

# All Implementation Is Local

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**W**e expect that responses to the Demonstration Field Experiment (DFE) results (Lattimore et al., 2016, this issue) based on Hawaii's Opportunity Probation with Enforcement or HOPE strategy will mostly fall into three categories: celebrators, disappointed, and intrigued.

### **The Celebrators**

From its inception, many were unenthusiastic about HOPE. To be fair, several of us who were involved with assessing early implementation were similarly skeptical, especially those of us who prefer a public-health approach to substance-use disorders. But the manner in which Judge Steven Alm engaged the probationers who came before him in his courtroom demonstrated his interest in improving their futures. There was an atmosphere of goodwill in his court, in the probation office, and even at the jail. HOPE seemed worth exploring further, especially in light of positive evaluation findings produced by the research division at the Hawaii Office of the Attorney General. Our first evaluation confirmed those findings: Compared with those on probation as usual, probationers who had been assigned to HOPE had fewer new arrests, missed appointments, and positive urines, and they were less likely to be revoked and returned to prison. The reduction in revocations was especially important as the probationers included in the study were facing long open terms (up to 20 years).

Despite criticisms that there was little to justify considering HOPE as a promising program (see Duriez, Cullen, and Manchak, 2014), several studies indicated that the approach *was* promising (by any reasonable standard). Judge Alm did not invent the notion of swift, certain, and proportionate sanctions, nor was he the first to attempt to implement a program that embodies those principles. In the same year as Judge Alm implemented HOPE, a similar approach was being implemented in Texas. The Special Sanctions Court (SSC) in Fort Bend County was launched at the same time as—and with no prior awareness

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of—HOPE (Snell, 2007), and today is the SWIFT (Supervision with Intensive Enforcement) program in Tarrant County, having independently arrived at policies and procedures that are nearly identical to HOPE (Martin, 2013). Evaluation outcomes for SSC/SWIFT were similar to those for HOPE in Hawaii. Compared with a matched-comparison group, subjects in SSC were significantly less likely to violate the terms of their probation, half as likely to be revoked, and half as likely to be convicted for new crimes (Snell, 2007).

The performance of Alaska's PACE (Probation Accountability and Certain Enforcement), implemented in 2010 and closely modeled after HOPE, is yet to be clearly established. Preliminary results released in 2011 indicated significant reductions in positive drug tests and in missed appointments, but there was an increase in the number of overall documented technical violations (Carns and Martin, 2011). The evaluators attributed that finding to closer monitoring of violations and more careful recording of those violations under PACE (Carns and Martin, 2011).

Mainland implementations of HOPE-style programs have been or are being evaluated with varying degrees of rigor. The Supervision Motivation Accountability Responsibility and Treatment (SMART) program in Kentucky was evaluated using a matched-comparison quasi-experimental design ( $n = 307$  in treatment group,  $n = 300$  in comparison group). The evaluators found that, in the first year of the program, the SMART group had—in relation to the comparison group—half as many violations, one fourth fewer subjects with a positive drug test, and two thirds fewer subjects with a new charge (Shannon, 2013; Shannon, Hulbig, Birdwhistell, Newell, and Neal, 2015).

The Swift & Sure Sanctions Program in (then) 18 counties in Michigan was evaluated with a matched-comparison quasi-experimental design ( $n = 379$  in treatment group,  $n = 379$  in comparison group). The evaluators found that, in the 24 months of the evaluation, the Swift & Sure group was—in relation to the comparison group—36% less likely to reoffend (and less likely in six of eight categories, not including violent crimes and traffic offenses), 37% less likely to receive a jail sentence, and equally likely to receive a prison sentence (DeVall, Lanier, and Hartmann, 2015).

A pilot evaluation of Arkansas' SWIFT Courts used a matched-comparison quasi-experimental design ( $n = 54$  in treatment group,  $n = 54$  in comparison group). At 6-month follow-up, it found that the SWIFT group was—in relation to the comparison group—one third less likely to test positive for drug use, one third less likely to be arrested on a misdemeanor charge, and half as likely to be arrested on a felony charge (Kunkel and White, 2013).

A retrospective pre–post study ( $n = 409$ ) of Manitoba's Criminal Organization High Risk Offender Unit (COHROU) found a 24% decline in days in custody (3 years pre vs. 3 years post) and a decline in severity of offenses for those who reoffend (Weinrath, Doerksen, and Watts, 2015).

Grommon, Cox, Davidson, and Bynum (2013) reported shorter and longer term results for a HOPE-like intervention targeting parolees in a “Midwestern industrialized

state.” Their study involved a randomized controlled trial (RCT) with individuals assigned to the intervention condition (HOPE-like),  $n = 136$  in control group I (this included a hotline with a 4-day wait for lab results, and standard sanctions), and  $n = 112$  in control group II (no hotline and standard sanctions). The HOPE-like group “showed substantially lower rates of drug use” and “was significantly less likely to have recidivated during the first 6 months” (p. 160). But the authors noted:

Unfortunately, the short-term findings did not translate to long-term effects. Behavioral changes observed from participation in the conditions dissipated once participants were not subject to testing and sanction protocols. It should be of no surprise that the removal of swift and certain consequences would dramatically influence learned processes and allow for reversions to past behavior. Swift and certainty of sanction are critical components of deterrence theory. . . . The deterrent value of the experimental conditions were weakened and replaced by standard parole supervision where the threat of consequences was not as imminent. (p. 163)

The effectiveness of swift and certain (but modest) sanctions for continued substance use has also been tested in a program—“24/7 Sobriety”—in South Dakota that shares many features of the Hawaii HOPE program but focuses on alcohol-involved offenders. 24/7 Sobriety deters offenders (including those with repeat DUIs and violent crimes) from drinking through frequent testing: Participants in this program take breath tests onsite twice a day or use a remote electronic alcohol-monitoring device. A positive test results in a sanction of up to 24 hours of incarceration (depending on the jurisdiction), served immediately. An initial analysis of South Dakota data found that DUI second offenders in 24/7 were half as likely as those not in 24/7 to receive another DUI conviction at 3-year follow-up (Loudenburg, Drube, and Leonardson, 2010). A large-scale natural experiment found a 12% reduction in repeat DUI arrests and a 9% reduction in domestic-violence arrests in South Dakota counties with the program (Kilmer, Nicosia, Heaton, and Midgette, 2013). Remarkably, Kilmer et al. (2013) showed significant county-level reductions in all-cause mortality in counties that adopted 24/7. The program has since expanded to North Dakota, other western states, and Florida with early indications of positive findings.

The studies referenced in this essay are not intended to be an exhaustive review of the literature, but they illustrate that there are several studies demonstrating positive results. The DFE (Lattimore et al., 2016) is a high-quality study that will carry substantial weight, as it should, in the broader growing literature concerning the HOPE strategy. The rates of successful completion of probation have shown only limited improvement over time, despite many sincere efforts at reform (Bureau of Justice Statistics, 2015). The human costs of probation failures are staggering. We should be open to testing new approaches and to identifying what works and under what conditions.

## The Skeptics

Many will be disappointed with the DFE evaluation findings (Lattimore et al., 2016). Some will claim the results follow from a poor implementation of HOPE at the four DFE sites. This is not the case. The implementation team monitored fidelity to the HOPE strategy—developed in Hawaii for Hawaii (see Alm, 2010)—as closely as the data allowed to ensure that Lattimore and her colleagues were able to evaluate as close a replication of HOPE as was feasible within the study’s timelines. From the outset, the DFE sites were told that they were responsible for good implementations, not for good outcomes. Violations *were* closely monitored, violating behavior *was* responded to, and the sanctions delivered were consistent with the HOPE strategy. We have much more to learn still about business-as-usual probation at the four DFE sites. They self-selected (applied for the grant) as enthusiastic about the strategy, and they needed to demonstrate the local capacity to implement. The screening of sites added to the self-selection yielded four unusually well-functioning probation departments. We recognized early on that the manner in which participating sites were selected had the advantage of making implementation somewhat easier but the downside of making it harder to demonstrate an effect. There were local differences in how the program was implemented that were not observable without access to data on the control group (we had no access to those data). One jurisdiction had many more revocations for the HOPE group than for the control group; without control-group data, we had no context for interpreting whether their revocation rate was unusual for their jurisdiction (the site was, in general, more punitive than the others were). In preparing for the DFE, Judge Alm consulted with all of the judges (including visits to each site) and shared with them his philosophy regarding revocations. His philosophy is to “put in prison people you are scared of, not people you are mad at.” Revocation in HOPE in Hawaii was considered a last resort and reserved mostly for those cases presenting concerns for public safety (he regards repeat absconding as a *prima facie* threat to public safety): So long as you make yourself available for supervision, don’t threaten public safety, and don’t pick up new charges, you won’t be revoked.

Evaluations of intensive supervision probation have shown that closer scrutiny increases the opportunity to detect misbehavior (Petersilia and Turner, 1993). In the absence of a local philosophy that resists revoking on technical violations (except in circumstances when public safety is a concern), or if a statute requires revocation after some number of technical-violation sanction days, revocations can increase under a HOPE approach. We never appreciated the importance of the operator effect and, in particular, how the orientation of the bench or probation department might interact with implementation of the HOPE strategy and outcomes observed. Judges ultimately control the revocation decision, and operator effects will matter. Preventing unintended consequences, such as increased revocations, might require attention to the terms surrounding revocations on the basis of technical violations. In an executive-branch implementation, such as swift and

certain (SAC) in Washington State (Hamilton, Campbell, van Wormer, Kigerl, and Posey, 2016, this issue), legislation and agency policy can more strictly define and circumscribe the conditions required for revocation. In a court-based implementation, we would advise pre-implementation agreement among all stakeholders on thresholds for revocations and on mitigating inducements to revocation-triggering behaviors. For example, following up on missed appointments with reminders to appear right away, before stiffer consequences set in, might reduce the issuance of bench warrants (the principal cause of revocations).

### **The Intrigued**

The DFE (Lattimore et al., 2016) provides a wealth of opportunity to learn, not only about HOPE as implemented in a variety of sites on the mainland, but also about multisite-implementation evaluations in the field more generally.

Kraemer (2000) noted the advantages of and potential pitfalls in conducting multisite RCTs, which apply to the HOPE DFE and should be taken into consideration when interpreting results. There are several good reasons to conduct multisite evaluations, such as the DFE: (a) Power: Combining results from each site provides for larger sample sizes so that effects can be measured with greater precision. (b) Generalizability: Results are more generalizable than in single-site studies, as research subjects are more heterogeneous and site characteristics more varied. (3) Study quality: Multisite RCTs tend to be better resourced, better designed, and more carefully reported on than single-site studies (Kraemer, 2000: 533–534).

These noted advantages clearly apply to the HOPE DFE: a large combined sample size across the sites, implemented in different local conditions, evaluated by an excellent research team. But there is also a potential concern: premature initiation. Kraemer described the conditions under which a multisite RCT should be considered and cautioned against premature studies of this sort:

[T]o propose a multisite RCT before the research question and the approaches to take are clear from an accumulation of single-site RCTs may result in a poorly designed and inadequate multisite RCT that not only would waste a great deal of time, effort, and funding that could have been better invested elsewhere but also might mislead the entire field for some time. (p. 535)

The DFE was implemented without single-site pilot studies to identify sufficiently implementation-design issues. Implementation challenges were being identified and responded to while the DFE was underway (in some cases, sites were well into their DFE follow-up period before implementation errors could be debugged); these implementation challenges should have been addressed and resolved *prior* to the launch of the DFE. Oregon provides a helpful illustration. The first 6 months of implementation in Oregon were riddled with challenges, but they were addressed and violations declined. Conventional wisdom in evaluation research is to refrain from evaluating outcomes until a program has achieved stable

implementation. The HOPE strategy sounds simple, but implementation is complex, even more so when dealing with four very different sites. Knowing better how the HOPE strategy would interact with local circumstances would have allowed implementation to be modified to protect against implementation errors. Nevertheless, that implementation was so complex (even with as much oversight as afforded through this project) *should* raise concerns about the generalizability of HOPE as a prescriptive set of rules designed in Hawaii.

HOPE is a specific implementation of a community-supervision approach that is now often referred to as “swift, certain, fair” (SCF). SCF programs vary in their details, depending on their focus, type of supervision, and characteristics of the jurisdiction and/or implementing agencies. The key conceptual elements are swift, certain, and proportionate responses to technical violations of conditions of supervision. The present results raise many interesting questions. Foremost will be how do we reconcile the RCT evaluations of SCF initiatives presented in this issue (Lattimore et al., 2016; O’Connell, Brent, and Visher, 2016, this issue) with results coming in from sites across the country that have implemented SCF under a variety of circumstances. Several other evaluations (including RCTs) are now underway, and they will soon shed more light on outcomes in different settings (which may help, or further complicate, interpretation of the present findings).

Much has happened over the last half decade as the DFE unfolded. Jurisdictions less interested in outright replications of HOPE are weaving the principles of swiftness, certainty, and fairness into their own implementations. Dozens of pilots are underway. As an example, the Pennsylvania Department of Corrections (PADOC) is conducting two distinct pilot tests of an SCF approach (data reported here are preliminary and as of yet unpublished, provided courtesy of PADOC). The first is in an alternative sentencing program for individuals convicted on drug-related offenses, the State Intermediate Punishment (SIP) program. SIP entails a short stay in prison (most of the stay occurs within a therapeutic community) followed by an extended period in substance-abuse treatment at a community-corrections center (halfway house). PADOC staff embedded an SCF monitoring and sanctioning protocol at two pilot sites. Reports from the two sites have been positive, noting 35% fewer positive drug tests, 77% fewer “recycles” back to the in-prison phase of treatment as a result of relapse or misbehavior, 43% fewer program expulsions, and 32–65% fewer new arrests, especially drug arrests.

PADOC is also one of three state corrections departments that have adapted the SCF principles to an in-prison setting. In early 2016, the State Correctional Institution (SCI) Somerset implemented SCF sanctioning in one unit on a pilot basis to examine its potential to help reduce misconduct and the use of solitary confinement in response to misconduct. Since starting, misconduct in the experimental unit are 53% lower than they are in other similar units in the prison, and inmate-filed grievances in the experimental unit have dropped to zero (albeit from a fairly low base rate). Misconduct in the experimental unit dropped by 61% compared with the same time period a year earlier, even as department-wide misconducts were generally trending upward. Furthermore, line staff working in the

unit reported reduced stress levels under the SCF protocol. Results have been so encouraging to PADOC staff members that they have now expanded the pilot to another housing unit at SCI Somerset, with plans to expand to 11 more prisons over the next several months.

Even as the DFE (based on the earlier HOPE strategy) was underway, several consequential innovations were adopted in the Honolulu implementation, all intended to improve the strategy: (a) Early termination (also called early discharge) as a reward that may be granted to probationers with a demonstrated history of compliance on HOPE. Compliant probationers have the potential to shave 3 years off of what is typically a 5-year term (early discharge is not granted for sex offenders, who must complete a longer term of treatment). (b) Technical violations, with no aggravating circumstances, by HOPE probationers who have otherwise been compliant are occasionally given a non-jail sanction (instead they are sanctioned to spend several hours in the courthouse cellblock). (c) Judge Alm no longer escalates sanctions for most common violations (positive drug tests, with admission, and late or missed office visits with next-day reporting and negative drug test). (4) HOPE is now integrated into a continuum of supervision. The supervision-triage structure entails conventional probation for low-risk offenders, HOPE for high-risk and for failures from conventional probation (nearly 30% of the felony-probation caseload on Oahu), and drug court reserved for failures from HOPE. Approximately 7% of the HOPE caseload is triaged into drug court, which has now been retooled to accept more-serious participants who would previously have been deemed ineligible.

The jail-sanction response in the DFE implementation design was inherited from the Hawaii implementation as a component of the HOPE strategy. Judge Alm is a firm believer that a jail sanction is disruptive and can motivate behavior change. This has been a bone of contention for those of us involved with implementation. We know of no empirical basis for considering jail stays an optimal response under an SCF approach and whether it should be considered an essential feature of HOPE. We have recommended experimentation with alternative responses. Several SCF pilots are underway that do not include jail time among their responses to technical violations.

We should also question first principles. Important goals of an approach like HOPE are procedural justice, credibility (the system does what it promises to do), and legitimacy. Perhaps HOPE, in this outright replication, succeeded in the first goal but failed in the second. As mentioned, HOPE is now regarded as one particular implementation of a set of principles known as SCF. But going from principles to practice is a leap. In implementing the principles, swiftness and certainty are clearly articulable and observable (respond quickly to tie the behavior to the consequence and respond in predictable ways). By contrast, the fairness assessment seems to be given short shrift.

As we monitored HOPE fidelity for the DFE, we paid close attention to swiftness and certainty. Responses were fast. And violations were responded to, almost without fail. Good data were maintained that allowed us to assess metrics for swiftness and certainty, and so they were easy to report on (we tend to study what we can count). But what is fair

and how do we assess it? As the DFE called for a replication of HOPE as in Hawaii, we based our assessment of “fair” on how sanctions in the DFE sites compared with sanctions delivered there (where survey data from probationers and probation officers had indicated they perceived the program to be fair). In hindsight, that was a poor standard, because fairness is much more complex.

One aspect of fairness is equal treatment under the law. An important appeal of HOPE in Hawaii was that reduced official discretion had the benefit of shrinking the race/ethnic gap in reported violations and sanctions. Racial disparities were also observed to shrink under SAC in Washington State (Washington State Department of Corrections, 2014). We hope that in future analysis Lattimore and colleagues will assess whether constrained discretion due to more-prescribed responses by the HOPE courts in the DFE sites yielded similar reductions in disparities.

But perceptions of fairness matter also. In describing criminal-justice legitimacy, Packer (1968) argues that justice must *be* fair, but must also be *perceived* as fair. What is regarded as fair will likely vary substantially by jurisdiction and will be informed by local culture, practice, and statute. In interviews with probationers and probation officers in Hawaii, we routinely heard reference to the program as “fair.” But a sanction that seems modest and fair in Hawaii (where the prosecutor’s office takes an aggressive stance against drug use, arrestees face C felonies for being found with pipe residue, and revocations of probation can result in up to 20 years in custody) will seem draconian in a state with less-punitive responses to drug use. This underscores the importance of locally designed implementations and policy based on input of all key stakeholders (including the judiciary, probation department, treatment and other service providers, victims’ advocates, and probationers). The DFE was intended to be an “exact” duplication of HOPE (as implemented in Hawaii) at the four sites. This takes as given that the HOPE strategy is the Hawaiian practice, rather than an approach to supervision that involves, swift, certain, and modest responses, designed and modified by key stakeholder groups. The HOPE strategy in Hawaii was more than the operational details that followed; it started with a conversation. The DFE sites had little opportunity to weigh in on implementation details. In Hawaii, how important was local design, and the collaborative process between the judiciary and probation, to design a strategy that would serve *their* caseload well, to perceived legitimacy and staff morale, and to ensuring an implementation responsive to local strengths and limitations? For example, Hawaii had high-quality, community-based residential and intensive outpatient treatment readily available for those who needed it; this was not consistent across the DFE sites. (A judge at one site had to resort to in-custody placements to ensure that their drug-involved participants had access to good-quality care.) At the outset of the DFE, we asked for a six-month period to debug local implementation issues at the four sites. Because of costs involved, and a relatively aggressive timeline planned, this was not feasible.

As much as we are learning about HOPE and various alternative SCF implementations, we are learning even more about the dos and don’ts of implementation.



And just as a one-size-fits-all prescription isn't good for implementation, so too should *interpretation* fit local circumstances. Revocations in an implementation where the consequence is capped at, say, 60 days in jail should be interpreted differently from a jurisdiction like Hawaii, where the maximum penalty can be decades in prison. In Oregon (which has many types of supervision and more complicated sanctioning and revocation statutes than in Hawaii), for most offenders in the DFE, both the court's capacity to impose short jail sanctions for technical violations and the consequences of revocation are quite limited. So, a repeat absconder receives the maximum allowable sanctions, forcing a revocation, which in their implementation is not so consequential (indeed, several participants in Oregon were revoked and returned to community supervision more than once during the DFE). Given the population, then, what might be expected? A lot of absconding and a lot of revocations. This also speaks to the importance of consistent measures; the term "revocation" meant something quite different from site to site. From a system perspective, it remains to be seen how the incarceration days resulting from revocations compare between HOPE and probation as usual. In Hawaii, reducing revocations substantially reduced prison days. In Oregon, more revocations in HOPE might not translate into much more prison time. We look forward to the further outcomes analysis to illuminate many of these questions. Our involvement in the DFE has been a humbling lesson in the power of local circumstance.

This issue of *Criminology & Public Policy* presents mixed results for SCF. There is something here for each of the celebrators, the skeptics, and the intrigued. Having worked with a large collaboration of researchers and practitioners, some of whom fall within these categories, some across these categories, and others in categories I have not even thought to include here, what is clear is that we all share a conviction to trying and testing new ideas, and ultimately improving outcomes for people served by the criminal justice system.

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