A Continuum of Sanctions for Substance-Abusing Offenders

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Background

An effective supervision strategy for substance-abusing offenders requires a reliable drug testing program as well as a consistent and well-formulated policy that holds offenders accountable for their decision to use drugs or otherwise violate the special drug aftercare condition. The range of consequences for drug aftercare violations must be clearly spelled out in the office policy manual *and* overseen by unit supervisors, the expectations of abstinence and possible sanctions must be carefully reviewed with the offender during the initial interview, and, most essential, the threatened sanctions must be imposed when and if violations occur if we are to be effective in controlling *and treating* the drug offender.

In a previous article, I presented support for the strategy implemented by the Central District of California (CDC) at Los Angeles (Torres, 1997, pp. 38–44). The strategy is based on a philosophy of rational choice rather than the traditional disease model of addiction. The policy implications from a choice model lead to a total abstinence approach with predictable consequences for drug use and associated aftercare condition violations. In the CDC the officer retains the discretion to determine the appropriate sanctions, but the policy clearly suggests that some consequence follow *any* incident of drug use.

The preferred course of action, for even a single positive drug test, historically, has been placement in a residential drug treatment program (Torres, 1997, p. 41). Although most officers who support the traditional medical model view of addiction feel that this approach is overly punitive and unconcerned with the treatment of the offender, the CDC believes that a total abstinence approach is in the best interest of the community *and* the offender. This strategy attempts to balance the goal of community protection through rapid detection and intervention while also holding the individual accountable for the decision to use drugs or otherwise violate the special drug aftercare condition. Swift detection also benefits offenders by intervention before they become addicted or involved in new criminal conduct that potentially may lead to a new and lengthy sentence of imprisonment. Once detection and intervention occur, the CDC places the responsibility on offenders to determine whether to avail themselves of a treatment program:

> Through a *total abstinence* approach, the district's primary goal, as it relates to drug use, is the protection of the community and the addict. . . . This goal can be accomplished . . . by the user making the decision to abstain from drug use in the open community. [D]rug abstinence is enforced through placement in a drug-free residential program. . . . Rapid detection through urine drug testing and physical examinations will allow the probation officer to intervene immediately and prevent the client from reverting to patterns of criminal behavior associated with drug use. This is diligently pursued, as it is in the best interest of the community as well as the client. (U.S. Probation Office, 1981, App. 415, p. A-400-61)

Accountability and Treatment

Although the CDC has established a policy requiring officers to report any incident of illegal drug use to the court or the U.S. Parole Commission, it has left the specific consequence and recommendation to the discretion of the officer and the officer's supervisor. The expectation, however, is that the officer will impose some sanction and will hold the offender accountable for drug use, failure to report for testing, stalls, or diluted tests. This article discusses the continuum of sanctions for substance-abusing offenders. It focuses on alternatives to incarceration or what is now commonly referred to as intermediate sanctions. The article adresses short-term incarceration, however, as one type of sanction and also as a technique to induce an offender to participate in a therapeutic community. In the case of serious or repetitive violations, the probation or parole officer has an obligation to bring the matter to the attention of the court or the U.S. Parole Commission by instituting revocation proceedings. Needless to say, serious or repetitive violations may necessitate the offender's arrest.

Aside from the CDC, few districts have attempted to implement a structured range of sanctions for officers to impose when violations occur generally and drug aftercare violations occur specifically. In the early 1990s, the Northern District of California (NDC), headquartered in San Francisco, developed a drug testing program model based on the one developed in the CDC. U.S. Probation Officer Frederick Chavaria (1992) describes the phase/sanction program for drug aftercare (DAC) cases. The position of the NDC is that offenders

with a special drug aftercare condition have the potential to become addicted and, thus, are in need of a treatment approach that is aimed at deterring drug use. The NDC believes that even occasional, recreational drug use among offenders places them at high risk. The substance abuser is essentially given two choices. The offender is forced to accept the responsibility to resist addiction or face the consequences of drug use. In implementing its philosophy, the NDC developed a 1-year phase/structure program. The program was designed with two specific purposes in mind: to promote the position that drug use would not be tolerated and to provide quality treatment to any offender who desired to remain drug-free (Chavaria, 1992, p. 50).

In describing this program, Chavaria states that, "the client is confronted with clearly defined and unavoidable consequences (sanctions) for program noncompliance and/or drug use. However, the offender is also introduced to a program of drug treatment which will allow him or her to assume a clean and sober lifestyle" (1992, p. 51). He concludes, "If there is to be failure, let it be the client's, for the probation officer will have provided both the environment and [the] opportunity for intervention to occur" (p. 51).

More recently, U.S. Probation Officer John Gonska described "A Sanction Program for Noncompliant Offenders in the District of Nevada" (1994, pp 11–15). Gonska acknowledges that probation officers, historically, have had a substantial amount of freedom to choose and implement supervision plans and how they will address technical violations (p. 11). He notes that "most probation officers exercise sound judgment and engineer creative, meaningful approaches to address noncompliant behavior. A few, unfortunately do not" (p. 11).

The sanction program in the District of Nevada was developed to fulfill the probation system's obligation to report and correct behavior that was in violation of the conditions of supervision and "to establish consistency in doing so from offender to offender, from officer to officer, and from supervisor to supervisor" (p. 11). The district eventually established three categories of violations and sanctions that still permitted officers the discretion to select a range of penalties within the appropriate category (p. 13). Violations of the special drug aftercare condition were described as follows:

> 1) Drug/substance abuse-related behavior — Each of the commonly abused illicit and prescription drugs was listed, as was alcohol. The category denoted frequency of use for each drug (for example, one positive drug test for cocaine, two to three positive tests for cocaine, and four or more positive tests for cocaine). The category also covered urinalysis; excessive alcohol use; failure to attend drug counseling sessions; association with drug activities; violation of rules and regulations of the drug aftercare contractor; possession of narcotic paraphernalia; and possession of a controlled substance. (p.11)

In the District of Nevada it appears that most drug aftercare violations fall into categories 1 and 2, which provide sanctions that include verbal admonishment, written admonishment, court admonishment, increased counseling sessions, placement in a community corrections center, and increased testing. Placement in a residential drug treatment program involves category 3 violations such as providing four positive "UAs" for cocaine during the first 2 years of supervision.

Through the development and implementation of this sanctions program, the District of Nevada has enabled officers to handle violations responsibly and consistently. The primary goal of this program as stated in the probation office's policy is to provide consistent and predictable consequences when violations occur. This consistency and predictability serves to protect the community, promote respect for the court, deter offenders from using drugs, and encourage constructive change. The District of Nevada, like the CDC and the NDC, strives to implement a balanced supervision approach that encourages compliance with the conditions of probation and parole, provides protection to the community, and allows for drug treatment (Gonska, 1994, p. 15).

Several well-known criminologists also advocate a strategy of accountability and increasing sanctions for dealing with drug offenders (Kleiman, 1996; Petersilia, 1996; Wilson, 1995). Wilson, in an essay written for *The American Enterprise,* says that "one way to make offenders motivated is coercion. . . . [I]n order for this to be done, probation, parole, and police officers would need to get aggressive about identifying and testing drug-abusing convicts, judges would need to respond crisply to those who failed the tests and correctional authorities would need to create a graduated set of sanctions" (1995, p. 49).

Petersilia and Turner (1993, pp. 281–335) report that recidivism was reduced 20 to 30 percent in programs in which offenders both received surveillance (e.g., drug tests) and participated in relevant treatment. They advocate a program combining treatment with heavy doses of surveillance and believe that such an approach may have a more punitive effect than prison (p. 491).

In an unpublished paper, *Controlling Drug Use and Crime Among Drug-Involved Offenders: Testing, Sanctions, and Treatment,* presented at the American Society of Criminology in San Diego California, Professor Mark Kleiman (1997) of the University of California at Los Angeles Graduate School of Public Policy asserts that crime tends to be the product of those who are reckless and impulsive, rather than those who behave in a self-interested, rational manner. The fact that many, if not most, offenders tend toward reckless, impulsive behavior has major implications for the formulation of public policy to combat drug-related crime. According to Kleiman, for these reckless and impulsive drug offenders, delayed and low-probability threats of severe sanctions are much less effective than more immediate and high-probability threats of mild punish-

ments (1997, pp. 1–2). Kleiman maintains that the probation and parole systems represent the most viable solution to the management of substance-abusing offenders. He supports an abstinence approach and argues that this should be a condition of supervision, monitored by frequent drug testing. Kleiman advocates the use of predictable sanctions for persons who persist in using drugs. Treatment, however, should be offered or required for offenders who are unable to abstain from using drugs (1997, pp. 1–2).

Petersilia also has pointed out that drug offenders under criminal justice supervision stay in treatment longer, thereby increasing positive treatment outcomes (Petersilia, 1996, p. 493).

Violations of the Special Drug Aftercare Condition

A variety of behaviors are associated with drug testing that may represent technical violations of the special drug aftercare condition. I will review these briefly since I have previously discussed many of them in an article entitled "The Use of a Credible Drug Testing Program for Accountability and Intervention" (Torres, 1996, pp. 18–23).

Failing to Report for Testing. Failing to report can occur for a multitude of reasons including employment, lack of transportation, illness, or forgetting to call the code-a-phone. In many cases, however, offenders surmise that if they are "dirty," it is to their advantage not to report for drug testing and to try to provide a credible reason for not showing. Officers should view a failure to show as a "red flag" since many offenders use this technique, believing that a "no show" will be viewed with less seriousness than a dirty. In most cases, the offender is correct in this assessment.

Stalls. In this technique the offender who is dirty informs the probation officer that he or she cannot urinate. After several attempts, the officer or drug counselor may choose to give the offender a "stall"—directing him or her to return on another date—which buys the offender additional time to excrete the drug. Most officers do not view a stall with as much concern as a positive test or a failure to show.

Attempting to "Beat the Test" or Contaminating the Specimen. In my previous article on drug testing, I presented some of the methods offenders use to beat the test (Torres, 1996, pp. 18–23). Some of the techniques were: using a rubber penis filled with clean urine, attaching to the unobserved side of the penis a tube leading to a container under the armpit, inserting a small bottle of clean urine into the vagina, pouring clean urine into the specimen bottle, dipping the bottle into the urinal or toilet and filling it with water, or contaminating the urine sample with various foreign substances (e.g., Drano, chlorine, bleach).

Flushed Specimen. This is one of the more common methods used to beat a test. With "flushing" the offender consumes large quantities of liquids to dilute the concentration of drugs in the body and accelerate excretion. The greater the liquid intake, the lower the concentration of the drug and the quicker the excretion rate—thus, the greater the probability of a negative test result. In the CDC, a specific gravity (measurement of urine dilution) of less than 1.010 is considered diluted and thus unacceptable. Specific gravity results of from 1.000 (specific gravity of water) and 1.005 are viewed with great suspicion.

Failing to Participate in Counseling Sessions or Treatment. As in failing to report for testing, the offender may have any number of reasons for failing to participate in treatment as directed. Although most officers recognize the need for follow-up, they should try to verify the offender's justification whenever feasible.

Alcohol Use. Because many instances of relapse are attributed directly to the use of alcohol, offenders are ordered to abstain from consuming alcoholic beverages. A breathalyzer is used to randomly check offenders for alcohol use when they report for testing.

Positive Drug Test Results. This violation is one that most drug officers confront almost daily. Today, most positives are for cocaine, amphetamines, morphine, and marijuana. Other drugs of abuse are anabolic steroids, barbiturates, phencyclidine (PCP), and prescription medications such as valium, codeine, and methadone.

In addition to these technical violations, there are some legal violations that may be addressed without the necessity for revocation and imprisonment. Maintaining an offender in the community after a legal violation is controversial and frowned upon by many officers; however, arrests or convictions involving driving under the influence of alcohol, under the influence of alcohol (drunk in public) or drugs, misdemeanor domestic violence, driving on a suspended or revoked license, petty theft, and misdemeanor assault and battery typically have been among those considered for continued supervision after the imposition of some sanction.

A Continuum of Sanctions

In presenting a continuum of sanctions I have listed and described those that I personally used most often or my colleagues in the CDC used. The list is not intended to be exhaustive. No doubt other officers have developed and used creative and effective sanctions that are not included here. The sanctions are enumerated along a continuum from least severe to most severe. While there may be considerable disagreement on how I rank the severity of sanctions, when possible, I have relied on the RAND Corporation's studies entitled "What Punishes? Inmates Rank the Severity of Prison vs. Intermediate Sanctions (Petersilia & Deschenes, 1994, pp. 3–8) and "When Probation Becomes More Dreaded Than Prison

(Petersilia, 1990, pp. 23–27). The primary purpose of this article, however, is not to obtain a consensus on what sanctions are more severe than others, but to underscore the fact that there are a variety of appropriate consequences, short of incarceration, to use in dealing with violations of the special drug aftercare condition. The point that I hope to make is simply that with many, if not most, technical violations, these community-based sanctions can be appropriate, proportional to the violation, and infinitely more constructive than imprisonment. However, it is vital, as Gonska (1994, p. 15) and Chavaria (1992, p. 51) have emphasized, that sanctions be consistent and predictable.

This article is not intended to provide a full description and assessment of the research on each of the intermediate sanctions discussed below. Instead, I hope that it provides probation officers with an assortment of options to consider when a violation of the special drug aftercare condition occurs.

Admonishments. Some, including this writer, would argue that an admonishment really does not qualify as a sanction at all and is most likely to be perceived by the offender as a "pass" (chance). It would most likely be entered in our chronological case summary as: "The offender was admonished for his failure to report for drug testing. No further action is deemed necessary at this time." Nonetheless, an admonishment is a fact of life in the daily routine of a probation officer since taking action on every technical infraction is impossible. However, officers need to take care in using admonishments, threats, or ultimatums too frequently, especially with substance-abusing offenders. Substance-abusing offenders may perceive that they "beat" the violation and "got over" on their probation officer. If this occurs too often, the officer, office, and drug program lose credibility, as well as effectiveness in deterring drug use.

Verbal Admonishment by Probation Officer. The mildest form of sanction is a verbal admonishment by the probation officer. If the officer uses this form of sanction, it is more likely to have an impact if administered in person rather than by telephone. As in any other action, the officer should properly document the technical violation and the date the admonishment was delivered. Oftentimes, a verbal admonishment takes the form of a threat in which the officer warns the offender that further violations along this line will result in more severe action such as an increase in phase, a requirement to participate in a 12-step program, placement in a Community Corrections Center (CCC), or some other consequence. The key here is to remember *not to threaten with something that you are unprepared to follow through on.* This is an all too common mistake made by probation officers and judges alike. Empty threats are quickly recognized as such by the substance-abusing offender and result in a loss of credibility, consistency, and predictability. The impact of empty threats is disastrous to the development of an effective strategy for controlling and treating substance abusers.

Written Admonishment by Probation Officer. This type of warning is, perhaps, one notch above the simple verbal admonishment. A formal letter, using stern wording, is more likely to have some impact on the offender. Again, probation officers should take care in composing such letters and should not threaten actions that they are not prepared to take if further violations occur. Frequently, a written admonishment follows a verbal one. The written admonishment also may be used later if further violations occur or if a hearing results. That is, written admonishments can help officers demonstrate that they have attempted to work with offenders to no avail.

Verbal Admonishment by Probation Officer and Supervisor. In some offices, a meeting with the offender, the officer, and the supervisor to discuss the violation is meant to impress the offender with the seriousness of his or her actions. This may result in an admonishment to the offender by the officer and the supervisor. To add weight to the admonishment, I suggest that it be followed up with a letter.

Written Admonishment by U.S. Parole Commission. On occasion, I used this option when I felt that the circumstances did not warrant imposition of a severe sanction, yet I did not want the offender to minimize the violation. Obtaining a written reprimand from the U.S. Parole Commission to the offender requires a written violation report. This, however, generally was quite brief, outlining the technical violation, presenting the positive factors in the case, and indicating why I was recommending no action and a formal letter of reprimand.

Verbal Admonishment by the Court. The most severe form of admonishment is to schedule a revocation hearing and cite the offender into court. Certainly, an officer can request a bench warrant with the thought of recommending that the court continue the offender on supervision with an admonishment. However, this represents a different level of sanction since the offender is taken into custody. This option is similar to that of requesting the Parole Commission to send the offender a written reprimand. It differs, however, in several significant ways from the Parole Commission reprimand. First, it requires considerably more work than dictating a one- or two-page parole violation and simply mailing it off. A court letter is more time consuming. It requires much greater care in preparation, a form 12 (order to show cause), a citation, the execution of the citation, and—perhaps most significantly—a court appearance. This latter feature should not be minimized. For me, a court appearance required driving to downtown Los Angeles from Orange County, or a distance of about 75 miles round trip. Traffic and time of day in Los Angeles were factors to seriously consider. Furthermore, once a decision has been made to calendar the matter, it gen-

erally requires at least half a day of the officer's time and frequently the entire day. A denial is always possible, which involves additional hearings and thus more time in court. While court time is something that is an essential part of the probation officer's position, too much time spent in court takes officers away from other critical duties. For these reasons, many officers avoid court like the plague, attempting to process as many violations as possible without the necessity of a court appearance.

In certain situations, however, a citation and formal court appearance can make a considerable impact on the offender. A critical point here is knowing your judge. Is this judge, in this case, likely to make the impression you desire. Suffice it to say that the trappings of the federal courtroom coupled with a stern admonishment can have a significant impact.

Lengthen Time in Current Phase. A mild sanction for a stall, failure to show for testing, a diluted specimen, or perhaps a positive alcohol test is to extend offenders in their current phase level. This option generally is available when the individual is nearing the end of a particular phase and due to move to the next phase or be discharged completely.

Increase Phase Level. Closer supervision and testing are required when the offender has failed to show for testing more than once or has more than one diluted specimen, more than one stall, or one or more positive tests for alcohol. In addition, officers may consider an increase in phase level for a positive marijuana test if the offender is otherwise making a favorable adjustment. Sometimes, this sanction may be appropriate when an offender has provided a positive drug test. For example, if an offender has demonstrated substantial progress and stability and has been on supervision and testing for an extended period of time (i.e., 1 year) and then submits what appears to be an isolated incident of use, then an increase in phase level might be warranted. This sanction can be particularly severe for offenders when they are at the lowest level when the drug use occurs. When this sanction is used, offenders generally wish to know how long the officer will maintain them on the increased phase. It is appropriate and fair to offenders to advise them that if they have no further problems (i.e. stalls, no shows, dirties), then they will be returned to the next phase in, say, 60 days.

Increase Level of Supervision. This option overlaps with the preceding one since an increase in phase level necessarily translates into an increase in supervision by virtue of increased reporting and monitoring through testing. However, in some cases, the officer may choose to maintain the offender in the offender's current phase level and, instead, increase the level of contacts, be they office or field or a combination of both. Again, as in an increase in phase levels, offenders may wish to know how long they will be subject to the increased scrutiny. I believe that telling offenders how long they will be subject to the increased testing or increased probation officer contact is an acceptable tactic because it gives them an incentive to reach their goal of less surveillance. It also is a matter of fundamental fairness to offenders to let them know that if they make a certain degree of progress or achieve certain objectives set by the probation officer, they will receive certain payoffs or rewards associated with those accomplishments.

Community Service. Although this type of sanction generally is not used as much as some of the others listed here, I have, on occasion, referred an offender to perform a number of community service hours as a consequence of failing to show for testing. This option may be appropriate, for instance, if the offender is already on phase 1 and, aside from the instant violation, seems to be doing well. If the officer uses this option, the appropriate way to carry it out is by modifying the conditions of supervision. For this reason, most officers probably elect to use one of the other informal options. While modifications require less work than formal court appearances, they nonetheless require considerable time and effort to prepare a court report, a form 12 petition, modification form, and, oftentimes, agreement and consultation with defense counsel.

Alcoholics Anonymous/Narcotics Anonymous (AA/NA) Meetings. This sanction for technical violations is popular because it is both punitive and constructive. It is punitive it terms of requiring the offender to devote a certain amount of time to drive to and attend meetings and is also appropriate treatment for drug and alcohol use. An entire paper, or even a book, could be devoted entirely to this alternative. For more information, I encourage probation officers to obtain the book *Partners in Change,* written by U.S. Probation Officer Edward Read (1996), which is intended to be a referral handbook for probation and parole officers on the 12-step program. Officers should note, however, that the 12-step approach is somewhat at odds with the philosophy presented in this article since it approaches substance abuse from a disease model perspective.

This option is appropriate when the offender submits a positive test for drugs or alcohol but the officer is of the opinion that the offender is not now in need of the more intensive residential drug treatment option. Oftentimes, this option is used in combination with other sanctions. For example, offenders who submit a positive drug test are required to attend three NA meetings weekly *and* have their phase level increased.

A major element to consider if an officer chooses to use this option is the method by which the officer obtains verification. Offenders have been known to forge signatures or have someone else sign their cards. The use of this option is counterproductive if offenders know that AA/NA meeting attendance is never or rarely verified. Read (1996, pp. 108–112) suggests that officers

become familiar with 12-step programs, the types of meetings, and the terminology so that they can engage offenders in discussions about their attendance and participation.

I used a number of techniques to verify attendance. Since I am quite familiar with 12-step terminology I asked offenders specific questions about the type of meeting they were attending. I already knew the answer since I had referred them to specific meetings. Who is the secretary? Where is the meeting held? Describe the facility. Describe, in general terms, the dynamics of the meeting. Who signs your card? Do you have a sponsor? Let me see your signed card. As the offender progresses in the program, the officer will want to ask the offender to describe the steps. I also generally followed through and asked my contacts at the meeting if they happened to see my offender.

I cannot overemphasize that if an officer selects this option, *verification is critical* if the option is to be effective. Generally, the officer does not need to obtain a court order to direct the offender to attend AA/NA meetings since most aftercare conditions require the offender to participate in testing *and* treatment as directed by the probation officer. In a large metropolitan area there are literally hundreds of meetings weekly. However, in rural areas the number of meetings may be more limited, which might make for easier verification.

Outpatient Counseling. If there are other issues that the officer feels cannot adequately be addressed by attending AA/NA meetings, the officer may want to refer the offender to an outpatient treatment program. These programs usually offer a combination of individual and group counseling. Again, this option may be used when an offender submits a positive drug test but the officer does not feel that inpatient treatment is necessary at the time. Again, this option may be used in combination with others such as increasing the phase level. I occasionally referred female offenders who had submitted a positive test to programs developed specifically for psychological problems females confront such as physical and sexual abuse, domestic violence, and issues with parents and children. As in other options, verification is critical. Verification with outpatient programs tends to be easier than with 12-step meetings. With this option, the officer simply needs to have the offender sign a release of confidential information and forward it to the outpatient program. Once the officer determines which counselor will work with the offender, a simple phone call once or twice a month usually suffices. With this option offenders also like to know how long they will have to remain in treatment. The issue of cost also must be addressed. I tended to use those programs that use a sliding scale to determine the fee charged. It is difficult to refer someone to an outpatient program that charges, say, $25 a session when the offender's income is limited or nonexistent. County mental health departments usually have drug treatment components that provide these services. The officer may wish to set a certain length of time, assuming that the offender makes favorable progress. After participating favorably for a minimum length of time or a minimum number of sessions, perhaps 3 to 4 months or 10 sessions, I informed offenders that they could continue at their discretion. Usually, this meant an end to the counseling. Needless to say, an officer may want to require the offender to remain in counseling indefinitely due to pressing psychological issues. If possible, I avoided this direction since it could set the offender up for failure and violation. I liked to set a specific and reasonable treatment program based on the issues involved. Remember, if there are severe issues to address or a serious substance abuse problem, it may be much more appropriate to place the offender in residential drug treatment.

Electronic Monitoring. This alternative is more clearly meant to be punitive but, like some of the other options, also may be used in conjunction with treatment components such as outpatient counseling or AA/NA meetings. Electronic monitoring begins to "tighten the screws" on the offender by virtue of the substantially increased surveillance. This option necessarily is utilized when increased monitoring is needed for any number of reasons. Perhaps an offender has multiple "no shows" for testing, multiple stalls, or diluted specimens. The issue may be one of defiance, irresponsibility, or both. In other cases, the officer may not feel that inpatient treatment is needed but may want something more severe than one of the above alternatives. With this option, a violation report and modification form 12 are required. A period of about 120 days is standard; however, the officer may request as little as 30 days or as much as 180 days.

Community Correctional Center (CCC) Participation. For me, the choice between electronic monitoring or CCC participation frequently was a "toss up." Both require a court report and modification and both generally involve the same amount of time. Perhaps, the CCC would be useful when the offender does not have a stable residence or there are problems in this area. Certainly, if offenders have a fairly stable family situation it may be preferable to allow them to remain at home under electronic monitoring. Again, this option may be used when the officer feels that the violation requires a greater sanction, short of residential treatment. This option may be used for failures to show for testing, stalls, diluted tests, misdemeanor arrests or convictions, and failure to obtain employment.

The advantage of a CCC placement, at least in the CDC, is that it helps maintain continuity. That is, the supervising officer maintains control over the offender and, with the cooperation of the CCC staff, the offender develops certain structure and goals while at the CCC.

The standard time frame for CCC placements is 120 days, but can be as short as 30 days or as long or longer than 180 days. Ordinarily, I requested 120 days and informed offenders that if all went well and they achieved the desired goals or behavior, I would authorize discharge 30 days early. This understanding would create an incentive for offenders to do what was needed to obtain an early release.

Reside and Participate in Sober-Living Program. Sobering-living programs are relatively new as a drug treatment modality. In Southern California they are plentiful and fairly easy to locate. However, like halfway houses, residential programs, 12-step meetings, and other treatment programs, they wary widely in terms of structure, services, administration, and quality. Some, I suspect, are little more than places to "score" while others are high quality programs somewhere on the continuum between halfway houses and therapeutic communities. Sober-living programs tend to be similar to halfway houses in structure but with a greater emphasis on substance abuse treatment. Most reputable houses have meetings and other 12-step activities daily. They are much less structured than a residential program since residents are allowed to leave for work and generally have weekends free. They also are less intense therapeutically than a residential program.

I tended to use sober-living programs for offenders who tested positive, appeared to have treatment needs greater than a CCC or AA/NA meetings could offer, yet the offender did not seem to represent a threat to the community or to be in need of a 24-hour live-in program. In many, if not most, cases where a referral was made, the offender also was employed. These programs also are useful for offenders who come to the probation officer seeking assistance because they fear they are on the verge of relapsing. With these offenders I suggested that they visit a sober-living program and then determine if they wished to voluntarily enter such a program.

One minor disadvantage to these programs is that they necessarily are limited to offenders who have a job since most charge a weekly fee of about $125. Sober-living programs also are used for offenders who have completed a residential program but still require a positive, semi-structured environment.

Arrest, Short-Term Custody, and Reinstatement to Supervision. For some offenders who fail to report for testing, have multiple stalls, or diluted tests yet are unwilling to agree to a CCC, sober-living home, or therapeutic community, officers may need to request issuance of a warrant with the idea that the offender may benefit from a short period in custody. Many times offenders who are unresponsive to treatment or some other sanction become motivated with the short-term experience of incarceration. I often found it necessary to request a warrant for an offender who had a long-term and serious substance abuse history, frequently associated with bank robberies, but nonetheless did not seem to recognize the seriousness of continued drug use. In these cases, I often gave the offender the option to enter a residential program or be returned to the court or the Parole Commission for revocation proceedings. After arrest, but before a formal hearing, most offenders would "come around" and agree to participate in residential treatment. If this occurred, I would recommend reinstatement with the additional condition to enter a residential drug treatment program and be released *only* to a staff member from the program.

Intermittent Incarceration (Weekend Commitments). Weekend commitments also require a court letter and imposition of a certain number of weekends through a consent to modify the probationary order. It may be appropriate to impose a certain number of weekends for a positive drug test, failure to show, or failure to participate in treatment. The objective in this and other sanctions is to increase the cost of the violation in order to encourage offenders to remain drug-free or otherwise comply with their special drug aftercare condition. This tactic can be effective with some violations; however, most officers do not believe it is worth the amount of work necessary to obtain an intermittent confinement order.

Therapeutic Community (Residential Drug Treatment). The therapeutic community or residential drug treatment program is one of the major methods used in the CDC when an offender has a positive drug test. Placement in a therapeutic community need not be based solely on a positive test(s). Evidence of drug use may be obtained through other means such as observing multiple injection sites, discovering that the offender is using any number of techniques to try to beat the test, multiple no shows, numerous stalls, or several low specific gravity tests. The positive test, however, is the major violation prompting the officer to require the offender to participate in an inpatient program.

In the continuum of community-based sanctions, this is considered the most severe option because it effectively can be considered a form of incapacitation or removal from the community. While offenders can walk away from such facilities, they are required to reside and remain in the program 24 hours a day, 7 days a week under intense structure and scrutiny. Like many of the other programs discussed above, therapeutic communities come in many types. Some are short-term, 30 to 60 days, while others are of moderate duration, such as 4 to 6 months. Many, however, are long-term, ranging from 9 to 18 months. Some officers may have limited choices since their districts only may have one or two programs. Fortunately, in large metropolitan areas such as Los Angeles, dozens of such programs exist. Through the years, I determined which programs are reputable, of good quality, and have staffs who are willing or even anxious to cooperate with the probation

officer. Staff members from some programs sometimes see their roles as advocates for the resident and work in opposition to the probation officer rather than seeing themselves as part of a team, working together with the officer and the offender to bring about effective treatment and positive change.

The CDC generally has concluded that substance-abusing offenders, more often than not, are in need of this more intense option. While the CDC has gradually expanded the range of options out of necessity because sufficient residential beds are not available, the CDC's clear preference is to place the offender in a therapeutic community when drug use occurs. Many probation officers are critical of this approach because they feel it is too harsh, but this strategy has proven to be quite effective in deterring drug use and preventing new criminal conduct (Torres, 1997, pp. 38–44).

Officers can use different methods to place an offender in a residential program. Perhaps the best and cleanest way is to have the offender agree to a modification of the conditions by adding a special residential drug treatment order. This requires a court letter, petition, waiver of a court appearance, and often the consent of defense counsel. With some cases it may be necessary to calendar the matter for a hearing. If this is required, then the officer must assess community risk and determine whether to cite the offender into court or request issuance of a bench warrant. Officers need not be reminded that many offenders pose a substantial risk to the community and an elevated potential for criminality when they have reverted to the use of drugs. Many tend to go "hog wild" into their addiction when they learn that they are facing a revocation hearing, taking the attitude that "I'm going to be violated anyway" or "He's going to put me in a drug program anyway." Citing an offender into court with the goal of having the court add a residential drug treatment condition should be used sparingly with violent offenders such as bank robbers.

The officer should try to place the offender in the program as soon as possible since processing the modification may take a couple of weeks or as long as 4 to 6 weeks for an offender who is cited into court. I should note that if the offender leaves the program before the modification is processed, there would be no violation of the new condition. In these situations it may be preferable to obtain a warrant and return the offender to court or to the U.S. Parole Commission since the offender now has demonstrated an unwillingness to participate in treatment. Most times, the offender is placed in the residential program while the order is being processed, and, once processed, the offender is served with a copy of the form 12, outlining the new condition. Before placement, and again when the offender receives a copy of the new condition, the offender should be informed that failure to *complete* the program represents a violation of the new residential condition. In addition, the original violation of use of drugs also would be included.

In those cases in which I used the formal court process to obtain a special residential drug treatment condition, I recommended that the offender be released *only* to a staff member from the program. Further, I asked the court to maintain the offender in custody until such time as the program could admit the offender. Usually, I already had received information from the program advising me when the program anticipated picking the offender up from the Metropolitan Detention Center (MDC). The program, in most cases, would pick the offender up within days, but usually no later than 2 weeks. I would convey this information to the court, the assistant U.S. attorney, and defense counsel.

Officers should be aware that if offenders are reinstated to supervision and then released from custody with an order for them to report to the program *when a bed is available,* they very likely will continue to use drugs since they feel, at that point, that they are going into a program anyway and have nothing to lose. If they continue to use drugs upon their release from custody but before admission to the program, the potential for addiction, absconding, and new criminal conduct increases significantly. If the goal is to give the offender the opportunity to be exposed to treatment, then releasing the offender from custody into the community before a bed is available may be counterproductive. From a treatment perspective, it is much more effective to have the court order offenders to be released directly to a staff member from the treatment program and avoid the likelihood that they will "get loaded" before, or even on their way to, the program.

Many times, when placing an offender into a residential program, officers must use coercion, threats, ultimatums, or any other techniques in their arsenal to persuade the offender to enter such a program. Officers should keep in mind that when considering these choices, offenders generally are concerned with the issue of time. That is, "how much time will I get if I go back for a violation" versus how much time will be "served" in a residential program. With the programs that I used over the years, I informed offenders that while the time may be considerably less than going "back" on a violation, the program is more work, requiring much more effort.

I generally have found that if offenders are placed in a good program, they will come to see the value of such participation. The amount of time it takes for offenders to begin "getting into the program" may range from 2 weeks to 2 months. Once offenders begin to immerse themselves in the program, it becomes less and less necessary to rely on threats and ultimatums. After 2 to 4 months, offenders frequently will ask the probation officer if they now may leave the program since they have gotten as much out of it as they are going to get.

In these instances, the officer must remind the offender that the agreement was that the offender complete and graduate from the program.

This sanction or option is one that requires considerable work both before and after placement. After the offender is admitted, the probation officer sometimes must go to the program for a conference because of problems or incidents involving the offender or because the offender wants to leave. When I placed offenders in a therapeutic community, I made a commitment to them to visit them at least monthly and more if time allowed. This provided reinforcement for the offender to remain in treatment and demonstrated a personal interest in the offender's progress. Monthly visits with the offender and staff allowed me to "head off" any potential problems that could lead to an unfavorable discharge.

If the offender does leave treatment before completion, the officer generally requests that a warrant be issued. Once the offender is in custody, the officer can make a determination based on the offender's attitude whether reinstatement and a return to the program is appropriate, assuming the program will take the offender back. For some offenders, the officer may need to go through this cycle two or three times. In some cases, offenders impulsively leave the program only to discover that they have made a stupid mistake and want to go back to the program. Sometimes, the program allows offenders to return and face some consequence within the program.

Arrest, Custody, and Recommendation for Revocation. If all else fails or if the offender appears to pose a danger to the community, then it is necessary to request a warrant, have the offender taken into custody, and recommend revocation of supervision. In some districts, the court allows probation officers to use their authority to arrest the offender without a warrant. The CDC and the U.S. Parole Commission require that a warrant be issued before effecting an arrest. In the CDC the warrant is then executed by the U.S. marshal. While, no doubt, there are sound reasons for this policy, I frequently encountered situations when arresting offenders and taking them off the streets seemed vital. Substance abusers frequently have long histories of serious criminal behavior associated with drug use. If they decide to abscond, they generally become addicted quickly, and, if this occurs, criminal behavior usually follows. Therefore, to the extent that officers can prevent further criminality by arresting the offender, say, in the probation office, they should be permitted to do so. No matter how quickly the court or the Parole Commission can expedite issuance of a warrant, at times officers need to have the discretion to arrest an offender. Congress has seen fit to provide this authority to the probation officer, and officers should be permitted to take offenders into custody when the circumstances require such action.

Conclusion

This article has presented a continuum of community-based sanctions to use whenever offenders violate their special drug aftercare condition. Violations that lend themselves to these sanctions include failures to report for drug testing, stalls, providing diluted specimens, positive alcohol and drug tests, and some arrests and convictions for minor offenses. The list of violations and sanctions is not intended to be exhaustive, and there may be other technical and legal violations that could be handled appropriately with this range of sanctions. I also noted that the continuum of sanctions discussed in this article are those that most frequently are used with substance abusers, and there may be many other creative and appropriate options that currently are being used. Instead, I have tried to list the most frequent technical violations associated with the substance abuser and the available alternatives to incarceration.

In presenting the topic, I have relied on my experience as a senior U.S. probation officer in the CDC, where I worked for 22 years. When appropriate, I have referred to published literature. The article has made several points that are worth repeating. Many if not most technical violations of the special drug aftercare condition can be handled with one or more of these sanctions. Officers frequently combine both punitive and treatment options in responding to violations. The underlying philosophy of the discussion presented in this article is based on rational choice rather than the more traditional disease model perspective. As such, I feel that consequences for drug aftercare violations, especially drug use, should be swift, certain, and predictable, to the extent possible.

In using many of these sanctions, verification of compliance is critical if the officer is to maintain credibility and, hence, effectiveness. A major tenet of this strategy is the belief that offenders must be held accountable for their *decision* to use drugs. This supervision strategy is implemented by an approach that provides certain and predictable sanctions for drug aftercare violations. These range from a mild admonishment to placement in an intensive residential drug treatment program. As a last resort, if the offender poses a danger to the community or repeatedly has failed to respond to the various sanctions and treatment opportunities, then arrest with a recommendation for revocation is appropriate.

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