

**SUCCESSFUL DRUG TREATMENT IN A CRIMINAL JUSTICE SETTING:**

**A CASE STUDY**

By

Frederick R. Chavaria

During the past ten years, drug dependent offenders have literally inundated the criminal justice system. The financial and social costs are staggering. As a society, we can ill-afford to perpetually maintain large blocks of drug addicted individuals in the criminal justice system. Consequently, there is a need for effective options. In response to this challenge, the Northern District of California has designed and implemented a comprehensive and meaningful program of intervention and treatment. Probationers or parolees are provided with a choice: either accept the responsibility to combat their addiction or suffer the consequence.

It is noted that there are offenders for whom nothing works, but there are others, the vast majority, for whom a structured program of intervention and treatment will reduce both the use and abuse of drugs.

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## INTRODUCTION

Concern over chemical dependency is a major social and political issue in the United States. The loss in human potential and associated social, health and criminal justice cost are staggering. An important consideration for public support of substance abuse treatment is the critical relationship between substance abuse and criminal behavior. While important differences will remain, concerning the causal effects of drug abuse and crime, "...it has been assumed that if drug abuse were reduced, there would be a concomitant reduction in drug-related crime."<sup>1</sup>

Prisons are extraordinarily expensive to build and operate, thus, it is necessary for the criminal justice system to develop effective ways of dealing with criminal defendants on both a cost and social basis. The 1987 prison construction cost typically varied "...between \$50,000 and \$75,000 per cell and the associated per prisoner maintenance cost averaged \$14,000 per year."<sup>2</sup> Recently, at a conference convened by the National Institute of Justice (NIJ), Charles B. DeWitt, President Bush's nominee for the top position at NIJ, explained the country's prison population is increasing "... at a thirteen percent (13%) annual rate."<sup>3</sup>

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<sup>1</sup>Hubbard, R. L., et. al., Drug Abuse Treatment: A National Study of Effectiveness (Chapel Hill and London): University of North Carolina Press, 1989, 127.

<sup>2</sup>Petersilia, Joan, "Expanding Options For Criminal Sentencing," (Rand Corporation): Santa Monica, California, November 1987, 2.

<sup>3</sup>Criminal Justice Newsletter, "Officials Aim to 'Fill the Gap' Between Probation and Prison (Washington, D. C.): Vol. 21 Number 18, September 17, 1990, 1.

To maintain that rate of growth, the estimated cost for new construction alone is estimated to be \$100 million<sup>4</sup> per week.

Probation is a subsystem of the criminal justice system. Its efficaciousness is measured by the number of individuals who successfully complete their supervision and are mainstreamed back into society as functioning productive people. Constructive and positive change in its clients is a tangible demonstration that the system is working effectively. As its overall goal, probation has a specific outcome, i. e., the modification or change of behavior through a structured program of community supervision. Basic to the goals of probation are deterrence, rehabilitation and restraint. These objectives are particularly important in the supervision of chemically dependent probationers and parolees.

Within the general definition of deterrence are two meanings. Individual or special deterrence "... refers to controlling the behavior of others by means of the threat of apprehension and/or punishment;"<sup>5</sup> whereas, general deterrence refers "... to controlling the behavior of others by means of the example made of the offender who was caught."<sup>6</sup> An adjunct to deterrence is rehabilitation which focuses on change. It not only seeks to change offender behavior, but ultimately, to affect a lifestyle change, which will lead to constructive, rather than destructive behavior. Both deterrence and rehabilitation interface with the emphasis of restraint. Restraint acts to impede the offender from the commission of further offenses. Consequently, the focus is in making continued criminal behavior

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<sup>4</sup>Ibid., 1.

<sup>5</sup>Campe, Phillip E., "Assessing Treatment of the Offender, From Probation to Capital Punishment," Federal Probation, June 1985, 23.

<sup>6</sup>Ibid., 26.

impossible. "Although criminal justice sanctions alone may have uncertain value in reducing the criminality of drug-involved offenders, those sanctions can serve a powerful role by facilitating drug treatment."<sup>7</sup>

While there are a number of compelling reasons which act to persuade the drug user to engage in treatment, perhaps the most compelling is that of legal sanction and the potential for incarceration. "The leverage created by this threat, and by the sanction itself, permits treatment to be considered as a viable option by the serious abuser."<sup>8</sup> While it is conceded that there are offenders for whom nothing works, there are others, the vast majority for whom a structured program of mandated treatment intervention will reduce both the use and abuse of drugs.

#### **BACKGROUND**

The authority for a Federal Probation and Parole aftercare program was initially established by the "Narcotic Rehabilitation Act of 1966 (NARA)."<sup>9</sup> With the enactment of the "... contract services for Drug Dependent Federal Offenders Act of 1978, responsibility for operating the program was transferred from the Attorney General of the United States and the Director of the Bureau of Prisons, to the Director of the Administrative Office of the United States Courts."<sup>10</sup>The Probation Division of the Administrative Office was given

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<sup>7</sup>Weller, H. K., Lipton, D. S. and Johnson, B. D., "A Criminal Justice System Strategy For Treating Cocaine and Heroin Abusers in Custody," **National Institute of Justice**, March, 1986, 6.

<sup>8</sup>Ibid., 6.

<sup>9</sup>A Process Descriptive Study of the Drug Aftercare Program For Drug-Dependent Federal Offenses (Federal Judicial Center, 1984), 1.

<sup>10</sup>Ibid., 1.

the responsibility for the program and specific authority to contract for aftercare services was delegated to the Chief Probation Officer, or their designees in each judicial district.

"The basic policies and procedures of the aftercare program are set forth in Volume X of the Guide to Judiciary Policies and Procedures."<sup>11</sup>Aftercare, as described in this Volume, "...is the treatment and urine surveillance provided addicted or drug-dependent Federal offenders after their release from institutions or placement on Probation."<sup>12</sup> Therefore, the aftercare program is not a post-corrections support effort, but, rather, a supervision program. "Treatment and urine surveillance are provided by the direct order of the District Court or Parole Commission."<sup>13</sup> The treatment and urine surveillance tasks can be accomplished by contracting for the required services and/or by Probation Officers directly or some combination thereof.

#### **THE NORTHERN DISTRICT**

The Northern District of California is composed of the fourteen (14) coastal counties, along the California coast between Monterey and the Oregon Border. The Probation Office is headquartered in San Francisco, with branches in Oakland, San Jose, Santa Rosa, San Mateo, Santa Cruz and Monterey. The District's Probation Officers are responsible for supervising the community activities of both probationers and parolees. A significant number, forty percent (40%), of the total client population have either experienced or have ongoing problems with drugs and/or alcohol. Many of these clients are heavily addicted

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<sup>11</sup>Ibid., 2.

<sup>12</sup>Ibid., 2.

<sup>13</sup>Ibid., 2.

and require immediate and often costly residential treatment; while others are on the verge of addiction, but can be deterred with appropriate treatment intervention.

In January, 1984, the Chief Probation Officer for the Northern District of California directed two Senior Probation Officers to design and implement a District-wide drug aftercare (DAC) program.

It was agreed that the aftercare program should be pro-active. They wanted to identify problem clients, for the purpose of structuring a community supervision plan aimed at neutralizing drug dependency. In the past, Probation Officers had been content to allow problems to occur and then attempt to address them. The Drug Aftercare Specialists proposed that once a client was identified as a DAC case, intervention should begin immediately. Why wait for the problem to evolve? Initiate a strategy of education, prevention and deterrence; thus, providing the client with the opportunity to successfully complete their supervision while simultaneously dealing with his/her drug problem. For that matter, when an individual is placed on Probation or Parole, with a drug aftercare condition of supervision, it is the expectation of the Court, Parole Commission and the public that "...placing a person under a 'drug aftercare' condition, mandated special supervision..."<sup>14</sup> Consequently, the essence of treatment in a probation setting is the creation of an environment in which intervention can occur. "Whether a client's use of drugs or alcohol is considered circumstantial, recreational, medicinal, compulsive, intensive or experimental, the person under a drug aftercare stipulation must be assisted in accepting

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<sup>14</sup>Anthony, Laurence M., "Supervising the Chemically Dependent Person," *Federal Probation*, March 1988, 7.



the need for specialized handling."<sup>15</sup> The effect would be to raise the substance abusers "bottom," which is the therapeutic use of the probation officer's authority.

### **TREATMENT MODALITIES**

Although there are numerous theories concerning the cause of drug abuse, over the past several decades, three (3) principal treatment strategies have emerged: methadone maintenance, residential treatment and out-patient drug-free programs.

A treatment protocol which gained prominence during the 1960s, for the treatment of heroin addiction, is methadone maintenance. Methadone is a legally controlled synthetic medication. It is relatively cheap and allows the serious drug abuser to enjoy a relatively normal lifestyle. The actual treatment consists of dispensing to the user, initially daily and later less frequently, carefully measured doses of methadone, which, when orally ingested, occupies the opiate receptors in the brain and eliminates the craving for opiates.

Residential programs, more commonly referred to as therapeutic communities, feature a highly controlled 24-hour per day drug-free environment. The user lives at the program, depending on the program, anywhere from six months to two years. During this time, the individual participates in a structured social model treatment process, aimed toward the facilitation of a complete lifestyle change.

A derivation of the long-term residential treatment is the short-term (28 to 30 day) treatment or detoxification program. Usually operated by hospitals or private agencies, short-term treatment provides the drug user with an opportunity to stabilize and prepare for continued treatment on an outpatient basis.

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<sup>15</sup>Ibid., 7.

Finally, outpatient drug-free programs emphasize urine testing, counseling, both individual and group, while also stressing the philosophy and twelve-step principles advanced by Alcoholics/Narcotics Anonymous. Outpatient treatment, like methadone maintenance allows the client to remain in the community.

#### **PHASE SANCTION SYSTEM**

Effective intervention is possible only when it is guided by clear theoretical constraints, concerning both the cause of and treatment of drug abuse. "... A sound set of practical therapeutic recipes with parallel tracks and options based on the best available data, may be what is needed to guide treatment of drug abuse in many of the settings in which it is practiced."<sup>16</sup> Therefore, until a single dominant theory for drug abuse and causation and treatment emerges, the safest and most practical approach to both its etiology and treatment intervention is to use a multi-dimensional system which draws the best from each theory. This is precisely what has occurred in the Northern District of California. We do not subscribe to any particular theory of drug addiction and utilize all three of the major treatment protocols with our clients. We discourage methadone maintenance, and it is rarely used in our District; nevertheless, we subscribe to the proposition that "all types of drug treatment have shown progress in reducing drug use and criminality."<sup>17</sup>

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<sup>16</sup>Grabowski, J., "Acquisition, Maintenance, Cessation and Reacquisition: An Overview and Behavioral Perspective of Relapse and Tobacco Use," Research, Monograph Series, National Institute on Drug Abuse, 1986, 36.

<sup>17</sup>Visher, Christy A., Incorporating Drug Treatment In Criminal Sanctions, 4 Taken From NIJ Reports, Summer 1990, No. 221.

In the Northern District of California, it is assumed that every case which has been designated Drug Aftercare (DAC), if not already addicted, has the potential to become addicted and requires a treatment strategy aimed at deterring addiction. Our premise is that the recreational user will be discouraged from using drugs because the risks are too great; whereas, the serious abuser will have two choices: either accept the responsibility to combat their addiction or suffer the consequences. To give structure to our philosophy, a one-year phase/sanction DAC supervision protocol was designed. The purpose of the Phase/Sanction System was two-fold: 1) We wanted to foster the reputation that drug usage would not be tolerated in the Northern District of California; and 2) any client who wished to remain drug-free would receive our support and be provided with the very best drug treatment. Incorporated into the Phase/Sanction System were the following program priorities:

Identification of Substance Abusing Clients. Gone are the days when drug abuse indicators are readily discernable; therefore, the cornerstone of any substance abuse program must be a sophisticated system of urine collection/analysis. To be effective, collection should be totally randomized, observed, and potentially occur seven (7) days a week. Thus, all clients were required to call a code-a-phone nightly to ascertain whether a test would be required the following day. An effective urine collection program must instill in the client that if they use drugs, there is the distinct possibility their use will be detected. This maximizes the deterrent effect. The potential success of any substance abuse intervention program is significantly enhanced if usage is detected before it evolves into relapse and renewed addiction.

**Treatment Providers.** It was a prerequisite that all contractors be experts in the addictive process, relapse prevention, dual diagnosis and have a thorough knowledge of the twelve-step principles and other self-help intervention groups.

Moreover, clients would not be subjected to waiting lists, service providers would be easily accessible and maintain comfortable, professionally attractive offices.

**Phase/Sanction.** The Phase/Sanction System mandated a specific range of actions by the respective probation officer, should any client submit a positive urine test or not adhere to various required treatments. The goal was to ensure continuity of officer responses, while, at the same time, still allowing maximum individualization of treatment. The Phase/Sanction DAC Program is divided into three (3) distinct levels of 120 days each and emphasize abstinence, relapse prevention and risk management.

**Northern District of California**  
**Phase/Sanction System**

**REFERRAL**

- I. All new supervision cases with a Substance Abuse Condition will commence a year-long Drug Aftercare Program, as soon after their referral as possible.

**Unless:**

- A. There is no documented, supportive evidence of drug abuse; AND
- B. They deny a history of drug abuse; OR
- C. Drug abuse was several years prior to instant offense.

- II. In Drug Aftercare cases, where there is merely a suspicion of usage, the person should be referred to your respective contractor for sixty (60) days of urine testing only. If a positive urine is received or the person fails to adhere to the urine collection schedule, they should be immediately referred to Phase I assessment and the full range of services. If the client successfully completes the sixty (60) days of urine submission, they shall be screened out of the drug aftercare program.

All Probation Officers are encouraged to urine test any case where suspicion of usage exists (not to exceed sixty (60) days without a Special Drug Condition).

- III. Each new referral should be accompanied by the following:
- A. A complete Program Plan, which is essentially our contract with the Contractor, specifying the required services.
  - B. A Confidential Release of Information form signed by the client and witness.
  - C. A Urine Identification letter signed by the client.
  - D. A Urine Code-A-Phone Information Sheet signed by the client (where applicable).
  - E. A Urine Collection Log.
  - F. Narcotics Anonymous\* Attendance Confirmation Sheet.

\*Participation in any 12-step program is acceptable.

### PHASE SYSTEM

#### Phase I – Four Months.

- I. Client will submit a minimum of six (6) random or eight (8) scheduled urine tests per month; AND weekly Narcotics Anonymous meetings; OR ten (10) random or twelve (12) scheduled urine tests per month\*\*
- II. Treatment evaluation performed by the contractor.
- III. Counseling, as directed.

**Phase II – Four Months.**

- I. Client will submit at least **four (4)** random or scheduled tests per month **AND** weekly Narcotics Anonymous meetings; **OR eight (8)** urine tests per month, either on a scheduled or Code-A-Phone basis.\*\*
- II. Counseling, as directed.

**Phase III – Four Months.**

- I. Client will submit at least **two (2)** random tests **AND** weekly Narcotics Anonymous meetings; **OR six (6)** urine tests per months.\*\*
- II. Counseling, as directed.

\*\*The client should be encouraged to attend Narcotics Anonymous meetings, rather than increased urine submissions. (Regular attendance may be a mitigating factor in a subsequent DAC violation; refusal/failure to attend may be an aggravating factor.)

**DEFINITIONS**

**Episode Means Any of the Following:**

- I. Positive urine test. (If subsequent positive urine tests are received prior to implementation of the sanctions, no escalation in sanctions need to be taken, except that the client will be required to participate in **BOTH** counseling sessions and Narcotics Anonymous meetings.) Also, positive urine tests should be at least four (4) days apart, except PCP, eight (8) days apart; marijuana, five (5) days apart; secobarbital, three (3) weeks and methaqualone, two (2) weeks.
- II. Submitting a diluted or otherwise fraudulent sample.
- III. Any **three (3)** stalls.

A stall\*\*\* is any of the following:

- A. Failure to show for urine testing.
- B. Failure to submit a testable amount of urine.
- C. Any unexcused absences from required evaluation/counseling sessions.

**\*\*\*Upon any urine stall, client should be called in immediately for a test, and the stall is to be counted, regardless of next test result.**

**IV. Except as noted above, failure to comply with or complete any sanction.**

### **SANCTIONS**

#### **Sanction I – First Episode Within Phase I**

- I. Notification to Court or Parole Commission.**
- II. Office visit as soon as possible, no later than five (5) working days. During this meeting, a Client Drug Use Review Sheet will be completed and a copy forwarded to the Drug Treatment Specialist for statistical purposes.**
- III. If the client has only been submitting urine samples, he/she will be required to attend counseling and/or Narcotics Anonymous meetings at least weekly.**

**If the client has been involved in counseling and/or Narcotics Anonymous meetings, he/she shall:**

- A. Be increased in urine testing to ten (10) random or twelve (12) scheduled tests per months and/or**
- B. Be required to attend counseling and/or Narcotics Anonymous meetings for a combined total of at least two (2) per week.**

#### **Sanction II – Second Episode Within Phase I**

- I. Formal Court Hearing or Parole Commission action (F-1 Modification), recommending:**
  - A. Ninety (90) days in a residential drug treatment program cleared with Drug Treatment Specialist; OR,**
  - B. Ninety (90) days at a community treatment center and continued urine testing, counseling and/or Narcotics Anonymous meetings at the frequency established in Sanction I; OR,**

- C. **Ninety (90) days of Home Detention (Probation cases only) and continued urine testing, counseling and/or Narcotics Anonymous meetings, at the frequency established in Sanction I; OR,**
- D. **Ninety (90) days in an intensive outpatient program and continued urine testing, counseling and/or Narcotics Anonymous meetings, at the frequency established in Sanction I; OR,**
- E. **Ninety (90) Narcotics Anonymous meetings during the next ninety (90) days and continued urine testing and counseling, at the frequency established in Sanction I.**

**Sanction III – Third Episode Within Phase I**

- I. **Formal Court Hearing or Parole Commission action (F-1 Modification), recommending either:**
  - A. **A minimum custody sentence of six (6) months for Misdemeanor offenders and a minimum custody sentence of one (1) year for Felony offenders; OR**
  - B. **Completion of a long-term residential drug treatment program,\*\*\*\* the failure of which will result in further formal action and a recommendation for custody, as stated above.**

**\*\*\*\*Residential treatment may be used at any sanction level, whenever deemed appropriate by the Probation Officer and with the client's and Drug Specialist's concurrence. If placement is made at Sanction I, no formal hearing is required beyond notification of the Court/Parole Commission, as already provided. However, failure in a residential program in Sanction I may require resorting directly to Sanction III, since Sanction II options may no longer be realistic.**

**NOTES:**

- 1. **Unsuccessful completion of any sanction phase will return the client to Phase I treatment to begin the year-long process anew.**
- 2. **Any episode in Phase II or III will result in the client being returned to Phase I to again begin the year-long program.**



## RESULTS

Recent research disclosed "...that urine monitoring initiated by the criminal justice system is a necessary component of a sanctioning strategy for offenders who abuse drugs, but, alone, is not sufficient to reduce drug use and criminal activity of drug-involved offenders."<sup>18</sup> While drug testing, alone, is not enough, "some form of rehabilitative drug treatment program can lessen recurrence of drug abuse and may substantially reduce or eliminate future criminal behavior."<sup>19</sup>

To this end, the Substance Abuse Specialists for the Northern District of California have worked diligently to provide a comprehensive and meaningful program of intervention and treatment. If there is to be failure, let it be the client's, for we will have provided both the environment and opportunity for intervention to occur. Each DAC client is referred to a professional substance abuse therapist for an assessment and evaluation. A written report is completed and submitted to the Probation Officer, with a recommended course of treatment. Intervention options include:

Drug-free counseling, psychotherapy, group counseling, family counseling, recovery groups, transition groups, substance abuse education groups, intensive outpatient treatment, psychological evaluations, psychiatric evaluations, monitoring and payment for psychotropic medication, short-term residential treatment (28 to 180 days) and long-term residential treatment (6 to 18 months).

Over the years, the DAC Program has continued to expand in both scope and dimension. For example, in 1983, 139 cases were identified as DAC and 24 (or 17%), were receiving contract intervention services. As of November, 1990, almost 700 cases were

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<sup>18</sup>Ibid., 4.

<sup>19</sup>Ibid., 4.

identified as DAC and 366 (or 55%) participating in contract treatment intervention services. Of even more significance has been the reduction of overall drug use in the District.

In 1984, a total of 217 cases were identified as DAC. From that population, 3,050 urine scheduled tests were taken throughout 1984. Between 18 and 21 percent of the tests were returned as positive for illicit drugs. During Fiscal Year 1990, which ended in October, 666 cases were identified as DAC. This population provided 15,514 randomly taken urine tests during the year. Of all urine tests taken, 6.6% were returned positive for drugs. This amounted to an average reduction of 14.4 percent in our urine positive drug test rate.

"Between 1983 and 1990, the total number of cases supervised in the District increased by 152%; however, during that same period, the number of drug tests increased not 152%, but, rather, 3,500%. Thus, the figures point out that although there was an increase in supervision cases between 1983 and 1990, even factoring in that increase, there remained a dramatic increase in the number of tests administered to substance abuse cases."<sup>20</sup>

Based on these results, it can be safely assumed that the Drug Aftercare Program in the Northern District has contributed both to the reduction of drug use and abuse by its clients, while also preventing renewed criminal behavior. It is a multiple-modality approach to a multi-dimensional problem.

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<sup>20</sup>Buddress, L., Annual Report 1990, United States Probation Office, Northern District of California, 18.

## **SUMMARY**

The purpose of this paper was to focus on the problem of drug abuse and the design and implementation of a successful criminal justice drug intervention program. The philosophy which aided in the development of the program's design and its goals were discussed. The essence of treatment in a probation setting, principal treatment modalities and their link to the Phase/Sanction System were reviewed and evaluated. Finally, program results were detailed.

Most criminal justice officials agree that options other than traditional incarceration or probation are needed. The Northern District's Drug Aftercare Program is an example of a highly structured successful program of drug intervention and treatment, in combination with Probation or Parole supervision.

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