

The COMMIT Program overview

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The COMMIT Program is available to offenders who are sentenced to a suspended sentence of imprisonment.

COMMIT is a high intensity supervision program aimed at reducing both incarceration and recidivism rates by keeping high risk offenders in the community under strict supervision. Probationers receive swift, predictable and fair sanctions for each breach of a condition of a suspended sentence of imprisonment. COMMIT involves a collaborative approach to offender management and behaviour change that involves the courts, community corrections, the police and legal agencies. Collaboration is necessary to ensure offenders are properly assessed to determine if they are suitable to participate in the program, understand the aims of the program, are warned about the consequences of failure to comply with their conditions of supervision, are brought swiftly before the court if they fail to comply with the program, and receive a predetermined and proportionate sanction for each breach of their conditions.¹

COMMIT follows a 'good parenting model'.² The program aims to achieve behavioural change by sending a consistent message to probationers about personal responsibility and accountability and includes a consistently applied and timely mechanism for dealing with non-compliance. Probationers understand there will be an immediate consequence and their lives will be interrupted each time they make a poor decision, and how much time they spend in prison is in their hands. The sanctions are intended to be short, reflect the severity and level of responsibility demonstrated for the breach, while not negatively impacting on offender's ability and motivation to participate in behavioural change processes. They are supported by their probation and parole officers (PPOs)

throughout the term of their supervision and undertake therapeutic programs to maintain good decision making.

HOPE project results

The COMMIT Program is modelled from Hawaii's Opportunity Probation with Enforcement (HOPE) Project which commenced in 2004. Research conducted on the HOPE model is promising. Data analysed by the School of Public Policy, Pepperdine University (CA) shows that when 330 high risk offenders on HOPE were compared with 163 similar offenders who were on 'probation as usual', HOPE offenders were:

- 55% less likely to be arrested for a new crime;
- 72% less likely to test positive for illegal drugs;
- 61% less likely to skip appointments with their supervisory officer;
- 53% less likely to have their probation revoked and spent 45% fewer days in prison.

COMMIT aims and principles

- The COMMIT strategy aims to:
 - help community-based offenders through their orders rather than to see the full (or significant) restoration of the suspended sentence;
 - improve offender compliance (i.e. reduce the number of 'failure to reports' for scheduled appointments, reduce the number of curfew violations and other electronic monitoring conditions);

- reduce drug and alcohol use (i.e. reduce the number of positive RBT and urinalysis tests);
- reduce rate of re-offending; and
- reduce the number of overall days spent in custody.
- COMMIT is based on the principles of 'swift, certain and fair' justice as outlined below:
 - **Swift:** When a breach of a condition of a suspended sentence of imprisonment has been detected the offender is directed to attend court as soon as possible, i.e. within seventy-two hours (or is arrested, if contact cannot be made within a reasonable period of time) and a short sanction is immediately imposed by the court, generally two to seven days in custody.
 - **Certain:** The courts have adopted a sanctioning matrix as a guide for the sanctions to be imposed for conditional breaches when an offender is subject to COMMIT. The purpose of this is to try and achieve as much consistency as possible. When an offender is sentenced the offender is given a detailed warning about the precise sanctions an offender will receive for each breach of a condition of the offender's suspended sentence. This means that offenders, PPOs, legal counsel as well as family are aware that a breach will result in a pre-determined sanction within a specified range. So that the consequences of a bad decision are known and predictable. The judge impresses on the probationer the importance of compliance and the certainty of the consequences for non-compliance, as part of a warning emphasising personal responsibility, accountability and the hope of all involved that the probationer will succeed on probation in the community.
 - **Fair (or proportionate):** The sanctions are perceived to be fair and reasonable by the offender, the PPOs as well as legal counsel in light of the alternatives which may see the sentence restored in its entirety or no sanction at all.

Program entry and eligibility criteria

COMMIT is available for adult offenders placed on a suspended sentence. The person may be recommended and placed on COMMIT at either sentencing or a breach hearing. The court may order a COMMIT assessment at its own request or at the request of the Department of Public Prosecutions or defence counsel. The target group for the trial are identified as medium/high risk (of re-offending) offenders, namely those who have a history of alcohol or drug related offending or history of non-compliance. While there is no specific assessment tool the following criteria are taken in to account when assessing the offender for the purpose of COMMIT:

- 1. Risk level:** COMMIT is suitable for offenders assessed as medium or high risk on the LSIR:SV. This is because management of these offenders is focussed on case management and behaviour change, and reducing re-offending has the biggest potential impact on this offender cohort.
- 2. Alcohol and/or drug use:** Misuse of alcohol and drugs is a criminogenic risk factor for many offenders. In addition, the continued use of alcohol and drugs can inhibit the offender from making good choices and from engaging in prosocial activities such as employment.
- 3. Previous non-compliance:** Past behaviour is a good predictor of future behaviour. If the offender has previously shown themselves to be unable or unwilling to abide by orders of the court, the swift, certain and fair sanctions associated with COMMIT may be an ideal way to improve their compliance and engagement with supervision. Early intervention for non-compliance may also help reduce the risk of re-offending.
- 4. Previous imprisonment:** As a period of imprisonment is used as the sanction in COMMIT, it is important offenders do not perceive the penalty for a conditional breach as being greater than what they receive for the actual offence. Although the COMMIT sanctions are short, the program is not intended for low-level offenders or those who are just entering the criminal justice system and have limited experience in custody. This will not however disqualify an offender who has not previously served a term of imprisonment.
- 5. Responsibility limitations:** COMMIT makes the offender accountable for all their actions and decisions. The PPO has no discretion on whether to return the offender to court for non-compliance, so it is important the offender is able to fully comprehend their instructions and obligations, and take responsibility for their decisions. Mental health concerns do not disqualify an offender from participation in COMMIT, but should be addressed individually to determine if the offender is likely to require a more flexible approach to supervision.

Conditional breach

When non-compliance occurs the PPO must direct the offender to court (or engage police to arrest the offender where the offender cannot be engaged or located within a reasonable amount of time, or an electronic monitoring breach been detected). The necessary paperwork is provided to the court and the relevant parties. The breach is heard by the court and the appropriate sanction is imposed. Where the breach is contested yet proven, the offender will receive an increased sanction, in line with the sanction matrix.

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New offending

COMMIT focusses on conditional breaches that relate to supervision of a probationer while serving suspended sentences of imprisonment. When re-offending occurs during the operational period of a suspended sentence of imprisonment the matter will be addressed separately. If the new offending also results in a conditional breach, the necessary paperwork will be completed; however it is most likely that the conditional breach will not be considered until the re-offending is considered by the court.

Supporting an offender through a community order

The sanction component generates significant attention; however, the intended outcome of the model is that the offender will spend more time in the community, rather than seeing the full revocation of his or her suspended sentence.³ The PPO continues to use a participative case management model (affecting behaviour change) and monitor compliance (enforcing conditions of the order). All breaches are to be returned to the court for determination in line with sanctions outlined by the judge at a warning hearing. Once the sanction has been served the PPO is to continue to work with the offender, enforcing the principles of personal responsibility and honesty. While a sanction will be imposed for non-compliance, the severity of the sanction is directly proportionate the level of accountability taken for one's decision-making.

The Steering Committee and the COMMIT trial

A Steering Committee, to oversee the implementation is chaired by Supreme Court Judge, The Honourable Justice Stephen Southwood. Committee representation includes Chief Judge John Lowndes as well as representatives from NT Police, Department of the Attorney-General and Justice (including NT Correctional Services and Legal Policy), North Australian Aboriginal Justice Agency, Northern Territory Legal Aid Commission, Central Australian Aboriginal Legal Aid Service and the Department of Public Prosecutions.

The twelve-month COMMIT Program Trial commenced on 27 June 2016. Geographically the trial is focused on offenders residing in the Darwin region; however, there are a number of COMMIT offenders managed by Alice

Springs and Nhulunbuy PPOs. Arrangements are in place in these locations to ensure a swift response by community corrections, police and the courts.

If you have further queries please contact Program Manager Ms Jenna Dennison via email at Jenna.Dennison@nt.gov.au or telephone on (08) 8935 7692.

- 1 The sanctions are generated by the partial restoration of the suspended sentence of imprisonment.
- 2 Alms S, A New Continuum for Court Supervision (2012) 91 Oregon LR 1181 at 1185.
- 3 However it should be noted that the court retains its powers in accordance with the Sentencing Act to restore the suspended sentence.

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