

Swift, Certain, and Fair: Lessons from HOPE Probation and Beyond

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Moderator

Jonathan Kulick, Ph.D.

Senior Project Director

Pepperdine University School of Public Policy

Presenters

Angela Hawken, Ph.D.

Associate Professor of Public Policy

Pepperdine University School of Public Policy

Judge Steven Alm

First Circuit Judge

Hawaii State Judiciary

Bernie Warner

Secretary

Washington State Department of Corrections



Swift Certain Fair Sanctions in Community Supervision

Angela Hawken, PhD

Swift Certain Fair | Resource Center



The Management Problem

- Large caseloads with limited supervision and drug-treatment resources
 - Rules are unclear and many violations go undetected.
 - sends a message: probability of sanction is low
 - Even if detected, many violations are not sanctioned
 - sends a message: probability of sanction is even lower
 - unpunished strings of violations → violating is OK
 - sanctions (when delivered) are seen as arbitrary & unfair
 - Even if detected and sanctioned, response is slow
 - does not tie behavior to the consequence

What is “Swift Certain Fair” Sanctions?

- HOPE has the most name recognition
- Implemented under many other names, including SAC (swift and certain), and SCF (swift, certain, fair)
- SCF programs differ in some operational details but they all share in common...
 - Close monitoring
 - Swift and certain responses
 - Modest sanctions

HOPE/SCF

- Based on credible threats
- Supervision conditions are closely monitored and **actually enforced**
- Formal orientation hearing (procedural justice)
- Clearly articulated rules
- Regular random drug testing (6x/month to start)
- **Every** violation is met with an immediate sanction
- But the sanction is **modest** (usually only a few days in jail but not always an incarcerating sanction)
- No one mandated to treatment if complying (but provided if asked). 3+ violations → mandated care



WHAT IS THE EVIDENCE BEHIND HOPE/SCF-TYPE PROGRAMS?



WHAT IS THE EVIDENCE BEHIND HOPE/SCF-TYPE PROGRAMS?

**PROMISING BUT STILL MUCH
TO BE LEARNED**



Hawaii HOPE Evaluation

- In 2007 we launched a randomized controlled trial of HOPE vs probation-as-usual in Hawaii
- Hundreds of criminal-justice officials (judges, probation officers, court staff, public defenders, police, wardens) cooperated to make experiment possible
- Since been replicated in other jurisdictions with evaluations of varying quality



The HOPE Experiment

- Eligibility and randomization
 - Probationers were identified as:
 - Drug-involved (mostly methamphetamine)
 - Demonstrated histories of noncompliance
 - Facing high risk of revocation and return to prison
- Focused on their most problematic probationers
- Note: very few of our subjects would have been eligible for a drug court

Description of Study Participants

	HOPE	Control
<i>Demographics</i>		
Age	Average = 36.1 (SD = 10.6)	Average = 35.4 (SD = 10.1)
Sex		
Male	75%	71%
Female	25%	29%
Race/ethnicity		
Black	5%	3%
Caucasian	16%	14%
Asian/Polynesian	65%	64%
Portuguese	1%	2%
Puerto Rican	1%	1%
Other/Unknown	11%	14%
<i>Prior Criminal History</i>		
Prior Arrests	Average = 17.0 (SD = 14.2)	Average = 16.4 (SD = 14.4)
Most Serious Prior Charges		
Drug	35%	33%
Property	30%	34%
Violent	22%	22%
Other	14%	11%

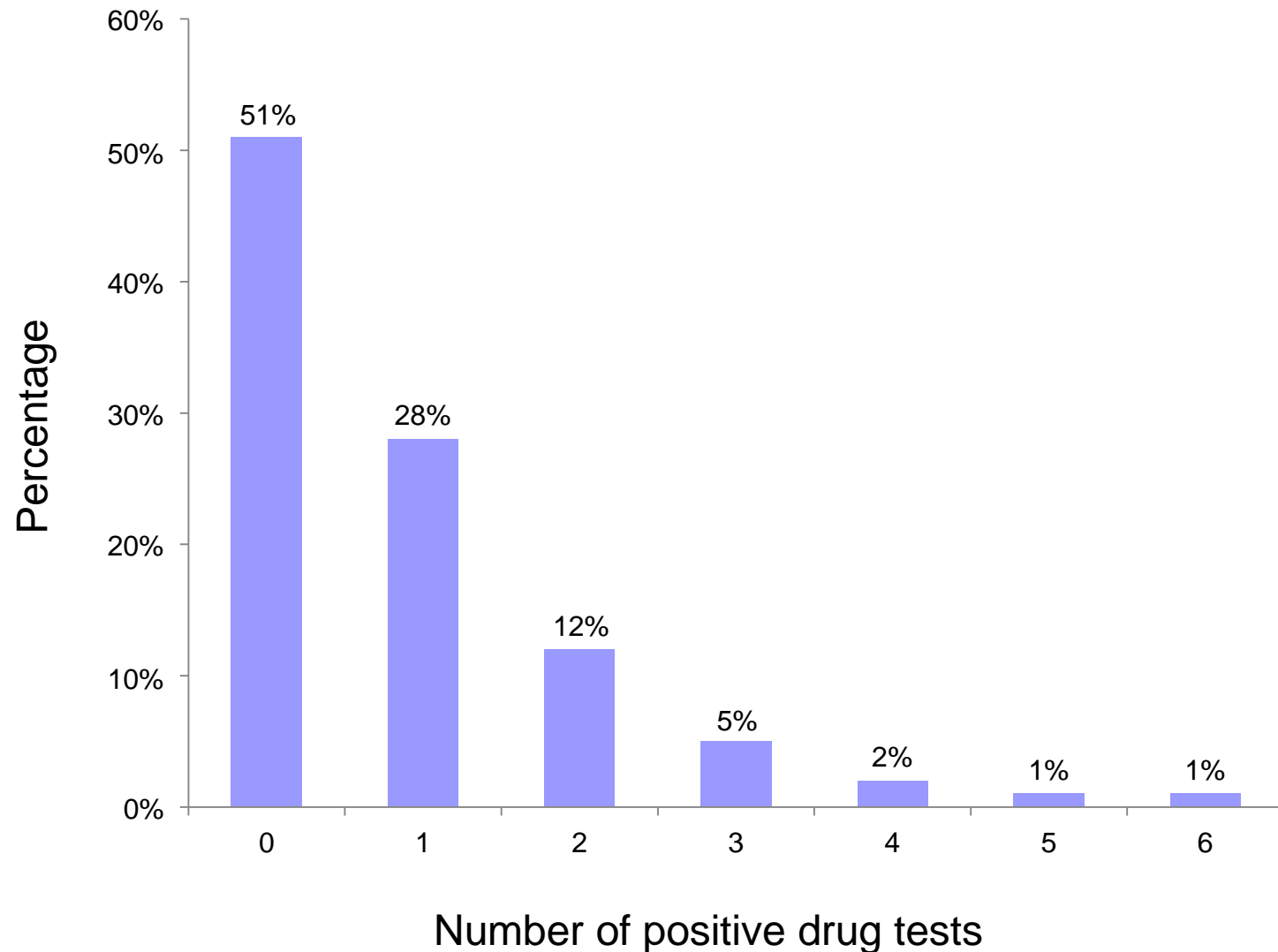
Experiment Outcomes

Outcome	HOPE	Control
No-shows for probation appointments (average of appointments per probationer)	9%	23%
Positive urine tests (average of tests per probationer)	13%	46%
Revocation rate (probationers revoked)	7%	15%
Incarceration (days sentenced)	138 days	267 days



HOPE as a “Behavioral- Triage Model”

Distribution of Positive Drug Tests





Followup Evaluations

- Just completed two long-term followups
 - A 10-year followup in the probation office where HOPE was first launched
 - A 7-year followup of the randomized controlled trial

PENDING REVIEW

- Key question
 - Outcomes: Would improvements observed during the short-term evaluations persist?



Key observations

■ Crime:

- HOPE subjects had 20% fewer new charges
 - Much of this difference was driven by drug crimes and social-disorder crimes

PENDING REVIEW

Ave Number of New Charges, by type

	Drug	Property	Violent	Social disorder	All crime
% difference	-50%**	-4%	-14%	-21%*	-20%*

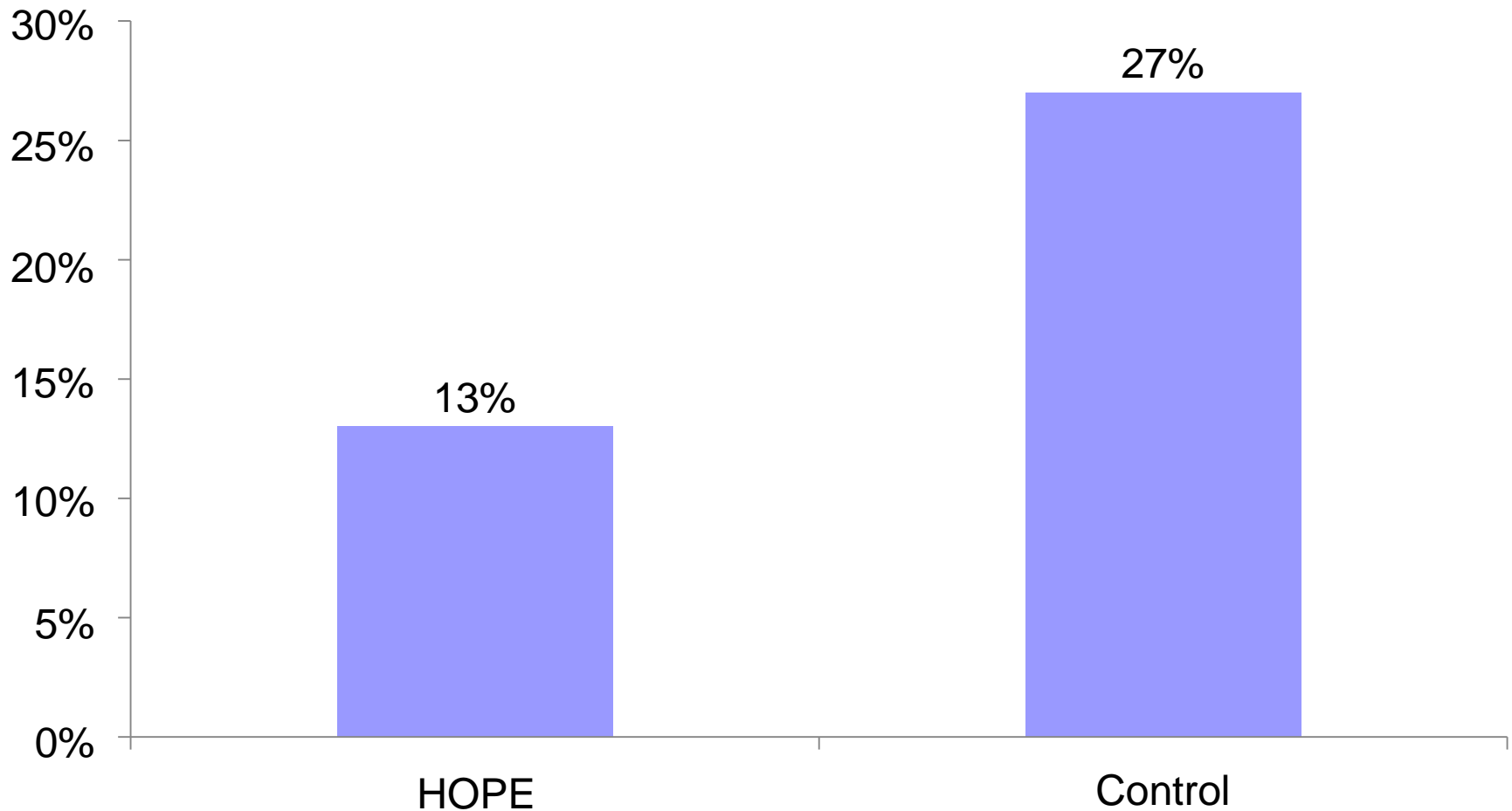
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** = significant at 1% level

* = significant at 10% level

Returns to prison

PENDING REVIEW





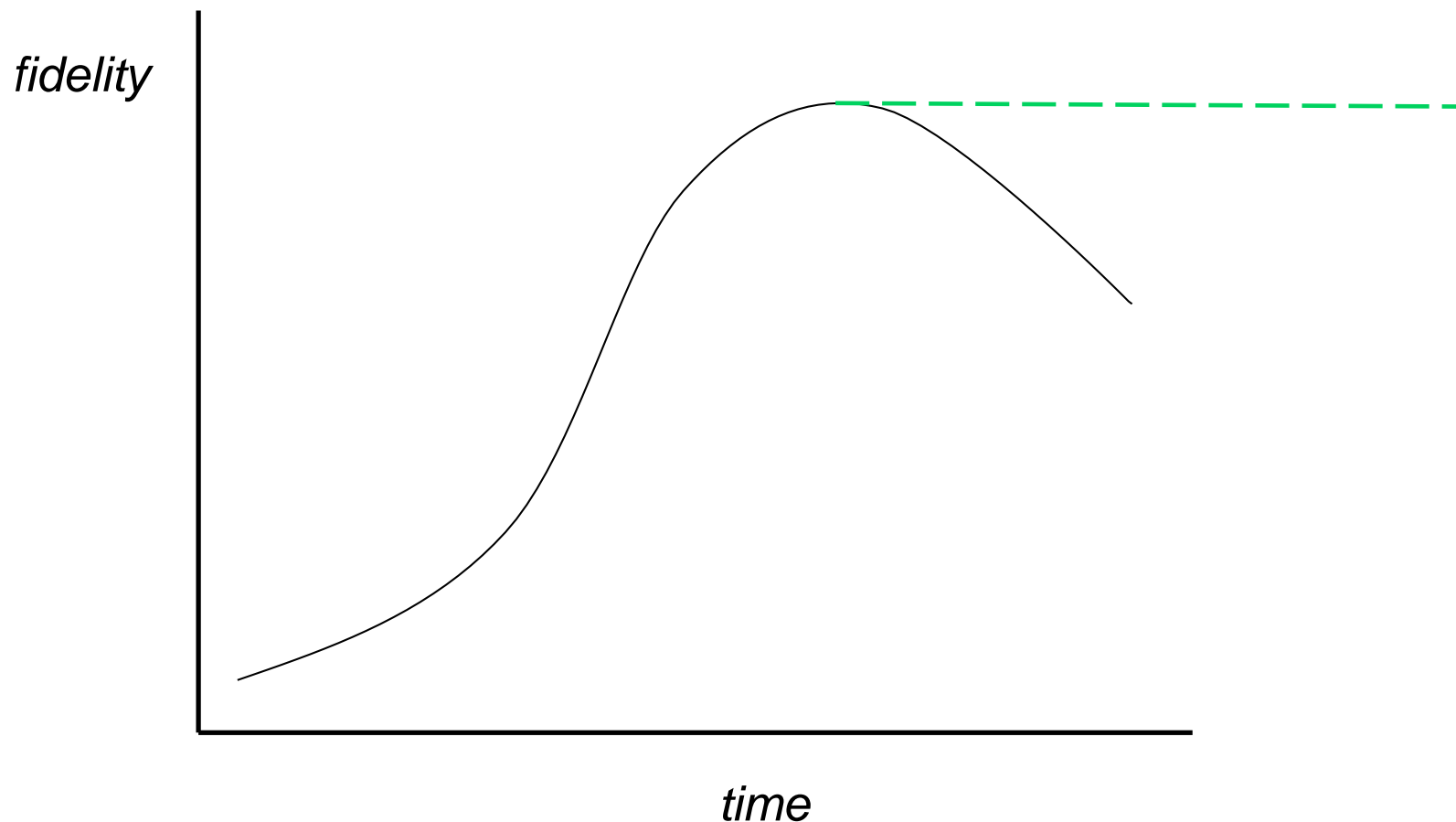
Subpopulations of interest

- Program effect
 - Equivalent by race/ethnicity
 - Stronger for women than men

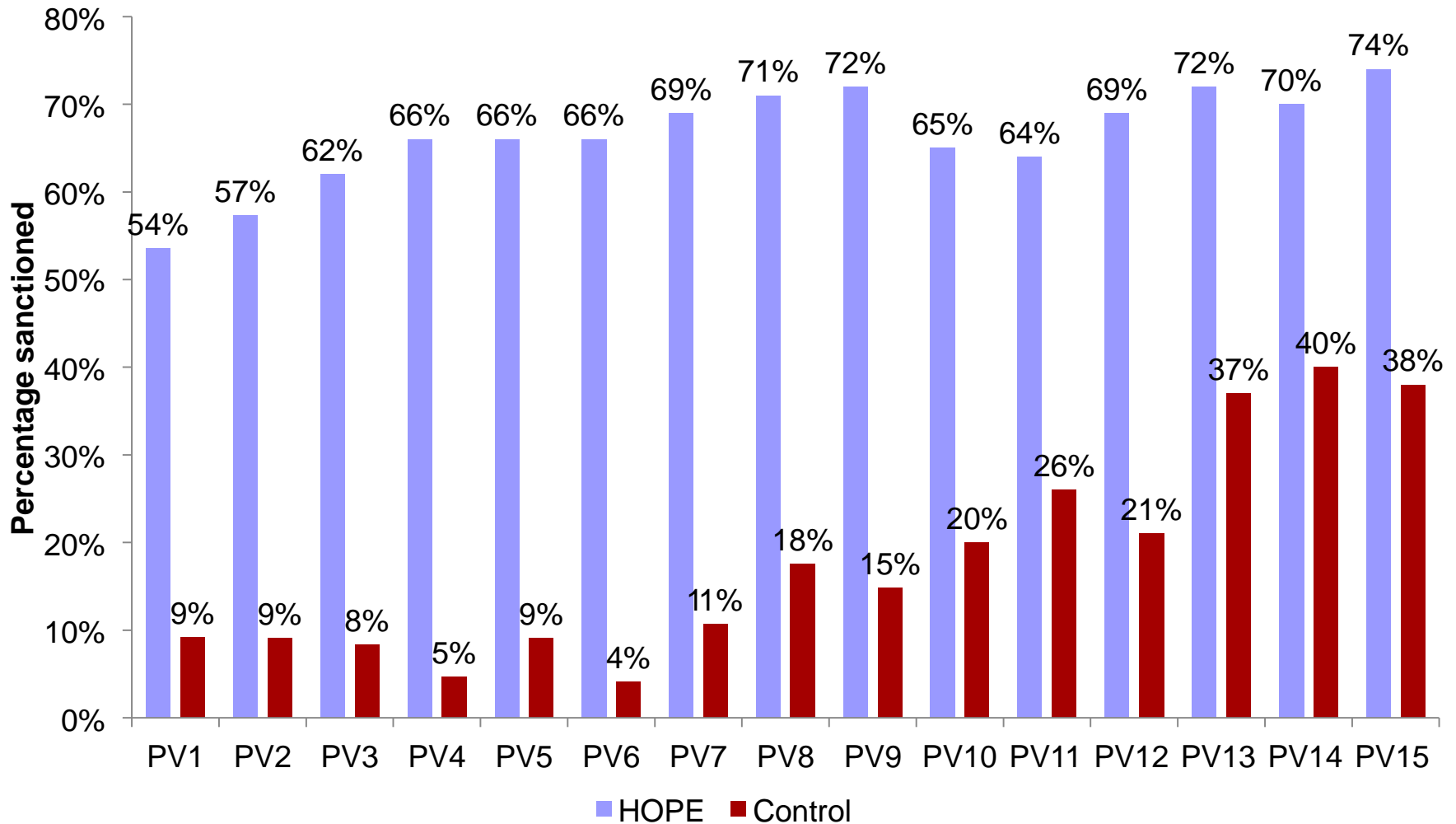
HOPE 2.0

- A number of reforms were implemented since original trial
 - Early terminations (started in 2010)
 - The first meaningful carrot
 - Offenders can potentially shave 60% off of their term
 - We tracked all of the early termination cases (about 100). None had a new CJ encounter.
 - No formal mechanism to trigger
 - Moved away from graduated sanctions
 - Non-incarcerating sanctions for minor missteps
 - Triage to drug court

HOPE Fidelity—the importance of ongoing fidelity monitoring



Response Risk, given PV#






Perceived vs. Actual Risk

- We recorded three measures of risk of sanction given a violation: two perceived measures and one measure of actual risk
 - We estimate probationers' perception of risk from the probationer survey (~100%)
 - POs' perception of risk from the probation-officer survey (~90%)
 - Our measure of actual risk, based on administrative data, calculates the risk of a sanction given a *recorded* violation (~65%)




Other HOPE/SCF Evaluations (with confirmed implementation)




Texas (SWIFT)

- **Supervision With Intensive enForcementT**
- Also launched in 2004
 - Designed independently by a probation chief (Iles)
 - Started in Fort Bend and expanded to Tarrant County
 - Similar to HOPE with only a few differences
 - Hair testing, greater use of rewards: reduced: fines/fees, community service, reporting, and supervision term
 - Two evaluations (2007; 2014)
 - Findings similar to HOPE
 - less likely to violate the probation terms, half as likely to be revoked or to be convicted for new crimes (Snell, 2007)



Alaska (PACE)

- Probation **A**ccountability with **C**ertain **E**nforcement
- Similar to HOPE
- Evaluation (2011) shows reductions in positive drug tests and missed appointments



Kentucky (SMART)

- **S**upervision, **M**onitoring, **A**ccountability, **R**esponsibility, and **T**reatment
- Integrates service provision with SCF
- Evaluation in 11 counties (forthcoming) shows the largest effect sizes of any SCF evaluation



Washington (WISP)

- Washington Intensive Supervision Program
- Intended as a proof-of-concept implementation study (rather than a true outcomes evaluation) in applying SCF supervision to higher-risk parolees
- One-year followup showed reductions in drug use and recidivism
- The statewide expansion departs from WISP in some program details



24/7 Sobriety

- SCF applied to repeat felony DUI offenders in South Dakota
- Twice a-day breathalyzer with immediate arrest and overnight stay
- 12% reduction in repeat DUI arrests and 9% reduction in DV arrests (Kilmer et al., 2013)



NIJ/BJA DFE

- Demonstration Field Experiment (DFE)
 - The most comprehensive study to date
 - Includes counties in four states (OR, TX, MA, AR)
 - Close replication of HOPE I
- Findings (from RTI and Penn State) expected in 2016



General Observations

- HOPE/SCF shows a great deal of promise
- There are still many unknowns
 - Essential components
 - Role of sanctions and sanction types
 - Integrating rewards
 - Generalizability
- If your jurisdiction is testing something new we would like to hear from you



HOPE Probation

- ◉ Hawaii's
- ◉ Opportunity
- ◉ Probation with
- ◉ Enforcement

Judge Steven S. Alm
First Circuit Court, Honolulu, Hawaii
www.hopeprobation.org



The Probation Situation in 2004

- Oahu: 8,277 offenders on felony probation or deferral
- Probation officers with caseloads of up to 180:1
- Many offenders have substance abuse problems, particularly crystal methamphetamine
- Drug Court with 100 low-risk, pretrial offenders



Probation-As-Usual (PAU)

- Well-educated, skilled, dedicated, caring POs. Trained in evidence-based principles (EBP)
- PAU worked for some probationers but wasn't working for many others
- POs had 2 options in the face of a probation violation:
 - 1)work with the defendant: counseling, encouraging, threatening, referring to treatment, etc. or,
 - 2)when all else failed write up all of the violations (often 10, 20 or more) and refer back to court for a Motion to Revoke Probation and a 5,10 or even 20 prison year sentence
- PAU is delayed, uncertain, inconsistent and then very harsh



The Idea

- The current system, PAU, is a crazy way to try to change anyone's behavior
- Question: What would work?
- How to raise a child. Parenting 101
- You tell your child you care but families have rules. All misbehavior results in a swift, certain, consistent, and proportionate response

HOPE Probation

- All violations (positive UA, missed PO appointment, leaving treatment, etc.) result in a swift and certain jail consequence
- Jail is only sanction. Immediate, impactful, unpleasant. Other options are delayed and can lead to more violations
- Leniency is not kindness. PAU is not kindness
- Proportionate. Admits to positive UA: 2 days in jail. Denies: 15 days in jail. Absconds: 30 days in jail
- Warning Hearing: encourage and clearly explain likely consequences for violations. Plus Early Termination
- Only see for violations
- Swift, certain, consistent and proportionate



HOPE Results: 2009 RCT

- 72% less likely to test positive for drugs
- 61% less likely to miss an appointment with PO
- Half as likely to get arrested for a new crime or have their probation revoked
- Served or were sentenced to 48% fewer days in prison

HOPE and Evidence-Based Principles

- POs in Hawaii work with the defendants on 8 criminogenic risk factors:
 - criminal history
 - employment
 - family/marital relationships
 - leisure time activities
 - substance abuse
 - personal/emotional
 - companions
 - attitudes
- HOPE only directly addresses substance abuse
- Also creates an environment where denial is reduced, helps defendants be open to change, and allows POs to work with defendants on all of their other criminogenic risk factors
- HOPE then is ~~not a substitute~~ for efforts to address the above criminogenic risk factors or other strategies like Motivational Interviewing (MI) or Cognitive Behavior Therapy (CBT). HOPE is a strategy to make all of the efforts more effective



HOPE Expansion

- 10/1/04 - 34 felony probationers in my court in Honolulu
- As I only see probationers for violations, I currently supervise 1,850 felony probationers (out of 8,000 on Oahu). Including all sex offenders
- Now 60+ courts in 18 states, all based on HOPE
- DOJ is sponsoring HOPE replications in TX, AR, MA and OR
- HOPE is that rare program that, unless someone has an agenda, or doesn't understand the probation system, or both, has few natural enemies



Procedural Justice

- If probationers think a system is fair they will be more likely to buy into it
- HOPE is swift, certain, consistent and proportionate. And caring
- HOPE is firm and fair
- Almost no requests for change of Pos
- Only about 25 contested hearings in 10 years



HOPE Cautions

- HOPE sounds easy. It is not
- Need to get all the critical partners in the criminal justice system involved and committed
- Three groups really have to change their operations: Judges, POs and law enforcement
- Getting the sanctions piece right is critical: e.g. 2/15/30 days in jail. Several jurisdictions have stumbled on this



HOPE Destroys Myths

- ◉ Government can't work effectively
- ◉ Systems can't change
- ◉ Everyone needs treatment to stop using drugs/alcohol
- ◉ Must choose between treatment and jail consequences
- ◉ Must choose between HOPE and EBPs
- ◉ Jail sanctions are necessarily mean and draconian



HOPE and The New High-Risk Drug Court

- A New Continuum: PAU → HOPE → Drug Court
- Courthouse as a hospital
 - PAU Outpatient Clinic
 - HOPE Hospital Wards
 - Drug Court . . . ICU
- HOPE AND THE NEW DRUG COURT
 - Prevents victimization and crime
 - Helps offenders and their families
 - Saves taxpayers millions of dollars
- HOPE Pretrial



The Evidence Behind Swift and Certain Sanctions

Bernard Warner, Secretary

Why should we care?

- ▶ Over 7 million people in the US are under community supervision.
- ▶ More than 50% of parolees and 37% of probationers fail to complete their sentences satisfactorily.
- ▶ Revocations/violators are significant confinement population drivers. Reform can save significant resource.

Washington State Overview

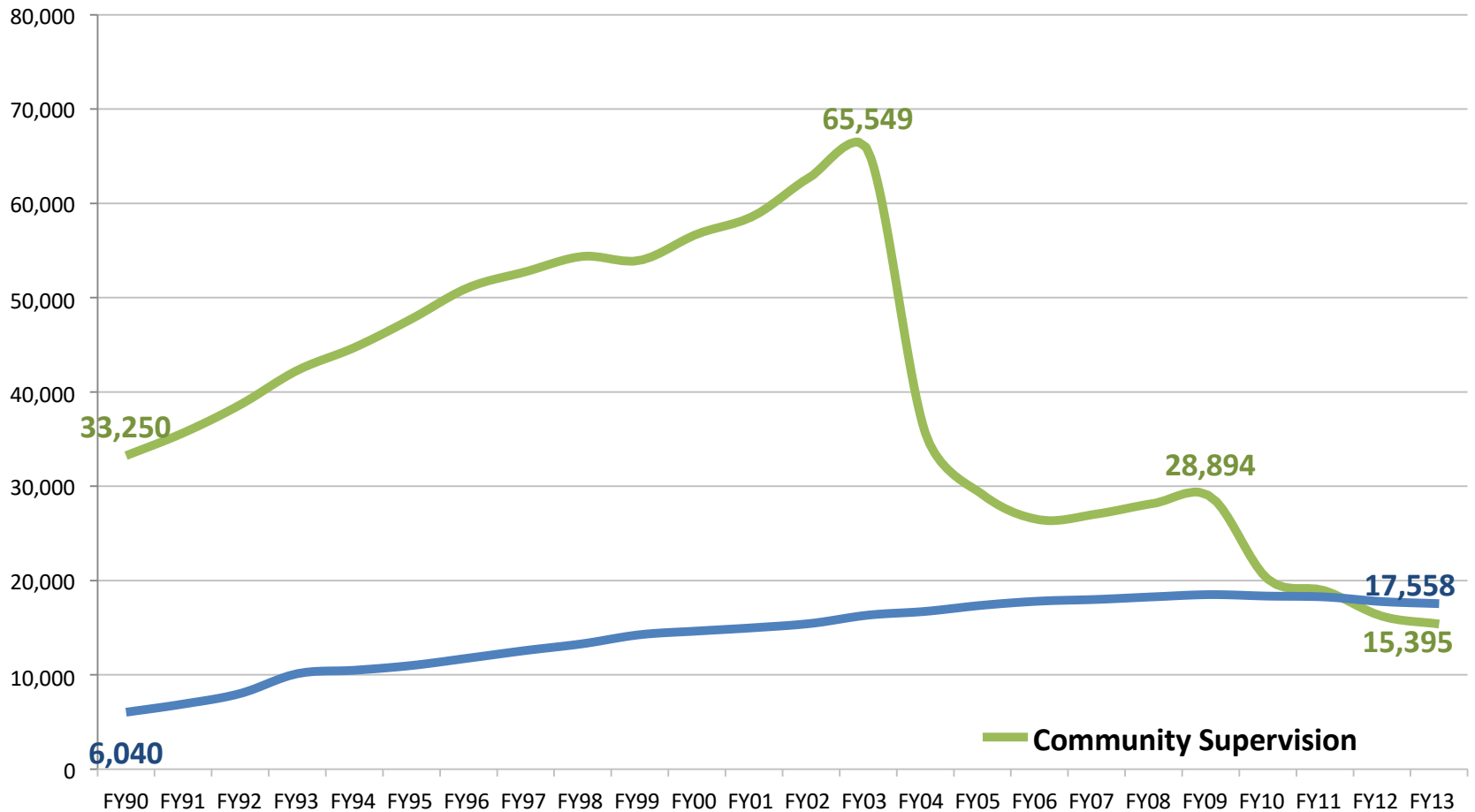
- ▶ Opportunities to implement effective correctional practices vary among states
- ▶ 30 years of determinate sentencing/data collection
- ▶ Reliable population forecasting, fiscal note determination
- ▶ No term limits – informed, consistent policy-makers
- ▶ 42nd in the nation in incarceration–determinate sentencing and sentencing alternatives
- ▶ Washington State Institute for Public Policy (WSIPP)
 - Performs meta-analysis of existing research to guide evidence-based decision making
 - Developed cost-benefit model applying Washington data

(WSIPP) A Cheat Sheet on: What Public Policies Work to Reduce Crime/Costs?

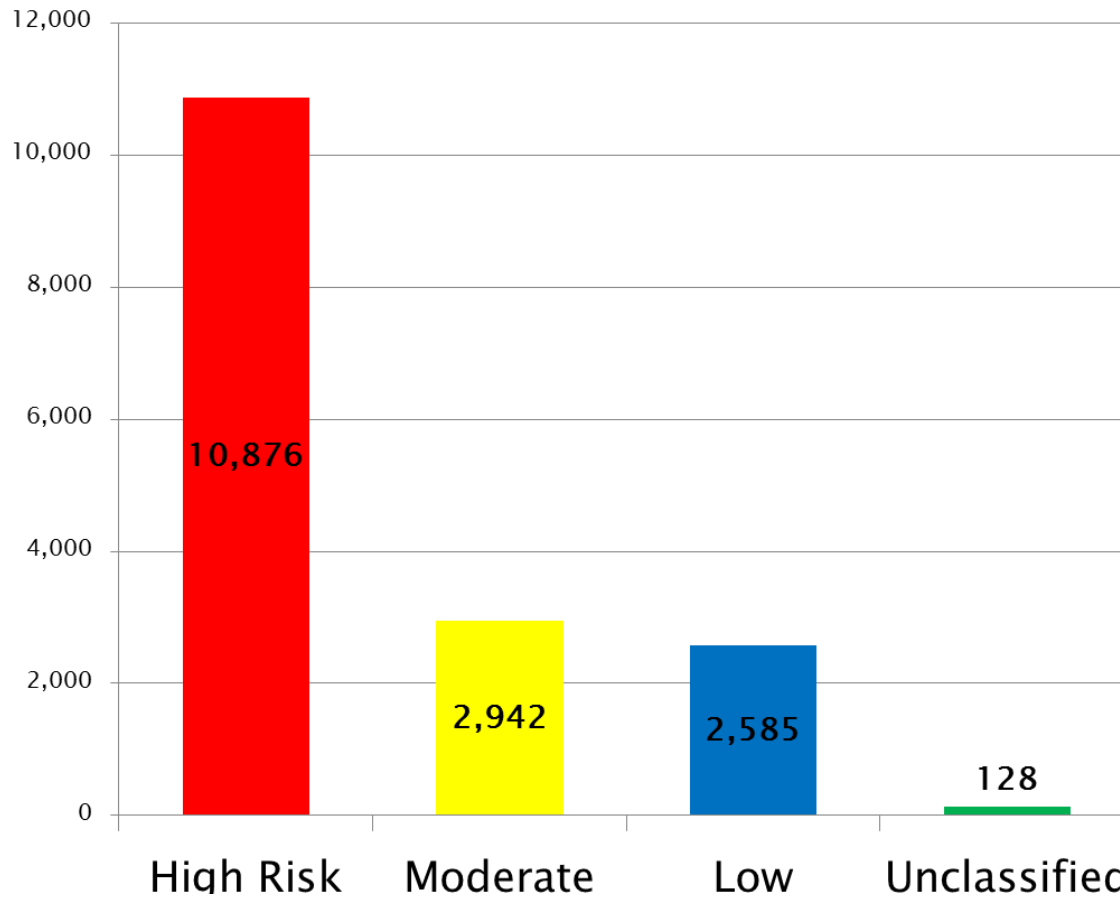
—Evidence-Based Principles—

- ▶ Treatment (Delivered with Fidelity)
Focus on research-proven prevention and intervention.
- ▶ Risk
Focus on higher risk, not lower risk, populations.
- ▶ Punishment (Sanctions)
Strong evidence (for crime deterrence) for certainty, but not for severity of punishment.

Focus on Risk to Reoffend



Community Supervision Caseload Risk to Reoffend



Total Caseload
16,531

40% from prisons
60% from courts and
county jails

Prior to Community Corrections Re-Engineering

- ▶ Offender Accountability Act (1999) focused on high risk offenders; allowed for administrative sanctions/discretion—liability concerns by staff
- ▶ Uneven, uncertain response to violators
- ▶ No distinction between technical and non-technical violations
- ▶ No clear requirement to report new crimes to law enforcement, instead addressed as supervision violation
- ▶ Inconsistent communication between DOC and criminal justice stakeholders
- ▶ Treatment and programming administered as sanctions

Prior to Community Corrections Re-Engineering

By the numbers:

- ▶ 1,400: average daily population in contract jail beds
- ▶ 40: days for the average length of confinement
- ▶ \$64 million: spent on beds for violators biennially
- ▶ 18,000: in-custody administrative hearings a year

Based on HOPE Model

- ▶ One year pilot in Seattle with parolees; included control group
- ▶ Rigorously evaluated by Dr. Angela Hawken
- ▶ Tenets are swift, certain, and consistent
- ▶ Reduced sanction time from up to 60 days per violation to three to 5 days for first process, 5 to 7 for the second, 7 to 10 for the third and 60 days per subsequent violations*
- ▶ Positive urinalysis for drugs reduced by 60%
- ▶ Compliance with conditions of supervision increased

Reengineering Community Custody Offender Change = Increased Public Safety

- To gain offender accountability while on supervision, responses to violations must be swift and sure
- Research demonstrates that limited and deliberate use of jail beds is a successful deterrent
- Low and high seriousness level violations differentiated
- Prescriptive responses to violations ensure certainty for staff and offenders

Re-engineering Community Corrections

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graph TD; A[Re-engineering Community Corrections] --> B[Swift & Certain]; A --> C[Engagement with Offenders]; A --> D[Cognitive Behavioral Interventions];
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**Swift &
Certain**

**Engagement
with
Offenders**

**Cognitive
Behavioral
Interventions**

May 2012: Legislature Passed SB 6204

- ▶ Directs statewide implementation
- ▶ Savings of almost \$40 million in jail costs
- ▶ Legislature provided \$6 million to be reinvested in treatment services (balanced approach)
- ▶ Will provide 10,000 treatment slots in the community saving significant future prison commitments
- ▶ Programs developed with quality assurance to monitor fidelity and ongoing program evaluation
- ▶ Outcomes tracked, measured and analyzed

Violation Levels Defined

- ▶ First low-level violation: non-jail sanction
- ▶ Subsequent low-level violations: Up to 3 days in jail, sixth violation to DOC hearing
- ▶ High-level violation: DOC hearing and up to 30 days in jail
- ▶ New crimes reported to local law enforcement

Implementation



Implementation

Sanction Training

- ▶ Change in officer thinking process
- ▶ Increased arrests, review procedures
- ▶ Identifying risk factors at intake
- ▶ Sanction training completed at all sites in August

Communicating Expectations

- ▶ Eligible offenders identified
- ▶ 14,300 offenders oriented

Implementation of CBI

	# Staff Trained	#of Total Sessions / Participants
EPICS	71	1112 total 713 unduplicated DOC#'s
T4C	169	3163
CCP	171	
MI	293*	

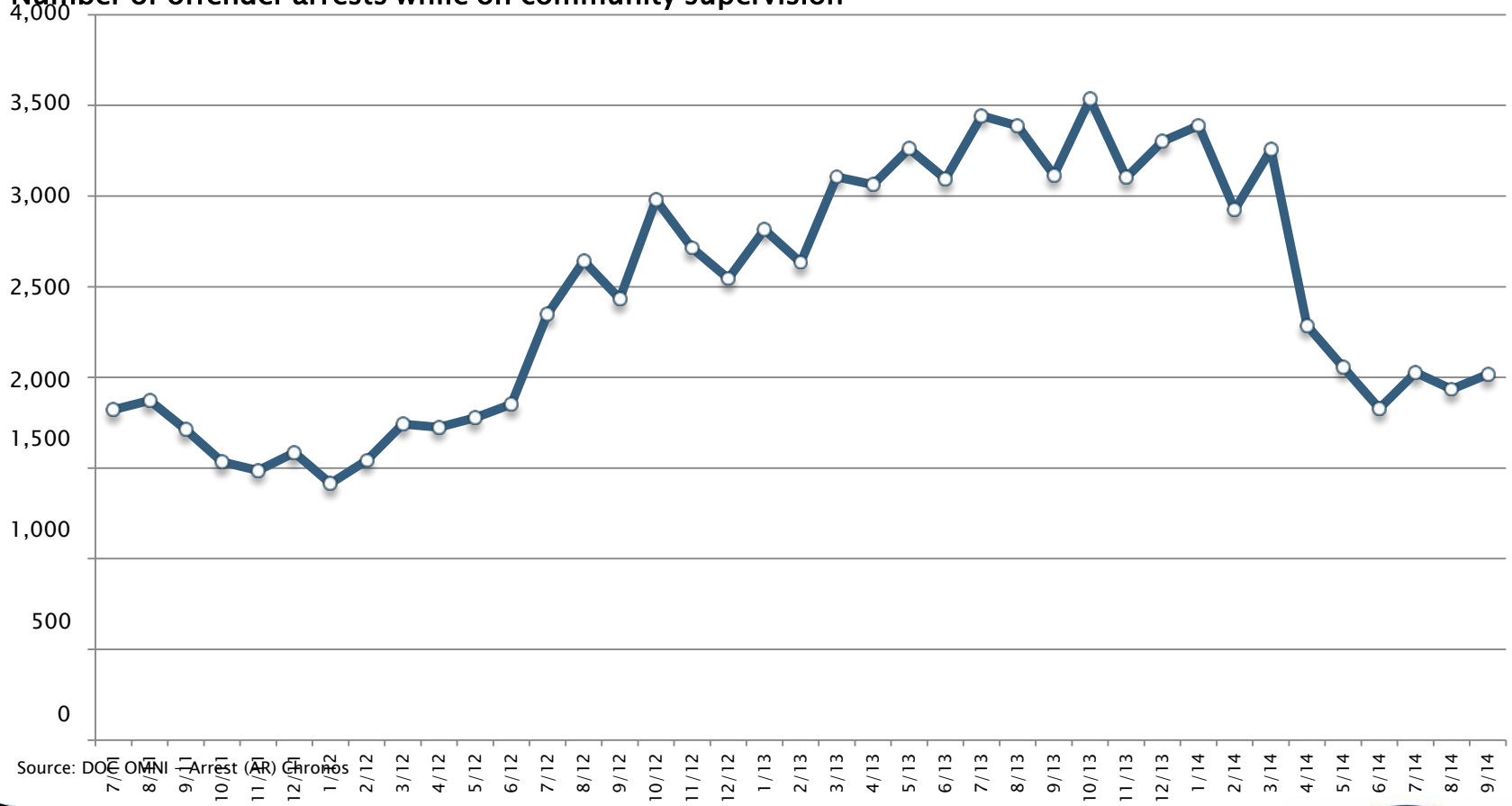
Implementation

Partnerships

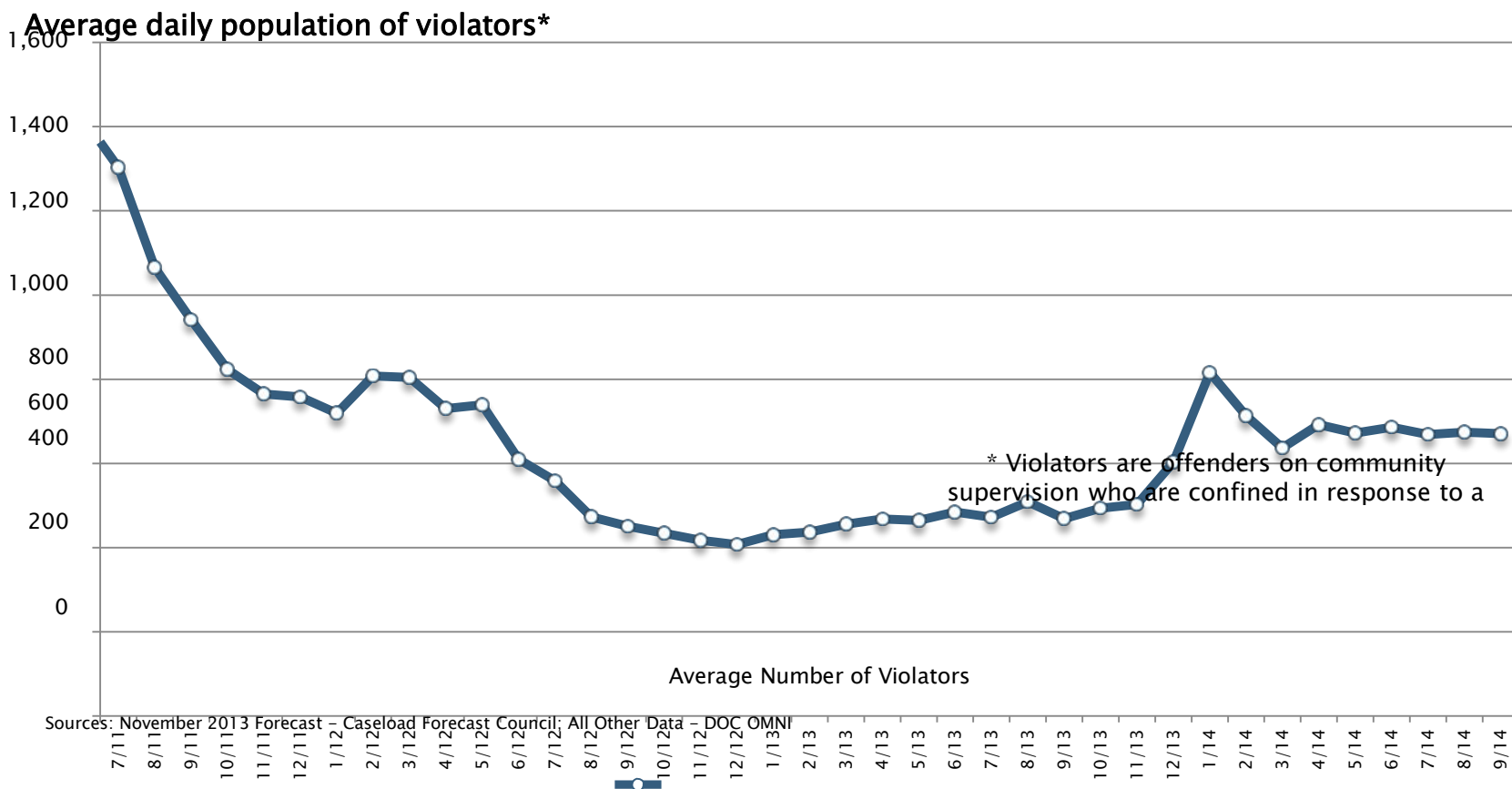
- ▶ Outreach to stakeholders has been simultaneous with implementation resulting in improved relationships with courts, prosecutors, and law enforcement.
- ▶ Jail contracts increased from 23 to 43.
- ▶ New procedures for addressing Failing to Obey All Laws have been established.

Arrests while on supervision

Number of offender arrests while on community supervision

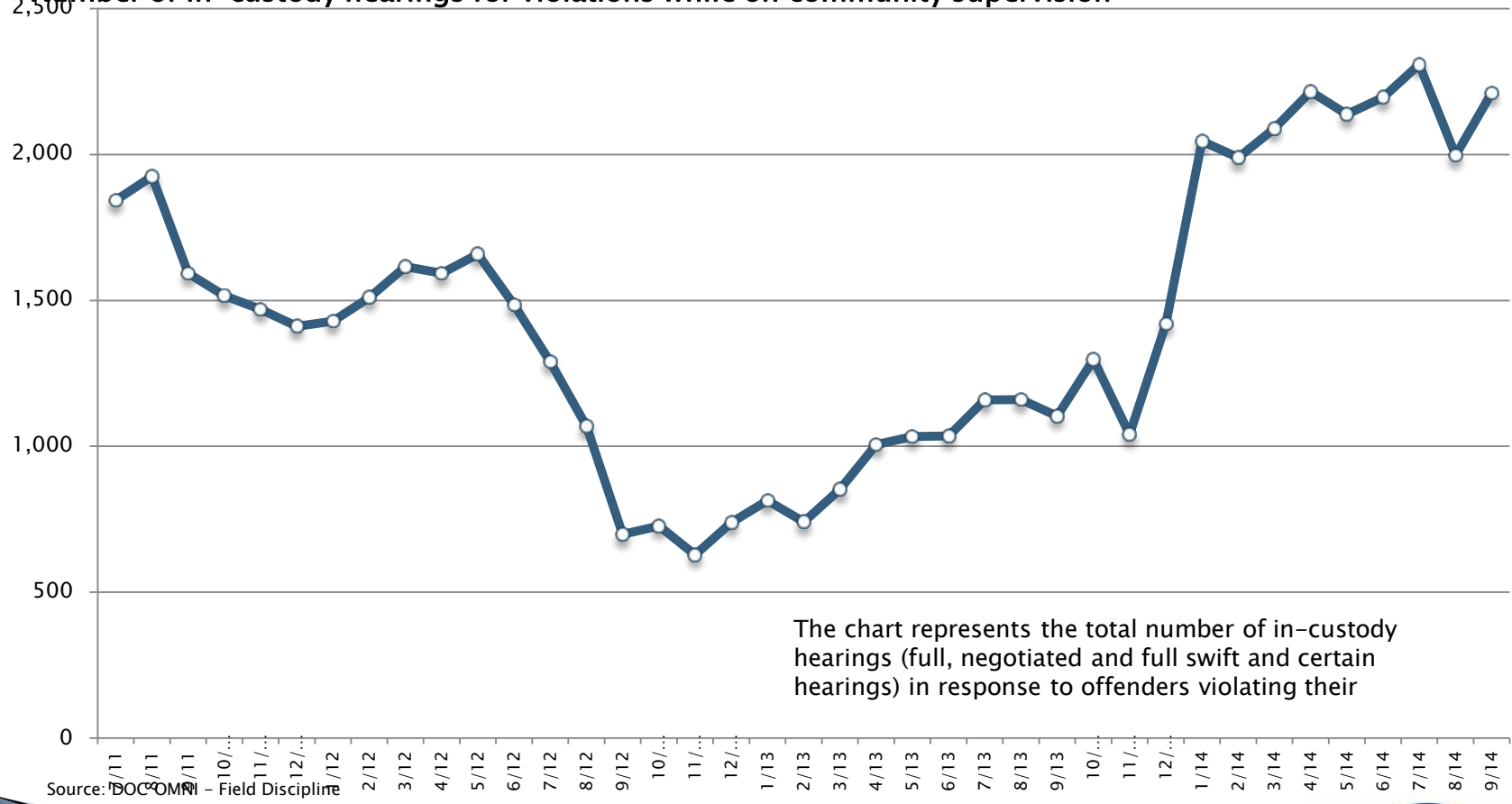


Average Daily Population– Violators



In-Custody Hearings for Supervision Violations

Number of in-custody hearings for violations while on community supervision



Source: DOC OMNI - Field Discipline

Developing processes

- ▶ Incentives (legislative)
- ▶ Nonconfinement options (pilot)
- ▶ Ongoing accountability (performance)
- ▶ System and Process Training (resources)
- ▶ Measureable “good will” toward offender change

What Worked & Lessons Learned

- ▶ **Be informed and share**
 - Know and share the research
 - Know and share your data
 - Know the cost
 - Build a plug and play model
- ▶ **Engage staff – let them own it**
 - Design, implementation, compliance
 - Geographic and position diversity
- ▶ **Identify and educate champions**
- ▶ **Identify and educate affected stakeholders & concerned parties**
- ▶ **Implement in a way that allows for adjustments**
 - Utilize interim policies
 - Collect staff & stakeholder feedback
 - Identify loopholes
 - Continually check-in on principles and cost
- ▶ **Ensure staff accountability and compliance to model**
- ▶ **Identify and address collateral consequences**

Press Coverage

HeraldNet 47°
Light Rain
High: 50° Low: 45°
Everett, Washington Full forecast | Web cam

Published: Friday, October 5, 2012, 12:01 a.m.

Corrections officers use new tactic to hold offenders accountable

By **Eric Stevick**, Herald Writer

LYNN WOOD - Patricia Hudson pressed the button and the door didn't

Next >>

The Seattle Times Local News
Winner of a 2012 Pulitzer Prize
Originally published December 11, 2011 at 7:16 PM | Page modified December 11, 2011 at 11:25 PM

Short, fast stay in jail cuts crime, study finds

A Seattle pilot program that imposes swift, certain punishment with as little as three to five days in jail for violations of community supervision is significantly reducing drug use, incarceration and criminal activity, according to a report prepared for the Seattle City Council.

By **Lynn Thompson**
Seattle Times staff reporter

A Seattle pilot program that imposes swift, certain punishment with as little as three to five days in jail for violations of community supervision is significantly reducing drug use, incarceration and criminal activity.

PREV 1 of 2 NEXT

Lawmakers weigh major changes for parole, probation

When veteran Department of Corrections field administrator Donta Harper was told last year about the experiment he was going to help oversee, he had misgivings.

JONATHAN KAMINSKY; THE ASSOCIATED PRESS
Published: March 26, 2012 at 6:05 a.m. PDT

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When veteran Department of Corrections field administrator Donta Harper was told last year about the experiment he was going to help oversee, he had misgivings.

Thirty-five Seattle parolees, he was told, would be put under a new kind of supervision. Every time they failed a drug test or showed up for a meeting with corrections

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Tighter laws for offenders and money savings for taxpayers... Yes!

By **Melanie Tubbs** | Published: Jul 17, 2012 at 5:39 PM PST

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