



UNITED STATES DISTRICT COURT
District of Rhode Island

MEMORANDUM

To: Chief Judge William E. Smith

From: H.O.P.E. Court Team

Magistrate Judge Patricia A. Sullivan
Deputy Chief United States Probation Officer John G. Marshall
First Assistant United States Attorney Stephen G. Dambruch
Senior United States Probation Officer Michael J. Primeau
Assistant Federal Defender Olin Thompson

Date: February 26, 2016

Re: **2014-2015 Annual Report – H.O.P.E., A Reentry Court**

I. Executive Summary

On November 6, 2014, the District of Rhode Island held its first public session of H.O.P.E. Court, the first federal re-entry court in Rhode Island. Titled “Helping Offenders Prepare for reEntry” (“H.O.P.E.”), it is a voluntary alternative court program for individuals on federal supervision that offers a creative blend of treatment and sanction alternatives, delivered in a non-adversarial atmosphere, to effectively address offender behavior and rehabilitation, while also ensuring the safety of the community.

This annual report provides an overview of H.O.P.E. Court from its inception through December 31, 2015. It describes the H.O.P.E. Court model, outlines the team members and provides statistics on H.O.P.E. Court participants. The report also catalogs H.O.P.E. Court’s accomplishments during its first year.

Rhode Island’s size has presented recruitment challenges; only 57 individuals currently on federal supervision are eligible for H.O.P.E. Court. Despite this constraint and the voluntary nature of the program, H.O.P.E. Court has enrolled eleven participants since its inception. As of the end of 2015, eight individuals are actively participating and a ninth has been cleared for participation but is awaiting disposition of a state court issue. With H.O.P.E. Court active

enrollment capped at ten participants at any time, the program is now operating close to capacity. In addition, one of the original H.O.P.E. Court participants is currently serving time for a supervised release violation; the team expects him to rejoin the program in 2016. Finally, H.O.P.E. Court's first graduate completed the program on the last day of 2015.

Although H.O.P.E. Court is new, since its inception, the program has managed to attain several key goals. Most significantly, it has:

- facilitated participant access to employment readiness programs, jobs, health care and housing.
- created a mechanism to support participants at the Traffic Tribunal and municipal courts in connection with driving issues.
- established an attorney network able to provide assistance with child custody and child support issues.
- forged partnerships with employers, service providers and experts in various fields affecting reentry.

Much of the H.O.P.E. Court team's work during the first year focused on building the infrastructure to run the program, and we believe that H.O.P.E. Court will leverage this strong foundation to achieve successful outcomes in the future.

While it is far too early to tell whether H.O.P.E. Court will be effective at reducing recidivism, early signs show reason for optimism. H.O.P.E. Court serves individuals at the highest risk of recidivism in the federal system. Statistically, the expected recidivism rate for H.O.P.E. Court's target population predicts that 74% of the high risk and 47% of the moderate risk categories will be rearrested within the first 190 days of supervision. In H.O.P.E. Court, of the eleven individuals who have participated since its inception, only three (or 27%) have engaged in behavior that has resulted in re-incarceration. Several participants have changed their behavior in a positive way while in H.O.P.E. Court, which in the long run should reduce recidivism risk. While H.O.P.E. Court's numbers are far too small a sample for meaningful analysis, and the time period during which the program has been in existence is far too short to examine results over the course of the full year for most participants, so far, participants have maintained a lower recidivism rate (27%) compared to the expected average (47%-74%) for this high risk population.

Federal imprisonment costs \$30,619.85 annually, or \$83.89 per day.¹ Along with the intangible benefits of H.O.P.E. Court, the results so far support cautious confidence that the program has the potential to result in significant cost savings over time.

¹ <https://www.federalregister.gov/articles/2015/03/09/2015-05437/annual-determination-of-average-cost-of-incarceration>.

II. Overview of the H.O.P.E. Court Program

A. The H.O.P.E. Court Approach

The goals of H.O.P.E. Court are to reduce the number of revocation proceedings before district judges, improve participants' compliance with conditions of supervision, facilitate rehabilitation and decrease recidivism.

H.O.P.E. Court focuses on individuals with higher risks to recidivate (as that term is defined by the Post Conviction Risk Assessment, or PCRA) who also have a history of substance abuse but are not true addicts. "High risk" means "high risk related to re-offending on supervision" and does not mean "dangerous" or "a high risk to society." In practical terms, this means that H.O.P.E. Court is serving one of the most challenging populations in the federal system who often lack basic skills and support systems. Many H.O.P.E. Court participants have extremely challenging backgrounds and have encountered significant roadblocks throughout their lives. To paraphrase the late Associate Justice Antonin Scalia, "[H.O.P.E. Court] is not for sissies."²

H.O.P.E. Court is open to persons under Probation supervision reentering society from BOP custody, those still under BOP custody at residential reentry centers or in the community on federal location monitoring who will soon transfer to Probation supervision, and to Probation supervisees facing impending supervised release or probation violations or who have already admitted to a violation.

H.O.P.E. Court participants who meet the higher risk eligibility criteria must voluntarily agree to enter the program. Some degree of failure is expected from the participants, particularly during the early stages of involvement. H.O.P.E. Court participants have usually failed in other programs and have low expectations of themselves; accordingly, the program is designed to encourage success and provide resources for success, even as failures occur.

The program utilizes a philosophy adopted by drug courts, the efficacy of which is well established: regular contact with the judge is instrumental in bringing about change. Participants and the H.O.P.E. Court team attend regular court sessions every two weeks. At H.O.P.E. Court sessions, the judge reviews and responds to the achievements and failures of each participant. Successful completion requires fifty-two weeks of credit for positive behavior; credit is awarded for two weeks, one week, or no weeks after every bi-monthly court session. Participants who earn fifty-two weeks credit and complete H.O.P.E. Court receive up to a one-year reduction in the term of supervision.

H.O.P.E. Court aims to provide regular oversight and early intervention so that problems are addressed before they develop into violations. The H.O.P.E. Court approach uses a swift response to each failure by a participant and asks the participants to complete tasks and goals that are actively monitored by the H.O.P.E. Court team. The program addresses participant behavior with incentives and sanctions. Sanctions are imposed with the goal of keeping the higher-risk

² Hon. Antonin Scalia, Judicial Deference to Administrative Interpretations of Law, 1989 Duke L.J. 511, 511 (1989) ("Administrative law is not for sissies").

supervisees engaged in the treatment process until they achieve success. A goal of this approach to supervision is that sanctions for violations are developed creatively to avoid disruption and to keep the participant in the community whenever possible. Once successful behavior has been achieved over a time period of at least twelve months, data suggests the change is well-integrated and the likelihood of recidivism is reduced.

B. The H.O.P.E. Court Team

The H.O.P.E. Court team consists of a presiding judge, Probation Officer, Assistant Federal Defender, Assistant United States Attorney, and a treatment provider. The district judge that referred the participant and others from the team member agencies may also participate. The team also solicits input from a CJA panel attorney (who has an attorney-client relationship with the participant) whenever a participant's case requires it.

The H.O.P.E. Court team collaborates on all significant issues, including selecting the appropriate incentives or sanctions for participants and determining whether a participant has succeeded in or should be terminated from the program. The collaboration is non-adversarial, provided that the H.O.P.E. Court team aims to protect the participants' due process rights.

In addition to attending H.O.P.E. Court public sessions every two weeks, the H.O.P.E. Court team meets for one hour prior in a closed session where confidential matters are discussed and the team members review the confidential progress reports of the participants. The team makes a determination as to each whether he/she has achieved a satisfactory performance, whether rewards are appropriate, whether sanctions should be imposed and whether there are other issues appropriate for discussion in open court.

During the first year of the program, the primary H.O.P.E. Court Team consisted of United States Magistrate Judge Patricia A. Sullivan, First Assistant U.S. Attorney Stephen Dambruch, Assistant Federal Defender Olin Thompson, Senior U.S. Probation Officer Michael Primeau, and Bridgemark treatment provider Mary Dixon, MSW, LICSW. These team members attended the vast majority of the bi-weekly sessions since H.O.P.E. Court began on November 6, 2014. The team was supported by Martha Saucier, courtroom and calendar clerk to Judge Sullivan, and Tim Baldwin, law clerk to Judge Sullivan. Deputy Chief Probation Officer John Marshall attended many team meetings and provided valuable contributions.

Other individuals from representative agencies participated as H.O.P.E. Court team members when the primary team members were unavailable. The Honorable John J. McConnell, Jr., United States District Judge, presided over two H.O.P.E. Court sessions, and Chief Judge William E. Smith attended team meetings and public court sessions. Others who participated in team meetings include Chief Kurt E. O'Sullivan, Heather McLoughlin, Kristin Mattias, Justin Albergaria, Shannon Finneran, Anthony Desjardins and Kate Hopkins from the Probation office, Adi Goldstein and Terrence Donnelly from the U.S. Attorney's office, Kevin Fitzgerald from the Federal Defender's office, and Jeannine Noel from the Clerk's office.

The H.O.P.E. Court program also received the support of David DiMarzio, Clerk of Court, Frank J. Perry, Chief Deputy Clerk, Michael Simoncelli, Management Analyst, Jose Kleinberg, Staff Interpreter, Joe Sylvia, Courtroom Security Officer, and Roger Cole, Operations Generalist, all of whom attended H.O.P.E. Court sessions.

The H.O.P.E. Court team received input from George West and Molly Cote in their capacity as CJA attorneys assigned to H.O.P.E. Court clients on an as-needed basis.

C. H.O.P.E. Court Participants

Candidates for H.O.P.E. Court are individuals on supervised release or probation in the District of Rhode Island who are identified by the Probation Office as high risk, with drug or alcohol abuse-related conditions as a risk factor.

Progress through the H.O.P.E. Court Program is broken into four phases: Phase One, Post-release/Initial Reentry Phase; Phase Two, Stabilization; Phase Three, Understanding and Taking Responsibility; and Phase Four, Successful Completion/Maintenance. Each phase has a specified purpose with distinct, achievable goals that are consistent with the stages of re-entry. To move from one phase to the next, a participant must earn 13 weeks of credit in H.O.P.E. Court and complete the specific requirements for each phase. When a participant moves from one phase to the next, the presiding judge presents the participant with a certificate signed by each member of the H.O.P.E. Court team.

The maximum number of participants in H.O.P.E. Court is capped at ten at any point in time. In addition to the ten active participants, individuals under BOP custody who reside at residential reentry centers or in the community on federal location monitoring may also attend H.O.P.E. Court public sessions. The individuals under BOP custody receive partial credit for good behavior to be applied to the back end of their time in the program after they become active participants.

The size of the District of Rhode Island has created challenges to reaching full capacity. According to the Probation Office, there are 435 federal defendants on post-conviction supervision in Rhode Island. While 32% of this releasee population (roughly one-third) is at a high risk of recidivating while on supervision, only 57 defendants, or 13% of the overall supervisee population, meet all the eligibility criteria for active participation in H.O.P.E. Court.

The pipeline of persons leaving federal prison and reentering society in Rhode Island is also limited. On average, twelve defendants are released from a traditional prison setting to either a residential re-entry center or federal location monitoring per month (however, these individuals are still under BOP jurisdiction). In addition, approximately seven defendants are directly released from BOP into Rhode Island each month for supervision.

Despite these challenges, eleven individuals have entered the H.O.P.E. Court program since its inception. Of the eleven, eight are currently in H.O.P.E. Court and three individuals are no longer part of the program. The eight participants currently in the program are at different

phases of H.O.P.E. Court, but all have made positive strides. All participants have improved either their housing, employment, or treatment situation in some manner, and many have learned valuable life skills and gained new perspectives. In addition to the eight active participants, the team expects one individual who is currently in BOP custody to enter H.O.P.E. Court as a full participant in the near future. One participant has become the first graduate of H.O.P.E. Court.

With the benefit of a full year under our belt, it is instructive to examine the circumstances surrounding H.O.P.E. Court's three "failures":

The first of the three withdrew voluntarily after attending only a handful of court sessions; throughout his short period of participation, he persistently engaged in substance abuse. Soon after he withdrew, he was reincarcerated for conduct that occurred immediately after participation ended. He is currently serving a sentence in connection with yet another violation. With hindsight, one could conclude that H.O.P.E. Court was not successful in changing his behaviors in part because he was admitted early and the team did not yet have a well-developed screening process. He did not appear interested in changing and once he understood that H.O.P.E. Court would require change, he withdrew and was promptly violated.

The second participant, who was terminated by H.O.P.E. Court and reincarcerated, arrived in this District after transfer of supervision from another federal jurisdiction. He was accepted based on the understanding he had been successful in a reentry program in the other jurisdiction. This information turned out to be inaccurate. While in H.O.P.E. Court, the participant engaged in conduct that was sanctioned by H.O.P.E. Court; however, he also was violated by the state court from which he had come for the same conduct, and remains incarcerated there.

The third participant who left H.O.P.E. Court engaged in criminal conduct that ultimately resulted in incarceration on a supervised release violation. He is now serving a twelve month and a day sentence and remains eager to rejoin H.O.P.E. Court. He has actively promoted the program among other inmates while incarcerated. The team expects him to come back to the program in 2016 after he is released from BOP custody.

Overall, twenty-six individuals expressed serious interest in H.O.P.E. Court since its inception, either by seeking to learn more about the program or coming to observe a court session. Of these twenty-six, ten did not move forward and did not receive a CJA-appointed attorney to further consider the program. The most common reasons were (1) perceived lack of need based on having secured employment; (2) the belief that the program would be too rigorous; (3) the sentencing judge declined to authorize a referral to H.O.P.E. Court; and (4) pending legal issues.

Sixteen potential participants conferred with a CJA-appointed attorney for advice regarding whether to enter H.O.P.E. Court. Eleven ultimately entered the program and five did not. Of the five individuals who did not enter the program, two became employed and decided not to participate, one faced pending legal issues, one was vetoed by the H.O.P.E. Court team,

and one declined for unknown reasons. The average cost for these CJA appointments ranged from \$225 to \$400.

In sum, 45% (26 out of 57) of supervisees who met all the eligibility criteria for H.O.P.E. Court seriously considered the program. 28% of the persons eligible (16 out of 57) received a CJA appointment, 19% entered the program (11 out of 57), and 14% (8 out of 57) are currently in the program.

III. H.O.P.E. Court Accomplishments

The H.O.P.E. Court had a busy first year as the team designed and implemented the program, learned about best practices and built relationships to achieve sustained success. The following are some of H.O.P.E. Court's accomplishments since its inception:

1. Conducting H.O.P.E. Court sessions every two weeks since November 6, 2014, with participation by the H.O.P.E. Court team at every meeting and public court session that was effective, prepared, and dedicated to the goal of achieving success for H.O.P.E. Court participants.
2. Implementing Moral Reconciliation Training, a form of cognitive behavior therapy, for participants in H.O.P.E. Court during Phases II and III of the program.
3. Assisting several H.O.P.E. Court participants to gain job readiness skills and to secure stable employment. In one instance, a H.O.P.E. Court participant held down a steady job for the first time in his life.
4. Forging relationships with several employers and employment agencies, including PriceRite, PetFood Experts, PM Recycling and New England Tech for placement of H.O.P.E. Court participants.
5. Educating the District's CJA panel about H.O.P.E. Court and recruiting two CJA-panel attorneys to advise potential H.O.P.E. Court participants about the decision to enter the program and their rights once they become part of the program. Developing efficient procedures for appointment of CJA attorneys to advise H.O.P.E. Court participants.
6. Performing a national survey of other federal reentry court programs to understand best practices on how to design and implement a successful reentry court.
7. Connecting with the Roger Williams Law School Pro Bono Collaborative to arrange for family law services for H.O.P.E. Court participants on issues related to child custody and child support. Attorneys Steve Prignano from McIntyre Tate, LLP and Rui Alves of Barton Gilman LLP have participated.

8. Connecting with the Roger Williams Law School Pro Bono Collaborative to research professional conduct issues surrounding the provision of pro bono unbundled legal services to H.O.P.E. Court participants.
9. Connecting with the Roger Williams Law School Criminal Defense Clinic to assist H.O.P.E. Court participants with issues relating to bench warrants and driver's licenses. In connection with this effort, the H.O.P.E. Court team connected with Chief Magistrate William Guglietta of the Rhode Island Traffic Tribunal. The Criminal Defense Clinic assisted participants in reducing fines in municipal traffic courts. The H.O.P.E. Court participants who benefited from these efforts were encouraged to write thank-you letters to the judges.
10. Developing a sanctions and rewards template for H.O.P.E. Court based on a national survey of state and federal guidance, and soliciting input from reentry experts at the Federal Judicial Center.
11. Revising the H.O.P.E. Court program to identify H.O.P.E. Court eligibility during the presentence investigation phase and to allow probation and supervised release violators to become eligible.
12. Increasing H.O.P.E. Court eligibility by adding a diversion protocol to allow supervisees facing impending supervised release or probation violations to enter and by creating a protocol for persons still under BOP custody to attend H.O.P.E. Court, become engaged in reentry, and receive partial credit for good behavior before they transfer to Probation supervision and can actively become participants.
13. Working with non-profits such as Open Doors, Crossroads Rhode Island, ManUp, Inc. and Anchor Recovery to assist H.O.P.E. Court participants with housing, employment and other needs.
14. Meeting with the Rhode Island State Drug Court team to learn about their best practices for working with defendants with drug problems, and visiting the Drug Court for a graduation ceremony to observe the state court in action.
15. Assisting in securing health care benefits for several H.O.P.E. Court participants.
16. Arranging for staff interpreters for H.O.P.E. Court participants who do not feel comfortable conversing in English.
17. Attending the statewide reentry council to discuss H.O.P.E. Court and to learn more about state level reentry efforts.
18. Developing internal worksheet and record-keeping mechanisms to ensure and assist accurate H.O.P.E. Court team decision-making.

19. Developing H.O.P.E. Court referral mechanisms based on the sentencing preferences of District Judges.
20. Developing Phase Completion certificates for participants as they move from phase to phase, to be given to participants during the public sessions.
21. Developing a procedure for the presiding judicial officer to speak with potential H.O.P.E. Court participants who observe H.O.P.E. Court after the public session ends to address their questions and concerns.
22. Creating a webpage about H.O.P.E. Court for the District of Rhode Island's website.
23. Establishing a H.O.P.E. Court lending library for participants to borrow resources that address substance abuse and reentry. Several participants have made contributions to the library.
24. Attending an employer forum organized by the Greater Providence Chamber of Commerce to discuss employment of H.O.P.E. Court participants.
25. Drafting a law review article about H.O.P.E. Court for the Rhode Island edition of the Roger Williams University Law Review.
26. Arranging for a H.O.P.E. Court participant to meet with law enforcement after an interaction with police, which led to a more positive outcome when the participant was later stopped by police again.
27. Meeting with Dr. Josiah Rich, a professor of medicine and epidemiology at Brown University and an expert on infectious disease and incarcerated populations, about how to work with H.O.P.E. Court participants who face recurring drug and disease issues.
28. Meeting with the staff and board of the Rhode Island Center for Justice to learn more about how its services could be used by H.O.P.E. Court participants.
29. Beginning the process to develop a brochure and logo for H.O.P.E. Court to hand out to potential participants and other interested parties.
30. Educating representatives from the Council of State Governments working on Rhode Island Justice Reinvestment Initiative about the H.O.P.E. Court model and issues that H.O.P.E. Court participants commonly face.
31. Recruiting two guest speakers to meet with the H.O.P.E. Court team and address H.O.P.E. Court participants. Adriana Ferns, a formerly incarcerated individual on federal supervised release, spoke to participants about the benefits of health and

- exercise. Sol Rodriguez, the Executive Director of Open Doors, addressed participants about job readiness and housing.
32. Meeting with Jason Nelson from the Federal Bureau of Prisons to provide him information about how H.O.P.E. Court works and its role in the reentry process.
 33. Visiting FCI Berlin along with other District of Rhode Island federal judges and describing the H.O.P.E. Court program to inmates who will be released to Rhode Island.
 34. Meeting with Brad Brockmann, Executive Director of the Center for Prisoner Health and Human Rights, to collaborate on a statistics-based approach for evaluating the effectiveness of H.O.P.E. Court outcomes.
 35. Attending a roundtable at Open Doors on criminal justice and reentry attended by many state and federal agency heads in the criminal justice field.

IV. Conclusion

With its first year concluded, H.O.P.E. Court has offered Rhode Island supervisees an alternative path to supervision that provides greater support for reentry, coupled with swift and sure consequences for missteps. During its second year, the H.O.P.E. Court team intends to continue to focus on the goals of reducing the number of revocation proceedings, improving participants' compliance with conditions of supervision, facilitating rehabilitation and decreasing recidivism and enhancing public safety by converting offenders into law abiding citizens.

cc: David A. DiMarzio, Clerk of Court
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Miriam Conrad, Federal Public Defender
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