

Hawaii's Swift and Sure Probation

By National Institute of Justice Staff

Authors' Note: *Points of view expressed in this article do not represent the official position or policies of the U.S. Department of Justice.*

A few years ago, the probation system in Hawaii was like many probation systems. Too many convicted felons routinely failed to show up for appointments with their probation officers. Many probationers declined to take mandatory drug tests, or took them and failed. Probation officers had a difficult time getting others in the criminal justice system to take their concerns seriously. Even the worst offenders would have to commit many infractions before the police, probation officers and courts would take action.

How It Works

In 2004, a judge decided to take a new approach. Circuit Judge Steve Alm convinced the police and sheriff, local jail officials, probation officers, drug treatment professionals, prosecutors and defense counsel to collaborate on a "swift and sure punishment" program known as Hawaii's Opportunity Probation With Enforcement (HOPE). The judge took a group of high-risk probationers, gave them "warning hearings" and told them that while the rules of probation were not changing, the old rules would now be strictly enforced. The judge also emphasized that everyone in the system hoped they would succeed on probation, but, that for them to remain on probation, they would have to follow the rules.

Those who violated the conditions of probation would be arrested. Probationers who failed a morning drug test would be arrested immediately, appear in court within hours and have the terms of their supervision modified to include a short stay in jail. To

promote ongoing employment, probationers could serve their sentences on a weekend, at least initially. The court also assured those who needed drug treatment, mental health therapy or other social services that they would get the treatment they needed and were expected to attend and complete the treatment.

The pool of probationers in the pilot program consisted of troubled probationers who had been failing under a business-as-usual system. They included people who had been convicted of offenses such as sex crimes, domestic violence and other drug-involved felonies.

Perhaps the biggest changes Alm made, in addition to the warning hearings, were new drug testing procedures and the handling of probation violations. Probationers had previously received notice of drug tests as much as a month ahead of time. Today, HOPE participants must call a hotline every weekday to learn if they must report for a drug test that day. In the past, a probationer might have eluded appointments with a probation officer, failed to take a drug test or failed to attend or complete treatment numerous times before facing possible revocation of probation and imprisonment. Today, probationers in the HOPE program face the prospect of being jailed almost immediately for violating probation terms. Jail terms are usually only a few days and sentence lengths increase for successive violations.

Early success

According to Alm, "the traditional paradigm — that if you keep violating, you might get sent to prison next year for 5 or 10 years — was not really working. The new paradigm is — if you test positive this week, you will go to jail this week."

The Hawaii Legislature took notice of the success of the pilot program. It gave the court system more funding to expand the program, so HOPE could handle a greater number of "troubled" cases. Researchers, also intrigued with the early successes, started a rigorous analysis of the numbers. Researchers from the University of California at Los Angeles and Pepperdine University are collaborating with the Research and Statistics Branch of the Hawaii Office of the Attorney General. They are conducting a thorough outcome analysis of HOPE participants and a full-cost assessment of the fiscal impact of the program.

A few of the preliminary findings:

- A group of methamphetamine-using probationers with records of poor compliance were put on the HOPE drug-testing-and-swift-sanctions program and given a formal warning by the judge. Overall, the rate of missed and "dirty" drug tests decreased by more than 80 percent.¹
- For 685 probationers who were in the program for at least three months, the missed appointment rate fell from 13.3 percent to 2.6 percent and "dirty" drug tests fell from 49.3 percent to 6.5 percent, according to the Research and Statistics Branch of the Hawaii Office of the Attorney General.

The full findings and final report are expected in December. For more information, visit www.courts.state.hi.us.

ENDNOTE

¹ Hawken, Angela and Mark Kleiman. 2007. What a novel probation program in Hawaii might teach other states, *The American Prospect*, 10 April.

