's office is similarly close to the courtroom which also saves time, shortening the length of the multiple recesses that occur throughout the day in court.

Ensuring Fidelity to the HOPE Strategy

Because HOPE Probation minimizes probation officer discretion in dealing with HOPE violations, there may be a natural tendency to revert back to old methods and habits. For that reason, procedures were put in place to monitor the probation officers' files to ensure that fidelity to the HOPE strategy is maintained.

Probation Officer Spot Checks. The Hawaii Department of the Attorney General has provided assistance to assess compliance with fidelity to the HOPE strategy. The probation officer record checks are provided to the judge and probation supervisors to monitor compliance of probation officers and provide appropriate follow-up and reminders for probation officers to reinforce the HOPE strategy and procedures. Probation supervisors stress that the fairness of HOPE Probation is specifically built on consistency and even-handed treatment of probationers. Probation officers are reminded that leniency for violations of probation is not kindness because it breeds perceptions among probationers of disparate treatment and feelings that the criminal justice system is arbitrary and unfair. All HOPE probationers should experience the same appropriate consequences for violations of probation, administered quickly and consistently.

HOPE probationers make fewer complaints about their probation officers and rarely request to be assigned a new one.

HOPE Funding

Funding from the Legislature. Funding for HOPE Probation was requested from the Hawaii legislature in its 2006 session after 15 months in operation. That year, and every year since, the judiciary has received over $1 million which primarily pays for drug treatment for probationers who request it or who demonstrate that they need it. This provides access to treatment by a wider net of offenders who would otherwise not be able to afford the prohibitive costs of treatment. Funding also covers the salaries of additional probation officers and drug testers.

Funding for Dedicated Prosecutor and Public Defender. In 2010, the judiciary applied for a federal Byrne/Justice Assistance Grant and received funding for one year for a dedicated deputy prosecutor and deputy public defender to be assigned to HOPE full-time. Since then, the two offices have provided the dedicated attorneys out of their own budgets.

Managing the Workload

Volunteers. HOPE Probation yields a high volume of work for all engaged in the system. There are many opportunities to engage recent law school graduates, law students and college students and even some mature high school students as interns to provide assistance to the HOPE team. These opportunities provide interns with valuable and widely ranging experiences and help provide administrative relief to the HOPE staff.

Showing Appreciation

To successfully implement HOPE Probation, significant changes were made within the courts and among law enforcement. As the creator of HOPE Probation, Judge Alm regularly reaches out to the law enforcement groups to thank them for their work in serving warrants for HOPE Probation, transporting and receiving HOPE offenders to and from the jail, and providing the necessary enforcement support to make HOPE work. He educates law enforcement groups including sheriffs, police officers and jail staff about how HOPE works and the impact of their work on its success. Judge Alm speaks about HOPE Probation to every recruit class at the police academy and to every group of sergeants called back for recall training.

To show appreciation to the drug testers, probation officers, and chambers staff that oversee the administrative work of HOPE Probation, Judge Alm initiated the creation and distribution of HOPE polo shirts to boost morale and facilitate team support.

Collecting and Distributing Information about HOPE

Tracking information about HOPE Probation has been crucial in facilitating its short- and long-term success. Since its creation, Judge Alm has stressed the importance of sharing information about HOPE Probation through the development of articles, presentations to local and national audiences with interest in improving the criminal justice system, and speaking with the legislature and the public. This sharing of information about HOPE Probation provides opportunities to resolve misconceptions about it. Probation Section Administrator Inouye has also been a valuable resource for probation officers across the country wanting to learn about HOPE Probation. Both Judge Alm and Ms. Inouye stress the importance of the shared leadership aspect of HOPE and how critical it is to both the creation and implementation of a successful HOPE strategy.

In addition to the 2009 publication of results from a randomized control trial of HOPE Probation funded by the National Institute of Justice and the Smith Richardson Foundation,[15] a follow-up evaluation of HOPE has recently been completed and the results should be forthcoming.

From the very start of HOPE, the Department of the Attorney General of Hawaii collected and tracked data about HOPE Probation and HOPE offenders. The data provided critical evidence of the effectiveness of HOPE and have been available to stakeholders (e.g., to the Hawaii State Legislature to secure initial funding). The data, along with that from Angela Hawken, PhD, have been widely disseminated among criminal justice practitioners, the media, and interested others. In particular, Judge Alm has reached out to members of the judiciary around the country to explain how HOPE works and why they might want to try it in their jurisdiction.

Role of Drug Court

The Honolulu Drug Court, from its inception in 1995, has been and remains distinct from HOPE Probation. In 2011, Judge Alm also became the Honolulu Drug Court judge. During his tenure there, Judge Alm worked together with Drug Court Administrator Janice Bennett to re-design and re-target the Honolulu Drug Court to focus on high-risk, high-needs probationers, rather than on lower-risk pretrial offenders. As a result of this refocus, many drug court participants are now individuals who failed in HOPE Probation (but did not repeatedly abscond or they would likely be in prison) and thus demonstrated their need for the more comprehensive wrap-around services provided by the drug court. The Honolulu Drug Court has become an integral addition to the criminal justice continuum of probation-as-usual and HOPE Probation. The difference is that now the Honolulu Drug Court has become an alternative to prison for the most difficult offenders on probation.

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[15] Hawken, A. & Kleiman, M. A. R. (2009). *Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii's HOPE.* Document No. 229023. Award No. 2007-IJ-CX-0033. Available: http://nicic.gov/Library/024156

Prior to the revamping of the drug court in Honolulu, many drug court failures were placed on probation-as-usual and then due to repeated failures/violations were referred by probation officers to HOPE Probation. Now, if offenders fail at drug court, they are sent to prison. If they cannot succeed with drug court wrap-around, intensive services, there is little reason to believe they would succeed on probation-as-usual or even HOPE Probation. In addition, if drug court offenders knew there was a "safety net" of probation available, they may not put forth their best efforts in drug court.

In 2009, there were 52 offenders enrolled in the Honolulu Drug Court and in 2011, when Judge Alm started in drug court, there were 127 clients. As of September, 2014 when Judge Alm left the drug court assignment, there were 197 drug court clients, including an estimated 70 with a dual diagnosis of both drug and mental health conditions, with three-quarters of the Honolulu Drug Court participants being admitted from the higher-risk probation population. In addition, at that time, through the combined efforts of Judge Alm and the drug court staff led by Administrator Janice Bennett, of the 134 offenders who were employable (i.e., not in residential treatment, disabled, on bench warrant status, or in jail pending termination), 128 offenders (95%) were employed.

The annual cost of the Honolulu Drug Court is $6,000 for each offender, more than the $1,500 annual cost of HOPE Probation and the $1,000 annual cost of probation-as-usual. Through the retargeting of drug court, its more intensive and expensive services are reserved for the offenders who are in most need as demonstrated by their failures at lower cost probation-as-usual and HOPE Probation.

Addressing Mental Health Issues in HOPE

Although HOPE Probation is often viewed as a strategy ideal for offenders with serious substance use problems, the range of offenders that can benefit from HOPE supervision is vast. Many HOPE offenders have mental health disorders, often co-occurring with substance use problems. This is not surprising given that almost two thirds (64.5%) of the inmate population in the United States meets criteria for a substance use disorder, about one third (32.9%) has a mental health disorder, and nearly one quarter (24.4%) has co-occurring substance use and mental health disorders.[16] It is estimated that the prevalence of substance use and mental health disorders is similar or higher among offenders under community supervision.[17] While these disorders are distinct, albeit sometimes related, the problems that are inherent in treating substance abuse problems and mental illness can be successfully addressed using the HOPE strategy.

Although refraining from substance use is a condition of community release for offenders on standard probation, it is well-known that compliance with this condition and with substance abuse treatment is often very poor. This is in part why HOPE Probation works so well for offenders with serious substance abuse problems. Unlike probation-as-usual, offenders in HOPE Probation are held accountable for their

[16] The National Center on Addiction and Substance Abuse (CASA) at Columbia University. Behind Bars II: Substance Abuse and America's Prison Population (New York: Columbia University, February 2010), p. 35. Available: http://www.casacolumbia.org/addiction-research/reports/substance-abuse-prison-system-2010

[17] Gunter, T. D., Philibert, R., & Hollenbeck, N. (2009). Medical and psychiatric problems among men and women in a community corrections residential setting. *Behavioral Sciences and the Law, 27*(5), 695-711.

drug and alcohol use and for their participation in substance abuse treatment when required. Despite their common denial of their substance use problems, most offenders are able to adhere to these clear conditions of HOPE. Similarly, the HOPE strategy works well for offenders with serious mental illness because it is not based on the offenders agreeing that they have an illness and need treatment but instead insists on compliance with treatment as a condition of their release.

The HOPE strategy facilitates the referral of mentally ill offenders to treatment and improves compliance with treatment because they understand the clear and fair rules of HOPE Probation. Non-compliance with treatment for mental illness, like non-compliance with substance abuse treatment and the continued use of drugs, will result in an immediate jail sanction. This strongly enforced standard aids therapists and physicians treating mentally ill offenders because it directly reinforces treatment compliance; further, it succeeds because it is imposed by HOPE Probation rather than by the therapists or physicians themselves. This novel approach reduces recidivism and promotes mental health for many offenders whose mental illness leads to non-compliance with treatment including adherence to medication protocols. HOPE Probation enhances other treatments because it promotes compliance.

While some mental health professionals are initially troubled by the coercion or the "punishment" appearance of HOPE Probation, most see the value of HOPE in the management of the seriously mentally ill because it reduces probation violations which often lead to prolonged incarceration and because HOPE Probation promotes more successful participation in the community.

V. Supporting HOPE Probation: Open Letters to Judges, Probation Officers, Law Enforcement and Treatment Professionals

HOPE Probation is successful in its goal of reducing drug use, reducing criminal recidivism and reducing incarceration among the highest risk quartile of felony offenders on probation in Honolulu, Hawaii. The success of HOPE requires active collaboration by all of the relevant stakeholders in the criminal justice community. The following letters addressed individually to judges, probation officers, law enforcement and treatment professionals are authored by leaders in these areas in Hawaii who have first-hand experience with HOPE Probation. These letters attest to the important roles of the court, probation, law enforcement and treatment in achieving an effective HOPE strategy. These diverse leaders strongly endorse HOPE Probation as a result of years of working to make the HOPE strategy the national model that it is today. They offer their support and expertise to other jurisdictions interested in implementing HOPE.

Open Letter to Judges

Circuit Court of the First Judicial Circuit — THE JUDICIARY • STATE OF HAWAI'I
CHAMBERS OF THE SECOND DIVISION • 777 PUNCHBOWL STREET • KA'AHUMANU HALE • HONOLULU, HAWAI'I 96813-5093
TELEPHONE (808) 539-4646 • FAX (808) 539-4335

Steven S. Alm
CIRCUIT JUDGE

Dear Colleagues,

My name is Steven Alm and I am a Circuit Court Judge in Honolulu, Hawaii. I am confident that many of you became a judge for the same reason I did: to make a difference in other people's lives. Welcome to HOPE Probation.

I have been a judge for fourteen years. I started my legal career as a local prosecutor and then served as the United States Attorney for the District of Hawaii under President Clinton.

In June of 2004, I was transferred to a felony trial calendar dealing with a typical mix of cases: burglaries, sex assaults, drugs, etc. From the start, I could see that the probation system was not working effectively for many offenders. In Honolulu, and probably in your jurisdiction, you have dedicated, caring probation officers. They do their best to work with their clients, often using Evidence-Based Principles (EBP). While many offenders will succeed on probation, many others will not. When the probation officer determines that those offenders are not amenable to probation, they will write up all of the violations and refer the probationer back to the court with a recommendation for prison. The system in Hawaii didn't allow for a quick court sanction so often court action was delayed while the probation officer tried to "work with" the offender until multiple violations had occurred. In the meantime, of course, the probationers would be out in the community, often continuing to use drugs and sometimes committing other crimes. In spite of best efforts by probation officers and judges, our probation system in Hawaii was often delayed, uncertain, inconsistent, and when action was finally taken, often very harsh.

When I saw that this was the situation in June of 2004, I thought to myself "What would work to better change probationer behavior?" I thought about how my wife and I were raised and how we raised our son. We told our son that we cared about him but that the family has rules. If he then broke those rules, we took action right away. We used a consequence that was proportionate to the misbehavior. We didn't ignore the misbehavior and then a year later, kick our kid out of the house. This helped our son learn to tie together any inappropriate behavior with a consequence and learn how to behave. I suspected that many of the probationers I saw in court had been raised in families where there may well have been a consequence for misbehavior, but that consequence was not imposed in a swift, consistent or proportionate manner.

That is how the idea for HOPE came about. It wasn't an idea that was created in a vacuum. It was in response to seeing a problem with our probation system and trying to figure out a way to make the system work better. I thought that if we could bring that firm but fair parenting concept to probation; impose a quick and proportionate jail sanction for each probation violation, in a caring and supportive environment, that it would help the offenders to do better on probation.

Preparing your system to try a HOPE pilot will not be easy. Change is always very hard, especially in government. If one keeps doing what has always been done, one won't be blamed for anything. At the same time, the system will never change for the better.

HOPE requires joint leadership between the judge and a probation supervisor. You, as the judge, are in the perfect position to make this happen and truly, without your involvement and commitment, HOPE will not happen. You can call a meeting and everyone will show up. You are already a leader in the criminal justice system. By working closely with a probation supervisor who is willing to try these strategies as I did with Probation Section Administrator, Cheryl Inouye, you can change the system together.

HOPE requires change on your part as well. It will make your calendar busier. Instead of letting violations pile up, the probation officers, after the Warning/Notification hearing (a probationer's induction into HOPE), will take action right away whenever there is a clear violation of probation. For example, when a probationer tests positive for drugs at the probation office and admits to use, he or she is arrested on the spot. Either you have a hearing that same day, or as we now do in Hawaii, the defendant is transferred to the jail and we set a hearing two or three days later.[1] Then, almost invariably, the probationer will admit to the violation in court, get credit for time served, and be released. I want to reward the probationer for not making more bad decisions (either lying about drug use or absconding) after making the initial bad decision to use. I always aim for the amount of jail time that is proportionate to the behavior.

You also have to be willing to spend time talking to the probationers. At the initial Warning/Notification hearing, I explain how HOPE works and go over the likely sanctions for misbehavior. However, I always begin the hearing by telling the assembled probationers that everyone in the courtroom -- prosecutor, defense attorney, me, the taxpayers of Hawaii, want them to succeed on probation. The probationers in HOPE know I care about them, and they also know I will hold them accountable.

By working closely with a probation supervisor, you can change your probation system. I can honestly say that in my 30 years as a lawyer and a judge, HOPE is the best thing I have worked on. I feel like I now really supervise the probationers on my calendar and am helping many of them to succeed on probation. When done right, HOPE prevents victimization and crime, and helps offenders and their families by avoiding long prison terms, and saves taxpayers millions of dollars.

And again, isn't that why we became judges to begin with? To make a difference?

I look forward to meeting with you and talking to you in the future if you decide to take the HOPE concept and apply it to the probationers of your jurisdiction as only you can do. I stand ready to help you in that effort in any way I can. I would also be happy to talk to you about the HOPE strategy in general to see if it might be a good fit for your court. I can be reached at (808) 539-4646 or at steven.s.alm@courts.hawaii.gov.

Sincerely,

Steven S. Alm

[1] Initially the hearing was held on the same day the defendant was taken into custody. When the number of probationers in HOPE grew, the Prosecutor's Office asked that the hearing be held in two days. An added benefit of holding the hearing two days later is that it ensures that the defendant will be sober at the hearing.

Open Letter to Probation Officers

First Circuit Court – Adult Client Services Branch – THE JUDICIARY · STATE OF HAWAI'I
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Sidney H. Nakamoto
PROBATION ADMINISTRATOR

Dear Probation Colleague,

My name is Cheryl Inouye. I have been a probation officer for 34 years, and as the Section Administrator of the Integrated Community Sanctions Section in Honolulu for the last 14 years. I have been involved in virtually every new initiative in probation here over those years and I can safely say that HOPE Probation is the best initiative in which I have ever been involved.

I, and, I imagine, many of you, became probation officers because you wanted to be change agents. You wanted to help your clients improve their lives and help them leave the criminal justice system better people than when they first entered.

Often this is difficult. Large caseloads, limited resources, indifferent or unsupportive supervisors or judges make a difficult task even harder. In the face of these challenges, it often becomes an easier task to focus our activities simply on enforcing the terms and conditions of probation.

We cannot, however, afford to limit our work in this regard. There has been a lack of evidence showing the correlation between mere compliance with the conditions of probation without a corresponding effort to cause behavioral change and a reduction in recidivism. In fact, Hawaii's statutes require that probation officers use all suitable methods to aid the probationer and bring about an improvement in the probationer's conduct and condition, a purpose ground in the historical beginnings of probation with John Augustus in the 1800s.

To serve this end, Hawaii has committed to, and has heavily invested in, the implementation of the National Institute of Correction's model of Eight Evidence-Based Principles (EBP) for Recidivism Reduction, state- and interagency-wide, at the order of the chief justice. Many of you may be similarly engaged in the implementation of this model with the use of actuarial risk instruments, motivational interviewing, cognitive behavioral therapy, case planning that targets criminogenic needs, etc.

It was within this culture when I was approached in 2004 by Judge Steven Alm with a new strategy for addressing violations with the use of jail sanctions. It came to be called Hawaii's Opportunity Probation with Enforcement or HOPE Probation. It was a simple model based on operant conditioning, but the underlying focus was one of accountability in a caring context: of offenders, of offenders to their victims, of the system, and of the Judiciary to the public. There was no hesitation in agreeing to this.

Any new strategy, however, has to "fit within the system," so whether it is restorative justice or the NIC's model for recidivism reduction, or any other theoretical model or construct under which your probation operates, there needs to be an understanding of how the new strategy would be integrated. I immediately recognized how HOPE could be integrated into our EBP culture but there were two EBP issues that needed to be met or addressed from the outset: we knew we needed to meet the risk principle (diverting resources to the higher risk population) and we knew that jail, in and of itself, had not shown to be an effective intervention in numerous studies.

We met the risk principle simply by virtue of targeting those offenders in my section which targets two high risk groups: sex offenders and high risk, substance abusers (those convicted of a variety of felonies such as burglary, assault, and drugs, who are classified high risk on the LSI-R with substance abuse being one of the highest three criminogenic domains). We knew, however, that we needed to reinforce the rehabilitation component when jail sanctions were applied. As you might imagine, probation officers were concerned that the efforts spent on building a working alliance with their clients could be damaged once an arrest was initiated, and that trust might never be rebuilt. After all, probation officers in Honolulu had, heretofore, never exercised their vested powers to arrest.

Aside from the EBP issues, another potential issue that would affect probation officers was the loss of probation officer discretion in determining how violations are addressed and when their clients should return to court on a modification/revocation. This took a little convincing, because probation officers do not like to give up their discretion. It goes against our training. I asked my staff to trust me, and it was truly a leap of faith that they came on board.

Three and a half months later, the first HOPE Warning Hearing was held on October 1, 2004, with 34 probationers (18 sex offenders and 16 drug abusing offenders all of whom had been sentenced by the HOPE judge or his predecessor). By then, we had designed a new fill-in-the-blank violation motion that the probation officers could complete in five minutes. We designed new template violation reports that gave the judge relevant information in a consistent easy-to-read, easy-to-update format. We agreed to take a zero tolerance approach to positive drug tests and failures to report to the probation officer.

Probation officers immediately witnessed positive changes in the offenders' attitude and behavior, and we expanded HOPE to other offenders in the section who were doing poorly despite our rehabilitation efforts. From the start, research had been done by the Hawaii Attorney General's Office. Later, a gold standard randomized controlled study was done by Pepperdine and UCLA, funded by the National Institute of Justice and the Smith Richardson Foundation. The results showed that HOPE probationers, when compared to those in a control group on probation-as-usual, were 72% less likely to test positive for drugs, 61% less likely to skip probation appointments, and were half as likely to get arrested for new crimes, get their probation revoked, and get sent to prison. We found that the best results came when we combined our EBP efforts with the HOPE structure and procedures.

There were other unmeasured benefits of HOPE, the most important being as follows:

1. Accountability to the system. The court is allowing the offender to remain in the community as long as rules are followed. This is what victims and the public expect.

2. Fairness. It no longer depends on who the PO is, and their individual violation tolerance level.

3. Non-adversarial. Now, in the event of a violation/Motion to Revoke Probation, it is the probationer's own choices and behaviors which trigger the action rather than that of the probation officer.

4. Increased officer morale. The court and PO are more closely aligned in reaching the same goal: rehabilitation, but with accountability. The POs are more empowered.

5. Most important: A means to motivate the offender to change. HOPE pairs the behavior with an immediate consequence. POs become more influential as change agents because they can help their clients cut through their denial, and help them to see the merits of change (moving from having external motivators to being intrinsically motivated).

HOPE is not easy to implement but the results are certainly worth the effort. I encourage you to consider establishing HOPE in your jurisdiction and I look forward to working with you in the future as you do so. If you have any questions about the HOPE strategy before then, I can be reached at (808) 441-8941 or at cheryl.e.inouye@courts.hawaii.gov.

Sincerely,

Cheryl E. Inouye
Section Administrator
Integrated Community Sanctions Section

Open Letter to Law Enforcement

Dear Law Enforcement Colleagues:

We are writing to you as the three law enforcement leaders in Honolulu, Hawaii – Chief of Police, Sheriff, and United States Marshal – putting our support behind HOPE Probation as a superior way to supervise offenders in the community.

Our involvement with HOPE began ten years ago when Judge Steven S. Alm asked for our help in implementing a new strategy for supervising felony probationers. Judge Alm knew the probation system was not working well for many high-risk offenders. When offenders failed on probation, the failure led to more crimes and an increased probability of being sent to state prison, often with long sentences and at a cost of $46,000 per inmate/year. The cost of failure in terms of increased crime and criminal justice expenses fell heavily on the shoulders of taxpayers in Hawaii.

We agreed to help Judge Alm with a new initiative because we trusted him. We had known him for many years, first as a deputy prosecutor for the Honolulu Department of the Prosecuting Attorney, where he trained both deputy prosecutors in trial skills and police recruits in courtroom testimony. His last trial case there was the successful prosecution of a defendant who had killed a Honolulu police officer. Judge Alm then became the United States Attorney for the District of Hawaii under President William Clinton. His leadership produced close cooperation among local, state, and federal law enforcement and many successful prosecutions. This included the forfeiture of a bar/crack house in downtown/Chinatown Honolulu, which now houses a community center and a police station.

When Judge Alm approached us to implement the HOPE strategy, he told us the idea was to have swift and certain consequences for every violation of probation. That would mean, for example, that probationers who tested positive for drugs at the courthouse would be taken into custody right away. Judge Alm knew that a zero tolerance effort like this would require law enforcement officers to serve additional arrest warrants. We knew that thousands of offenders were on felony probation and some were committing new crimes and were often going to state prison for years. The idea was that if together we could make probation more effective, then down the road we would not have to investigate as many new burglaries, assaults, and drug cases. In addition, fewer probationers would fail and go to state prison for years only to be released a few years later and continue on with a life of crime. Our part in this new effort would be to take violating offenders into custody right away and to promptly track down and arrest the absconders.

We agree that while it is important to be tough on crime, it is also important to be smart on crime. We know that if you keep using the same strategy over and over, you will end up with the same results.

We knew that in implementing the HOPE strategy of using swift, certain, and proportional consequences, we would initially be serving more warrants that would involve extra work for all of us in law enforcement. However, the end result of having a safer community and less work later on was worth the effort.

According to Dr. Angela Hawken of Pepperdine University and Dr. Mark Kleiman of UCLA, the top quality research of HOPE Probation in Honolulu has shown that felony probationers in HOPE tested positive for drugs and alcohol 72% less often, missed probation appointments 61% less often, and were arrested for new crimes and sent to prison considerably less often than those on probation-as-usual.

This outcome has not only made our communities safer, which is our primary law enforcement goal, but it has also meant that our investigatory divisions have had to work on fewer new crimes, many of which require numerous hours to investigate.

The three of us encourage you, our law enforcement brothers and sisters, to look at the evidence of HOPE Probation yourself. We are confident that you too will decide you want to implement the HOPE strategy in your community.

A strategy that reduces victimization and crime and helps offenders to improve their lives and avoid going to prison, while saving taxpayers millions of dollars, is one well worth supporting.

We would be happy to discuss HOPE Probation and our roles in implementing this strategy with any and all law enforcement officials who would like to contact us.

Sincerely,

Louis M. Kealoha Chief of Police Honolulu Police Department City and County of Honolulu	Shawn Tsuha, Deputy Director Department of Public Safety State of Hawaii (Sheriffs and Narcotics Enforcement Division)	Gervin Miyamoto United States Marshal District of Hawaii

Open Letter to Treatment Professionals

Dear Treatment Colleagues,

My name is Alan Johnson. I am President and CEO of the Hina Mauka Recovery Center located in Kaneohe, HI and Chairperson of the Hawaii Substance Abuse Coalition, a group of substance abuse and mental health providers throughout the state of Hawaii.

I am writing to you in full support of HOPE Probation. I urge you and your organizations to support its implementation in your jurisdiction.

The HOPE strategy helps offenders succeed under community supervision. By providing swift, certain, consistent and proportionate sanctions for violations (typically a few days in jail) in a caring and supportive environment, HOPE is extremely successful in helping probationers comply with the conditions of their release.

High quality randomized control trial research has shown that, when compared to a control group of offenders on probation-as-usual, those in HOPE tested positive for drugs (typically methamphetamine) and alcohol 72% less often, missed appointments with their probation officer 61% less often, and were arrested for a new crime or sent to prison half as often.

The substance abuse treatment programs in Hawaii serve to support HOPE Probation. Not every offender in HOPE needs treatment. Many do very well without it. But for those who need it, mandated treatment is very effective. The HOPE strategy facilitates the treatment process, keeping offenders in treatment through completion. HOPE makes treatment work for this population that needs it most.

HOPE probationers who think they can stop using drugs or alcohol on their own without treatment are given the chance to demonstrate that by showing up at the courthouse for random testing (often once a week, six times a month at the onset), and testing negative. If they can do that, then they are not referred to a treatment program for an assessment and/or treatment.

Testing positive two or more times in rapid succession (coupled with brief jail stays) results in a mandatory referral for an assessment and participation in treatment when recommended. As a result, only the probationers who request treatment or who have shown by their inability to stop using drugs or alcohol on their own that they need it, are referred to treatment. The immediate availability of drug test results during a face-to-face visit both encourages probationers to be honest about their drug use and cuts through personal denial that it is a problem. The HOPE system of "behavioral triage" makes probationers more open to change and to benefiting from treatment while saving precious treatment resources for those who really need them and

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ensuring that individuals who do not need treatment are not referred. We are all aware of how wasteful, and at times, even disruptive, that can be.

We have found that HOPE probationers are more likely to stay engaged in treatment compared with offenders on probation-as-usual because they know there will be a swift consequence of a jail sanction for a failure to attend or complete treatment.

Our counselors report that their clients in HOPE are more responsible than other offenders. The reality of immediate consequences helps to motivate the HOPE offenders to work harder, be more engaged in treatment, and be more accountable for their behaviors.

Our working relationship with the HOPE probation officers is strong. For example, when internal efforts to change errant client behavior, such as behavioral contracts, are unsuccessful, we work together with the HOPE probation officers to send an individual back to court for a brief jail "time out." This often gets the probationer's attention and helps to re-direct and focus the effort to successfully complete treatment. By this point, both the program and the probationer have invested time and effort in the treatment episode and everyone wins when the probationer successfully completes treatment.

Those of us in the treatment community have seen that HOPE probationers are more responsive in their supervision because, while there are immediate jail consequences for bad behavior, it is all done in a supportive, caring environment. The HOPE probationers appreciate being treated like adults, with clearly defined expectations and certain consequences for violations. They know the HOPE judge cares about them and wants them to succeed. HOPE probationers know that they are being treated fairly and therefore they are more likely to buy-in to their probation program, including treatment.

I know I speak for my treatment colleagues when I say that we all know that treatment works. But treatment works even better when the clients are in HOPE. Given the choice, we would prefer that all of our clients be in HOPE because it leads to better treatment outcomes.

We in the treatment community are helping those struggling with drug and alcohol disorders because of the harm it causes them, their families and their communities. We have found HOPE Probation to be a powerful way to both make better use of our treatment resources and to increase treatment success. On the basis of this widely shared experience, I encourage you to support efforts to establish HOPE Probation in your community. You – and your clients and their families – will be glad you did.

If I can provide further information or clarification, please contact me at (808) 236-2600 or at ajohnson@hinamauka.org.

Sincerely,

Alan Johnson
President and CEO, Hina Mauka Recovery Center
Chairperson, Hawaii Substance Abuse Coalition