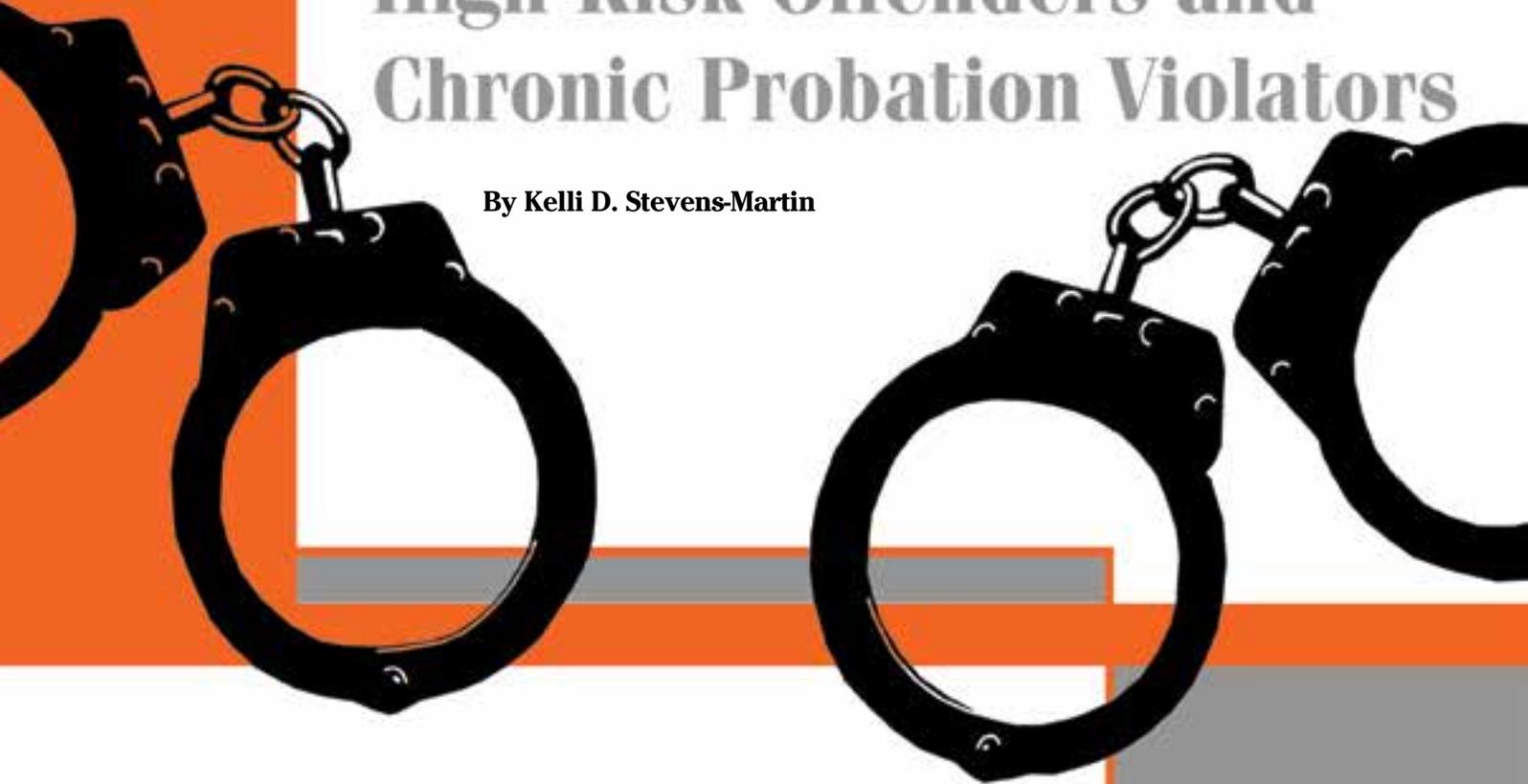


The Supervision with Immediate Enforcement (SWIFT) Court:

Tackling the Issue of High-Risk Offenders and Chronic Probation Violators

By Kelli D. Stevens-Martin



During the last several decades, there has been a growing trend in the U.S. in the development and implementation of specialty courts, or problem-solving courts, to address special needs of offenders to divert them from the full criminal justice process. The first drug court was established in 1989 in Florida, and since that time, more than 2,000 drug courts have been established in the U.S. Other specialty courts targeting a variety of populations have also been implemented, including mental health courts, domestic violence courts, driving while intoxicated courts, veterans' courts and prostitution courts. Although these courts vary in their target populations and resources, the same basic model is utilized, which includes a multidisciplinary team approach for addressing issues generally comprised of judges, prosecutors, defense attorneys, community corrections officers/case managers and treatment service providers.

Specialty courts are designed to reduce recidivism through collaboration; risk and needs assessments; judicial interaction; monitoring and supervision; graduated sanctions and incentives; treatment; and various rehabilitation services tailored to individual clients. Research regarding problem-solving courts generally falls into three categories: process evaluations, outcome evaluations and cost-effectiveness evaluations. Overall, the scholarly research shows these types of courts are effective in reducing recidivism and in assisting individuals with improving quality of life, as well as being cost-effective compared to general courts of jurisdiction.¹

The National Institute of Justice (NIJ) conducted a longitudinal study using data for a 10-year period that examined recidivism rates of drug court participants, as well as the cost-effectiveness of such programming. The study found participants had lower rates of recidivism compared to similar offenders who did not participate in the program.² Another longitudinal study involved collaboration among researchers from NIJ, the Urban Institute's Justice Policy Center, RTI International and the Center for Court Innovation. The study compared drug court participants and matched comparison group offenders on a number of outcomes, including: drug use, self-reported tests, lab tests, official arrest records, self-reported offending and psychosocial outcomes. Results revealed that "Drug court participants were significantly less likely than the matched comparison offenders to relapse to drug use, and those who did relapse used drugs significantly less."³ Drug court programming was found to provide substantial cost savings to taxpayers as well. A meta-analysis of 55 drug court evaluations showed drug offenders participating in a drug court are less likely to reoffend compared to offenders who receive the more standard sentences.⁴ Due to the effectiveness of the drug court model, it has since been applied to other types of offenders or special issues, with the hopes of achieving the same success.

Most recently, the drug court model has been applied to the issue of probation violators, especially those testing positive for illicit drugs. In Hawaii, one jurisdiction began a strict approach to address drug-involved probation violators. The Hawaii Opportunity Probation with Enforcement (HOPE) was launched in 2004 at the direction of Judge Steven Alm, which involved swift and certain sanctions for each violation of supervision. In 2009, an outcome evaluation of HOPE was conducted and found that positive drug tests decreased, failures to report decreased, and new arrests and revocations for HOPE offenders were significantly fewer than the comparison group.⁵

The Supervision with Immediate Enforcement (SWIFT) Court

In June 2011, with support from the local criminal justice community, Judge Mollie Westfall of the 371st Judicial District Court in Fort Worth, Texas, launched the SWIFT Court. Westfall's SWIFT Court incorporates many of the same principles as the HOPE court program, adhering to the tenets of swift and certain sanctions for every violation of community supervision. SWIFT is an organic program, adapting to the changing needs of offenders and modifying program elements to address new and emerging evidence related to what works with offenders. The importance of being able to identify elements of programming that are correlated with positive offender outcomes is crucial and certainly understood, but the reality is that real life doesn't occur in a controlled environment. Some research has indicated that when programs that have demonstrated reduced recidivism in tightly-controlled experiments are adopted by correctional agencies, their effectiveness is significantly diminished.⁶ A balance must be struck between

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the use of empirical research to guide decision-making and the realities of working with offenders, and the SWIFT Court program achieves this.

SWIFT began with offenders probated out of Westfall's court, but later expanded to include offenders from other district courts in Tarrant County, Texas. Much preparation went into implementing this program, including collaboration with other local judiciary, the District Attorney's Office, the local Defense Bar Association, the Tarrant County Sheriff's Department, both warrants and jail divisions, and other various law enforcement agencies who pledged their support in assisting with the monitoring and supervision of offenders. First-, second- and third-degree felony offenders, both male and female, are ordered to the program "if they show to be moderate- to high-risk upon assessment or after they have committed multiple technical violations of the terms of supervision."⁷ However, the following eligibility criteria must be met for placement in the program:

- The offenders must not have state jail felonies other than youthful, gang-involved offenders (state jail felonies are the lowest felony classification in Texas and will be accepted in the future);
- The offenders cannot be receiving disability benefits;
- The offenders cannot be a sex offenders;
- The offenders cannot have a formally diagnosed severe mental impairment that would hinder their ability to meet the basic requirements of supervision;
- The offenders must reside in the jurisdiction;
- The offenders must have at least 30 days of jail as a condition of supervision remaining for the court to utilize if necessary; and
- The offenders must have at least one year of community supervision remaining.

Table 1. Outcome Measures for Participants in the Original SWIFT Pilot (June 2011 to December 2011)

Reductions in Violations	Percent Reduction
Reduction in general technical violations	-19.72
Reduction in positive drug tests	-23.52
Jail Time as a Sanction for Violating Community Supervision	Average Days in Jail
Before entering SWIFT	10.00
After entering SWIFT	28.36

Table 2. Supervision Status for Participants in the Original SWIFT Pilot (June 2011 to December 2011)

Supervision Status	Frequency	Percent	Cumulative Percent
Currently in SWIFT	34	56.6	56.6
Discharged unsuccessfully from SWIFT	2	3.3	36.7
Revoked for technical violations only	6	10.0	46.7
Revoked for new offense(s)	9	15.0	61.7
New offense alleged on motion to revoke, but revoked on technicals only	2	3.3	65.0
Completed supervision successfully	7	11.7	76.7
TOTAL	60	100.0	100.0

The judge has the discretion to review cases not meeting these criteria for consideration of placement in the program. All offenders attend an initial warning hearing in which the rules and consequences for violations are thoroughly explained. After placement in SWIFT, offenders are generally set for docket the day after a technical violation is discovered. Like HOPE, not all offenders who test positive for illicit drug use are ordered to treatment; only those who test positive three or more times, or those who request it will be mandated to treatment. The idea is that many offenders can cease drug use on their own without treatment in response to the swift and certain sanctions imposed by the court.

Sanctions for violations can include, but are not limited to: short jail terms; possible increase in community service restitution hours; weekly reporting to court and/or the supervision officer; day treatment and substance abuse programming; 90-day residential intermediate sanction facility placement; cognitive behavioral classes; parenting classes; and other appropriate judicial responses. When the program first began in 2011, the standard jail sanction for violations was four days. However, in 2013, the minimum jail sanction was changed to two days, as it was determined the consistency of, rather than length of, jail is what affected behavior change in participants (certainty versus severity). The drug testing protocol requires participants to call an automated line every week day and submit to six random drug tests during the first two months. This drops to four tests the next two months, two tests for the following four months, then a minimum of one test for the next six months. A drug test patch is available to all offenders upon request, and is often used by those whose employment inhibits their ability to report for random drug

testing. The drug patch provides constant supervision and must be changed every 10 to 14 days. Random hair testing is also required, as hair and urinalysis tests complement each other in providing a clearer picture of drug usage and in the identification of long-term drug users.⁸ Violations of these protocols — including failing to call the daily hotline, failing to submit to testing or testing positive for illicit drug use — result in immediate sanctions. Since its inception, the program has undergone various other programmatic changes, including:

- Addition of court staff and supervision officers;
- Increase in utilizing various alternative sanctions and treatment;
- Decreasing sanctions for failure to report;
- Modifying unsuccessful discharge criteria; and
- Changing policies for community service violations and violations involving ongoing, multiple incidents of marijuana use, since the testing process differs from most other drugs due to the body's storage and metabolism of marijuana.

In 2012, an exploratory study was conducted to examine outputs for the initial pilot of SWIFT.⁹ There were 59 felony offenders (n=59) in the original group (placed in the program between June 2011 and December 2011), but the study revealed about 20 percent of these individuals had only been under community supervision for a very short period of time (one to two months) and had only one or two violations of supervision before being referred to the SWIFT Court. These offenders appeared to be better suited for probation as usual, at least initially. Thus, it was difficult to determine what effect the SWIFT Court had on

technical violation behaviors, if any. These cases were not used in the pre- or post-examination of technical violations for the pilot group. Almost 70 percent of the original pilot subjects still remained on community supervision at the time the initial study was conducted at mid-year 2012. No additional phase(s) or graduation from SWIFT had been implemented at the time of the pilot study.

Offenders experienced a 19.72 percent reduction in technical violations and a 23.52 percent reduction in positive drug tests. The total average number of days in jail offenders received as a sanction prior to entering the SWIFT Court was 10, but 77 percent of offenders had never received any jail time as a sanction prior to SWIFT placement. After being placed in SWIFT, the total average number of days in jail given as sanctions for violations of supervision was 28.36, and all offenders in the original SWIFT pilot group received at least two or more days in jail as a consequence for violating community supervision rules. Ten percent of offenders in the initial pilot were revoked for technical violations of supervision, and 18.3 percent were revoked for a new offense, compared to a 33.7 percent recidivism rate for the general felony population in the jurisdiction. It should be noted that researchers collected data on the number of violation hearings each offender had while in the SWIFT Court before being revoked. The average number of hearings was four; however, 29 percent had five or more violation hearings to address technical violations. Forty percent of the SWIFT participants were on supervision for a violent felony, while 33 percent were on supervision for a drug offense. A little more than 70 percent had a prior criminal record, with almost 45 percent having a prior felony arrest and 60 percent having at least one prior misdemeanor arrest.

Results of an additional evaluation examining a sample of offenders (n=145) placed in the SWIFT Court in 2012 after modifications were made to the program are forthcoming (the total population of offenders placed in the program in 2012 was 165). This study examines secondary data from criminal histories and community supervision department data and information obtained from a specially-designed survey for SWIFT Court participants regarding their feedback on a variety of issues. This includes their perceptions of their SWIFT probation officer, changes in their behaviors, and overall satisfaction with the program, and a survey of community supervision staff (since they are the primary source of referrals). Results of this study are promising, but the importance of longitudinal research cannot be overstated. A plethora of criminological literature demonstrates the necessity of such in determining long-lasting effects of any program, including specialty court programs.

ENDNOTES

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Kelli D. Stevens-Martin, MA, is the research unit supervisor for the Tarrant County (Texas) Community Supervision and Corrections Department.