

Hawaii finds success with tough-love approach to repeat offenders



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Graduated sanctions for those who fail drug tests seem to serve as a deterrent. It's a far cry from the fragmented, overwhelmed system it replaced.

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By Steve Lopez

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HONOLULU — The first thing you notice about 1st Circuit Judge Steven Alm is how excited he is about what he's doing. The buzz-cut, fast-talking judge was waiting for me in the lobby of the courthouse early on a recent morning and led me up to his third-floor chambers to explain Hawaii's promising approach to repeat offenders with drug and alcohol problems.

I'd heard about Alm's program, Hawaii's Opportunity Probation with Enforcement (HOPE), from two Southern California drug policy professors — Mark Kleiman at UCLA and Angela Hawken at Pepperdine — who urged me to go have a look at Alm's operation. The results, they said, have been promising enough to inspire more than a dozen copycat programs around the country, and the professors believe that broader implementation could save the country billions of dollars in incarceration costs and redeem lives too.

Alm, who served as Hawaii's U.S. attorney from 1994 to 2001, became a judge in 2001 and saw the same systemic problems he'd dealt with as a

state prosecutor in the 1980s. Defendants were churned through a chaotic system that let some off the hook repeatedly, threw the book at others, reformed too few people and cost taxpayers way too much money. The vast majority of these burglars, robbers, sex offenders and other common criminals had drug and alcohol problems that figured into their habitual misdeeds.

"It was crazy," Alm said, telling me he'd see defendants who had violated probation a dozen or more times with no consequences and often no drug treatment.

In the fragmented, overwhelmed system, defendants were allowed to slide even after failing drug tests or missing appointments with probation officers. Then, when a prosecutor or judge finally got exasperated enough, a defendant might get locked away for five years for a minor infraction. The system was neither uniform nor fair, and defendants took their chances rather than change their ways.

So the judge called together prosecutors, defense attorneys, law enforcers and probation officers and pitched his ideas for smarter and more consistent management, with immediate consequences for violators.

"If somebody shows up at his probation office and tests positive," Alm told colleagues when the program began in 2004, "I want him arrested on the spot."

Those violators — the program can accommodate 2,000 of the toughest cases or one-fourth of Hawaii's total probation population — are now brought before Alm as quickly as possible after their arrests and informed that they will have new terms for their probation.

They've got to call a hotline every morning, and if it instructs them to come in for a drug test, they'd better be there no matter how inconvenient it might be.

If they've used drugs, but confess to the probation officer before taking the test, they might get three days in jail. But if they fail to report that they've used drugs and then test positive, they're likely to get 15 days, followed by 30 for the next offense. If they can't keep clean, they'll be required to attend drug and [alcohol abuse](#) meetings, or be ordered into outpatient treatment, followed by a two-year residential program if they screw up again.

And if they do, they'll serve the full sentence they originally received when they went on probation, even if it's 15 years or more.

"The purpose of this hearing is so I can ... lay out how this operates," Alm told three probation violators on the morning I visited recently. They nervously stood before him in a courtroom that's dark and gloomy, as if designed to contrast with the outdoor paradise they stand to lose.

He guaranteed the three that everyone in court was pulling for them to kick drugs and alcohol, find jobs and become taxpayers rather than inmates. But if they screwed up, the consequences would be immediate and get harsher with each violation.

"It's \$50,000 a year to lock people up," he told them, explaining that everyone would benefit if Alm wasn't forced to send them away.

And the results of all this tough love?

"It was effective from the beginning," said Alm. Psychologically, the certainty of a disruptive three-day jail term and mandated testing, with graduated sanctions, seems to be a greater deterrent than the slim possibility of a long prison sentence.

A 2009 study by professor Hawken for the [U.S. Department of Justice](#) found that HOPE probationers were 55% less likely to be arrested in a new crime than probationers not in the program. They were 72% less likely to use drugs, 61% less likely to skip appointments with their probation officer and 53% less likely to have their probation revoked, and they were sentenced to 48% fewer days of incarceration. And by offering probationers

a chance to get clean on their own, precious drug treatment slots were saved for those who truly needed them.

Hawken is optimistic about all this, but cautions that not every program attempting to duplicate HOPE has been as well-run, and she thinks there "is still a lot we need to learn" before widespread adoption is warranted.

One criticism of HOPE and its copycats is that such programs involve front-end costs for more intense case management and more frequent arrests and drug testing, and both law enforcement and probation can get stressed with increased workloads. But Cheryl Inouye, a probation administrator in the HOPE program, said morale among Honolulu probation officers has improved because they're seeing more accountability and better outcomes.

In 2009, California congressman and former federal prosecutor Adam B. Schiff (D-Burbank) was so impressed, he and congressman Ted Poe (R-Texas), introduced a bill to establish a \$25-million start-up fund for programs like HOPE. Budget constraints derailed the plan, but the Justice Department is now doling out smaller sums for pilots around the country.

"We have a massive problem in California and around the country with so many people incarcerated, and greater amounts going to incarceration costs and starving the rest of the budget," said Schiff, who believes HOPE programs can save big over the long term despite front-end costs.

The day I spent in Alm's court, I met a 52-year-old spectator named Ray Eley. He told me he'd led a drug-fueled life of crime that had landed him in this very courtroom in 2009. Initially, he said, he blew the opportunities Alm had given him, and ended up in a two-year drug program. Then he pulled himself together.

"He gave me a chance to change my life," said Eley, who now runs two sober-living houses and drops by Alm's court to check on clients. Or just to watch.

"I like to keep myself conditionally in tune with what Judge Alm is telling everybody. It helps me to remember what I'm doing and to remember where I've been."

steve.lopez@latimes.com