
Appendix A – Additional Options for Consideration

The options for consideration outlined in Chapter VIII focus heavily on changes to existing practices, modifications to current programs, and opportunities currently under consideration within Tompkins County. There are several other options that are in use or being actively explored elsewhere in the United States that could potentially benefit Tompkins County if implemented locally. Some of those that seem to offer particular promise are included in this appendix. Each initiative has a variety of characteristics that influence their impact on a community, and therefore their potential impact on Tompkins County would need to be explored further as part of a more formal planning process focused on how they might be implemented locally, over what period of time, and with what potential costs and benefits.

HOPE – Hawaii’s Opportunity Probation with Enforcement

Started in 2004 in Hawaii, the HOPE program has since spread to more than a dozen other states including Washington, Minnesota, Michigan, Indiana and Massachusetts. The premise of the program is that probationers are more likely to follow the conditions of their sentence if the sanctions for violation are known in advance, are relatively modest but are carried out quickly and consistently. These programs are also sometimes referred to as Swift and Certain. A 2015 study by Washington State University of the statewide program implemented in 2012 found that there were substantial reductions in days confined and future convictions, and increased participation in chemical dependency and cognitive behavior therapies.¹⁵

24/7 Sobriety Program

South Dakota’s 24/7 Sobriety Program aims to apply the principles of the HOPE program to the challenge of alcoholism and DWI charges. It requires those convicted of alcohol-related offenses to either submit to a twice-daily breathalyzer test or use a continuous alcohol monitoring bracelet. Those who fail to comply with the monitoring requirements are subject to swift and certain sanctions such as a night or two in jail. This program, which has also been adopted in Montana and elsewhere in

¹⁵ https://wsicj.wsu.edu/wp-content/uploads/sites/436/2015/11/SAC-Final-Report_2015-08-31.pdf
“Evaluation of Washington State Department of Corrections (WADOC) Swift and Certain (SAC) Policy Process, Outcome and Cost-Benefit Evaluation

the US, has demonstrated significant reductions in the number of repeat DWI/DUI arrests.¹⁶

Reduce or Eliminating the Use of Bail

Several states, including New Jersey, Maryland, New Mexico, and Kentucky (along with the District of Columbia), have recently adopted laws or policies that move away from bail as a tool in the pre-trial release array of options. The specific rules vary by state, but some require judges to consider an inmate's financial capacity to make bail before issuing it.¹⁷

Evidence from these states and communities around the country indicates that bail is not a particularly effective tool in reducing the rate of subsequent criminal behavior; nor does it reduce the flight risk of an arrestee awaiting trial.

These efforts in other states are consistent with the expanding presumption of non-financial release being promulgated by the District Attorney, and various judges and recent reports in Tompkins County.

Restorative Justice and Community Courts

Restorative justice focuses on making the victim (or larger community) whole as the objective of the justice system. There are numerous examples of restorative justice from elementary schools to various nationwide programs. For example, Vermont has a 20-year history of reparative probation boards that focus on lesser crimes. The program involves victims and volunteer community boards that assist in determining the sentence. They have also begun to implement Circles of Support and Accountability (CoSA) for some more serious criminal offenses. CoSAs are designed specifically for individuals on release from incarceration. In general, these programs have been shown to reduce recidivism and reduce the number of days incarcerated. A key component in most restorative justice models is substantial community volunteer involvement.

New York has several operational "community courts," including the Midtown Community Court in Manhattan that has operated since 1993. The court focuses on solving the problems that lead to the criminal activity. The court has goals of reducing incarceration, providing immediate access to social services and giving prompt, proportional sanctions. The court has evolved over the decades to include addressing

¹⁶ See <https://www.rand.org/health/projects/24-7.html> for a comprehensive summary of research into this effort.

¹⁷ See <https://www.csmonitor.com/USA/Justice/2012/1216/Jailed-without-conviction-Behind-bars-for-lack-of-money>

human traffic, youth crime and drug treatment. The court has been a part of a 75 percent reduction of crime in the area.

Forensic Assertive Community Treatment

The Forensic Assertive Community Treatment (FACT) program integrates the criminal justice and mental health systems. It is well known that untreated severe mental health issues lead to a higher incidence of interactions with the criminal justice system. FACT programs include a dedicated mental health court, specially-trained therapists, social workers, and clear connections with probation and parole to ensure that individuals receive essential care and services. The goal is to use legal sanctions as a lever to engage individuals in appropriate treatment that gets to the root of their mental health issues and to help reduce interactions with the criminal justice system. Rochester (NY) has a well-established program that has been able to demonstrate substantial reduction in convictions, days in jail and days in hospital. The participants also have more days in outpatient mental health treatment.

Pre-Trial Diversion Programs

Diversion programs are in use in many communities throughout the country. Defendants are released into the community as part of a sentencing agreement involving a performance contract signed by the defendant and committing him/her to enter treatment and consultation working with Diversion staff to address the identified problems deemed to be at the root of the criminal behavior. If all parties agree in a formal court setting, the case is adjourned while the defendant completes the diversion program. Satisfactory completion may result in a dismissal or at least reduction of the pending charges. Programs have been shown to be effective in reducing recidivism in subsequent years, particularly one in Monroe County NY which was the subject of an extensive controlled experimental-design evaluation several years ago.

A variation of the overall diversion model is a felony DWI diversion deferred-prosecution program, such as one currently in operation in Monroe County, as well as in other communities. The Monroe County model is focused on individualized treatment intervention for those charged with felony DWI and screened for acceptance by the District Attorney. If the program is successfully completed, the defendant is able to plead to a misdemeanor DWI in satisfaction of the felony. The program is targeted to providing quick intervention with a multiple-offender population, typically ones with previous related misdemeanor offenses.