

## ALTERNATIVES TO INCARCERATION

### *A Smart Approach to Breaking the Cycle of Drug Use and Crime*

Decades of research and experience have shown that drug use and criminal behavior are inextricably linked. Drug-involved offenders contribute significantly to the burdens of state and local corrections and community supervision systems. More important, these offenders can place a burden on the health, safety, and well-being of themselves, their families, and their communities. Much too frequently, an unfortunate pattern occurs among this population: soon after release, the offenders return to drug use and criminal behavior, get re-arrested, and are sent back to prison for lengthy sentences. The Administration recognizes that addiction is a disease, and that treatment and long-term recovery require public health and public safety interventions.

Nearly seven million American adults are under supervision of the state and Federal criminal justice systems. Approximately two million of these individuals are incarcerated for their crimes, while the remaining five million are supervised through probation or parole.<sup>1,2</sup> For states and localities across the country, the costs of managing these populations have grown significantly:

- ◆ Between 1988 and 2009, state corrections spending increased from \$12 billion to more than \$50 billion per year.<sup>3,4</sup>

Despite these substantial expenditures and the significant costs to the public health and safety of our communities, too many offenders are unable to remain free of drugs and commit crimes upon their reentry into society.<sup>5</sup>

- ◆ In 2009, parole and other conditional release violators accounted for 33.1 percent of all prison admissions, 35.2 percent of state admissions, and 8.2 percent of Federal admissions.<sup>6</sup>
- ◆ Twenty-four percent of adults ending parole in 2009 (approximately 132,000 of 553,000) returned to prison as a result of violating their terms of supervision, and 9 percent of adults ending their parole returned to prison as a result of a new conviction.<sup>7</sup>
- ◆ Among state prisoners who were dependent on or abusing drugs, 53 percent had at least three prior sentences to probation or incarceration, compared to 32 percent of other inmates. Drug dependent or abusing state prisoners (48 percent) were also more likely than other inmates (37 percent) to have been on probation or parole supervision at the time of their arrest.<sup>8</sup>
- ◆ The 2010 Arrestee Drug Abuse Monitoring (ADAM II) study found that anywhere from 52 percent (Washington, DC) to 83 percent (Chicago) of male arrestees tested positive for the presence of at least one drug at the time of the arrest.<sup>9</sup>

State and local leaders are looking for innovative ways to improve public health and public safety outcomes while reducing the costs of criminal justice and corrections.

The Obama Administration's *National Drug Control Strategy (Strategy)* recognizes the criminal justice system plays a vital role in reducing the costs and consequences of crimes committed by drug-involved offenders. It should be employing innovative, evidence-based solutions to stop the all-too-common

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cycle of arrest, incarceration, release, and re-arrest. An increasing body of evidence suggests that the right combination of policies and strategies can break this cycle. A number of these innovative strategies can also save public funds and improve public health by keeping low-risk, non-violent, drug-involved offenders out of prison or jail, while still holding them accountable and ensuring the public safety of our communities.

The overarching criminal justice goal of the Administration's *Strategy* is to build a system that provides a continuum of evidence-based interventions to address the needs of the offender, while ensuring the safety of the community. The key objective of these innovative approaches is to match the intensity of the intervention, which may include a variety of services (substance abuse and mental health treatment, regular drug testing, job training, employment, education, and housing) to the offender's needs and criminal behavior, reserving the limited number of treatment slots for those with the disease of addiction and the prison slots for violent offenders. By implementing a range of interventions, resources can be allocated more efficiently and recidivism can be reduced. Highlighted below are several evidence-based interventions that can improve the role of the criminal justice system in public health and public safety.

## Smart Probation Strategies

### Testing and Sanctions Models

Probation officers in the United States often find themselves with large, unmanageable caseloads, while judges are forced to choose between sending repeat offenders away for long periods of time or ignoring probation or parole violations altogether. "Smart" justice systems now offer better, cheaper, and more effective options. More states and localities are implementing strategies to improve outcomes and reduce the burden of drug-involved offenders on their criminal justice and corrections systems. These innovative new programs include Alaska's Probationer Accountability with Certain Enforcement (PACE), Delaware's "Decide Your Time," and Arizona's "Swift, Accountable, Fair Enforcement" (SAFE) program. Several states, including Alabama, Arkansas, Georgia, Kentucky, Louisiana, Montana, and Virginia, have also passed or are currently examining probation and parole reform legislation that allows for administrative sanctions as an alternative to re-incarceration.

The key component of many of these initiatives is reliable monitoring of drug use through regular drug tests, combined with the consistent application of swift, certain, but modest penalties for those who use drugs and continue their criminal behavior. These programs show that long stays in prison or jail are not necessary to prevent new drug-related offenses or probation violations. Rather, the application of very short periods of time in custody — often two or three days — can be more effective in supporting compliance and curbing recidivism.

### Smart Probation in Hawaii: HOPE

Hawaii's Opportunity Probation with Enforcement (HOPE) program has shown positive results. Many of its key principles have been adopted by other programs and are regarded as best practices. Launched in 2004, Hawaii's HOPE:

- ◆ Identifies high risk probationers who are most likely to violate their conditions of community supervision, including violent and sex offenders;
- ◆ Notifies participants that every detected violation will have consequences;
- ◆ Conducts frequent random drug tests;
- ◆ Responds to detected violations (including failed drug tests and skipped probation meetings) with swift, certain, and short terms of incarceration;

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- ◆ Responds to absconding probationers with warrant service and sanctions; and
- ◆ Refers participants to drug treatment upon request or for those probationers who do not abstain from drug use while on the testing and sanctions regimen.

Since 2009, more than 1,500 probationers (one in every six felony probationers in Oahu) have been enrolled in HOPE, all under the supervision of a single judge. Other states have followed Hawaii’s lead. Alaska, Nevada, Oregon, and Arizona have recently started HOPE-type efforts, and California and Virginia are in the early phases of organization and implementation.

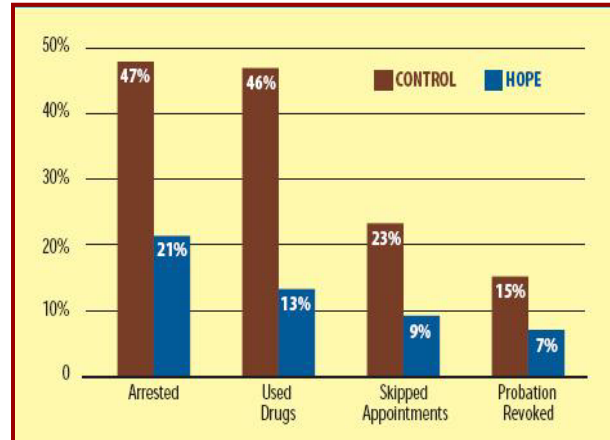
HOPE differs from many current probation programs by:

- ◆ Focusing on immediate consequences for violations of probation/parole conditions, such as drug use or missed court-required appointments;
- ◆ Mandating drug treatment for probationers only if they continue to test positive for drug use, or if they specifically request a treatment referral;
- ◆ Providing immediate, consistent sanctions when a violation is detected; and
- ◆ Having employed probationers serve jail time on weekends so they do not jeopardize their jobs.

### HOPE Program Outcomes

The National Institute of Justice evaluated HOPE. Compared to probationers in a control group (see chart), after one year, the HOPE probationers were:<sup>10</sup>

- ◆ 55 percent less likely to be arrested for a new crime;
- ◆ 72 percent less likely to use drugs;
- ◆ 61 percent less likely to skip appointments with their supervisory officer; and
- ◆ 53 percent less likely to have their probation revoked.



HOPE costs approximately \$2,500 per probationer, which is more than traditional probation. But considerable savings can be realized in incarceration, treatment, and other criminal justice costs.<sup>11</sup>

### Smart Probation in South Dakota: The 24/7 Sobriety Project

The 24/7 Sobriety Project is a court-based program designed to reduce the re-offense rates of repeat Driving Under the Influence (DUI) offenders. Started as a pilot in South Dakota in 2005, the 24/7 project works with the full spectrum of the criminal justice system, including law enforcement and the judicial system. As a condition of their probation or parole, 24/7 participants must maintain full sobriety, meaning no use of alcohol or illegal drugs, in order to keep their driving privileges and stay out of jail.

Participants in the 24/7 Sobriety Project are individuals who have been arrested multiple times for DUI offenses. The program utilizes a variety of mechanisms to ensure abstinence from alcohol and other drugs, including twice-daily breath testing for alcohol, ankle bracelets that continuously monitor wearers for alcohol consumption, drug patches that collect sweat samples for laboratory drug testing, and urine testing for drugs. Offenders are given breath and urine tests at their local law enforcement office; if they test positive, they are taken into custody immediately and brought to court. A first violation usually results in one or more nights in jail. Repeat violations of the no-use standard, or missing test appointments, leads to further incarceration or even increased jail time. All sanctioning is swift and certain.

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## 24/7 Project Outcomes

Preliminary studies indicate the program reduces the likelihood of reoffending. Specifically, the South Dakota Attorney General's evaluation found offenders enrolled in 24/7 for at least 30 consecutive days are nearly 50 percent less likely to commit another DUI offense. Research also indicates these results are sustained over periods longer than those of more traditional interventions (i.e., ignition interlock devices).<sup>12</sup> Monitoring statistics (see table, below) show that a significant majority of 24/7 program participants maintained their abstinence from alcohol and drug use:<sup>13</sup>

<b>Breath Test Results</b> February 2005 - October 2010: <ul style="list-style-type: none"><li>• 16,800 participants</li><li>• 3.42 million twice-per-day tests administered</li><li>• Pass rate: 99.3%</li></ul>	<b>Drug Patch Results</b> July 2007 - June 2010: <ul style="list-style-type: none"><li>• 76 participants</li><li>• 913 tests administered</li><li>• Pass Rate 86.6%</li></ul>
<b>SCRAM Bracelet Results</b> <ul style="list-style-type: none"><li>• 2,475 participants</li><li>• Total days monitored: 346,741</li><li>• Confirmed drinking events: 246</li><li>• Confirmed tampers: 785</li></ul>	<b>Urinalysis Results</b> July 2007 - June 2010: <ul style="list-style-type: none"><li>• 1,586 participants</li><li>• 33,458 tests administered</li><li>• Pass Rate: 97.3%</li></ul>

In response to these promising preliminary results, the National Institute on Alcohol Abuse and Alcoholism (NIAAA) has provided funding to the RAND Corporation to study the effectiveness of the South Dakota 24/7 Sobriety program. The study began in mid-2011 and is evaluating the program's effectiveness at improving public safety, including DUI recidivism, traffic crashes, hospitalizations, and other social costs. In addition, based upon the success of the South Dakota 24/7 effort, the governments of Montana and North Dakota have started their own 24/7 Sobriety programs.

The Administration is committed to expanding innovative probation programs like HOPE and 24/7 Sobriety. To further support the growth and improvement of these and other efficient, effective probation initiatives, President Obama's FY 2012 Budget requests \$7 million for smart probation programs as part of the Second Chance Act.

## Drug Courts

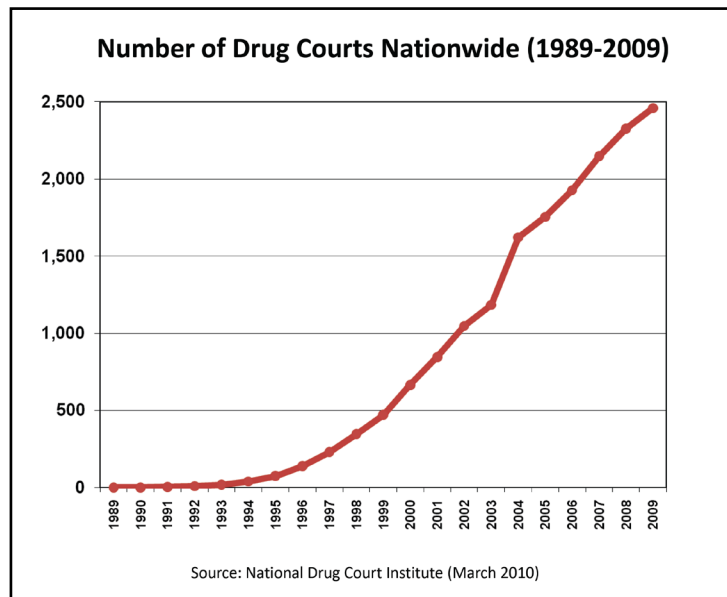
Drug courts promote collaboration among the judiciary, prosecutors, community corrections agencies, drug treatment providers, and other community support groups, and have been operating in the United States for more than 20 years. In times of serious budget cuts for state and local governments, drug courts are another cost-effective investment that helps offenders on the road to recovery and reduce costs associated with incarceration and recidivism.

Drug courts, which combine treatment with incentives and escalating sanctions, mandatory and random drug testing, and aftercare, are a proven solution that reduces substance use, prevents crime, and maximizes limited financial resources. They provide an intensive intervention that is well-suited for high-risk/high-need offenders, effectively meeting the public health and public safety needs of both the community and the drug-involved offender.

Drug court participants are provided intensive treatment and other services for a minimum of one year. There are frequent court appearances and random drug testing with sanctions and incentives to encourage compliance and completion. Successful completion of the treatment program results in dismissal of the charges, reduced or set-aside sentences, lesser penalties, or a combination of these. Most important, graduating participants gain the necessary tools to rebuild their lives.

With more than 2,600 drug courts in operation today, approximately 120,000 Americans annually receive the help they

need to break the cycle of addiction and recidivism.<sup>14</sup> The President's FY 2012 Budget requests approximately \$101 million for drug, mental health, and other problem-solving courts, demonstrating the Administration's support for increasing and enhancing access to substance use treatment.



### Drug Court Outcomes

- ◆ In a recent Department of Justice study, drug court participants reported 25 percent less criminal activity and had 16 percent fewer arrests than comparable offenders not enrolled in drug courts. In addition, 26 percent fewer drug court participants reported drug use and were 37 percent less likely to test positive for illicit substances.<sup>15</sup>
- ◆ Additionally, analysis of drug court cost effectiveness conducted by The Urban Institute found that drug courts provided \$2.21 in direct benefits to the criminal justice system for every \$1 invested.<sup>16</sup> When targeting more serious, high-risk offenders, the average savings increased even more, benefiting the criminal justice system \$3.36 for every \$1 spent.<sup>17</sup> Research also suggests that drug courts are particularly well-suited for offenders at high-risk for not completing traditional treatment options. The close supervision of a drug court judge, frequent check-ins with the court staff, and the long-term, tailored treatment services are particularly effective for those offenders with severe drug problems and/or anti-social personality disorders.<sup>18</sup>
- ◆ The drug court movement continues to grow rapidly. Since 1989, drug courts have been implemented or are being planned in all 50 States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, Guam, and nearly 90 locations in Indian country.

### Learning More about Smart Criminal Justice Programs

The Obama Administration is committed to funding and evaluating the long-term effects of these innovative criminal justice and corrections interventions. Meanwhile, Federal agencies will continue to seek opportunities to expand smart probation and problem-solving court initiatives in collaboration with state, local, and tribal agencies. In recognition of the considerable potential in cost savings, improved outcomes for offenders, and improved public safety, a growing number of state and local officials are starting their own promising initiatives to break the cycle of drug use, crime, and incarceration.

For more information about these programs, visit the ONDCP website at: [www.ONDCP.gov](http://www.ONDCP.gov).

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## Notes

- <sup>1</sup> Bureau of Justice Statistics. *Prisoners in 2009*. U.S. Department of Justice. [2010]. Available: <http://bjs.ojp.usdoj.gov/content/pub/pdf/p09.pdf>
- <sup>2</sup> Bureau of Justice Statistics. *Probation and Parole in the United States, 2009*. U.S. Department of Justice. [2010]. Available: <http://bjs.ojp.usdoj.gov/content/pub/pdf/ppus09.pdf>
- <sup>3</sup> National Association of State Budget Officers, *Fiscal Year 1988 State Expenditure Report*, p. 71. [1989]. Available: [www.nasbo.org/Publications/StateExpenditureReport/StateExpenditureReportArchives/tabid/107/Default.aspx](http://www.nasbo.org/Publications/StateExpenditureReport/StateExpenditureReportArchives/tabid/107/Default.aspx);
- <sup>4</sup> National Association of State Budget Officers, *Fiscal Year 2008 State Expenditure Report*, p. 54. [2009]. Available: [www.nasbo.org/Publications/StateExpenditureReport/tabid/79/Default.aspx](http://www.nasbo.org/Publications/StateExpenditureReport/tabid/79/Default.aspx).
- <sup>5</sup> National Reentry Resource Center. *Reentry Facts*. The Council of State Governments. [2011]. Available: <http://www.nationalreentryresourcecenter.org/facts>
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- <sup>9</sup> Office of National Drug Control Policy, *Adam II: 2010 Annual Report – Arrestee Drug Monitoring Program II*. Executive Office of the President.
- <sup>10</sup> National Institute of Justice. *In Brief: Hawaii Hope*. U.S. Department of Justice. [2010]. Available: <http://www.ojp.usdoj.gov/nij/journals/266/hope.htm>
- <sup>11</sup> Hawken, Angela and Kleiman, Mark. "HOPE for Reform." Hawai'i State Judiciary's HOPE Probation Program. [2007]. Available: <http://www.hopeprobation.org/article-hope-for-reform-by-angela-hawken>
- <sup>12</sup> Loudenburg, R., Drube, G., Leonardson, G. South Dakota 24/7 Sobriety Program Evaluation Findings Report. State of South Dakota. [2011]. Available: <http://atg.sd.gov/LinkClick.aspx?fileticket=yDN959bSoXE%3D&tabid=442>
- <sup>13</sup> Office of the Attorney General. *24/7 Sobriety Program*. State of South Dakota. [2011]. Available: <http://apps.sd.gov/atg/dui247/index.htm>
- <sup>14</sup> "Types of Drug Courts." National Association of Drug Court Professionals [2011]. Available: <http://www.nadcp.org/learn/what-are-drug-courts/models>
- <sup>15</sup> National Institute of Justice. *NIJ's Multisite Adult Drug Court Evaluation*. U.S. Department of Justice. [2011]. Available: <http://www.nij.gov/nij/topics/courts/drug-courts/madce.htm>
- <sup>16</sup> Bhati, Avinash Singh, Roman, John K., Chalfin, Aaron. "To Treat or Not to Treat: Evidence on the Prospects of Expanding Treatment to Drug-Involved Offenders." The Urban Institute. [2008]. Available: <http://www.ncjrs.gov/pdffiles1/nij/grants/222908.pdf>
- <sup>17</sup> *Ibid.*
- <sup>18</sup> Marlowe, D.B., et al. "Adapting judicial supervision to the risk level of drug offenders: Discharge and 6-month outcomes from a prospective matching study." *Journal of Drug and Alcohol Dependence* 88(Suppl. 2): 4-13. [2007]. Available: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1885231/>



## Office of National Drug Control Policy

[www.ONDCP.gov](http://www.ONDCP.gov)

[www.TheAntiDrug.com](http://www.TheAntiDrug.com)

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