

Evidence-Based Sentencing to Reduce Recidivism

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Top concerns of state trial judges in felony cases:

1. High rates of recidivism
2. Ineffectiveness of traditional probation supervision in reducing recidivism
3. Absence of effective community corrections programs
4. Restrictions on judicial discretion

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**“What is done [today] in
corrections would be grounds
for malpractice in medicine.”**

(2002) Latessa, Cullen, and Gendreau,
“Beyond Correctional Quackery...”

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Top reform objective (2006):

- Reduce recidivism through expanded use of evidence-based practices, programs that work, and offender risk and needs assessment tools

**Evidence Based Practice (EBP):
The Research**

- EBP: professional practices supported by the "best research evidence"
- Best research evidence:
 - Well-matched control groups
 - Consistent results across multiple studies
 - Qualitative meta-analysis

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EBP: The Application

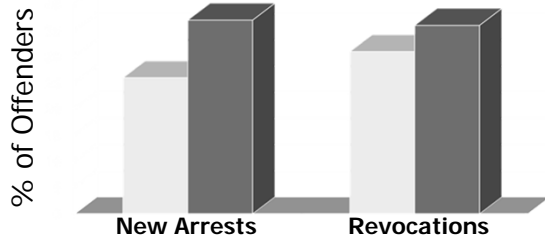
- The practical application of principles of evidence-based corrections practices to treatment, probation, & sentencing

Washington State Institute for Public Policy

- Meta-analysis of 545 studies
- "Cautious" approach
- Juvenile & adult EB programs reduce recidivism 10-20%
- Moderate increase in EBP would avoid 2 new prisons, save \$2.1 billion, and reduce crime rate by 8%.

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State of Maryland Proactive Community Supervision



EBS & Purposes of Sentencing

1. "Just Deserts:" penalty or punishment proportionate to the gravity of the offense & culpability of the offender
2. Public Safety
 - Rehabilitation
 - Specific Deterrence
 - Incapacitation/Control
 - General Deterrence

} Risk Reduction & Management
3. Restitution/Restoration

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Evidence-Based Sentencing (EBS)

The application of Principles of EBP to the sentencing process for the purpose of reducing recidivism and holding offenders accountable

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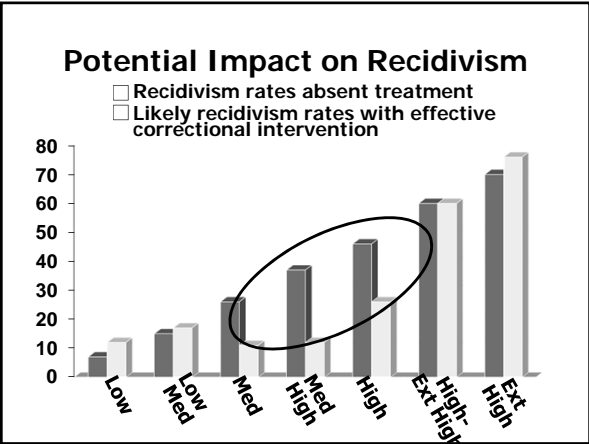
Three Basic Principles of EBP

- Risk Principle (Who)
- Needs Principle (What)
- Treatment (Responsivity) Principle (What Works)

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Risk Principle (Who)

The level of supervision or services should be matched to the risk level of the offender: i.e., more intensive supervision and services should be reserved for higher risk offenders.



Travis Co., Texas: Impact of Supervision by Risk

Risk Level	% Re-arrest		% Change in Rate
	Pre-EBP 1/06-6/06 N = 1287	Post-EBP 7/07-10/07 N = 614	
Low	26%	6%	-77%
Medium	26%	13%	-50%
High	34%	31%	-9%
Overall	29%	24%	-17%

Washington State Institute for Public Policy

- A meta-analysis of evidence-based probation and parole supervision practices estimated a 16% average reduction in crime rates over a long-term follow up period of 15 years
- WSIIP concluded: "the 16% reduction in recidivism is among the largest effects we have found in our review of evidence-based adult corrections programming."

Needs Principle (What)

The targets for interventions should be those offender characteristics that have the most effect on the likelihood of re-offending.

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Risk of Heart Attack

- 1) Elevated LDL and low HDL levels
- 2) Smoking
- 3) Diabetes
- 4) Hypertension
- 5) Abdominal obesity
- 6) Psychosocial (i.e., stress/depression)
- 7) Diet (not enough fruits and vegetables)
- 8) Lack of exercise

Dynamic Risk Factors (Criminogenic Needs)

1. Anti-social attitudes
2. Anti-social friends and peers
3. Anti-social personality pattern
4. Family and/or marital factors
5. Substance abuse
6. Lack of education
7. Poor employment history
8. Lack of pro-social leisure activities

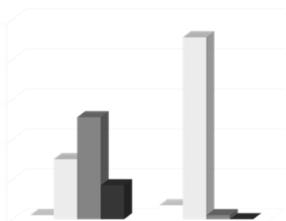
Anti-Social Personality Pattern

- Lack of self-control
- Risk taking
- Impulsivity
- Poor problem-solving skills
- Lack of empathy
- Narcissism
- Anger and hostility

Actuarial Risk/Needs Assessment (RNA)

- The engine that drives evidence-based recidivism reduction strategies
- Much more accurate in predicting risk of recidivism
- Identifies dynamic risk factors
- Risk is dynamic; risk levels change over time

Clinical v. Actuarial Assessment



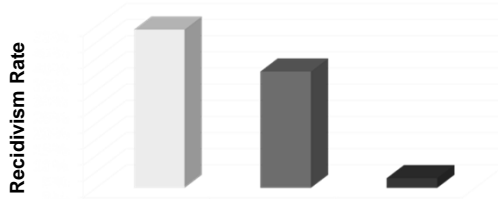
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Use of RNA Information in Probation Supervision

- To establish appropriate supervision level, and terms & conditions of probation (both treatment and control), and to inform interactions with the offender
- Courts should avoid inappropriate or inflexible probation conditions
- Wherever possible, courts should defer to probation on level of supervision, monitoring, and control, and with respect to appropriate treatment conditions, especially in the absence of reliable RNA information

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Supervision Time Devoted to Discussion of Dynamic Risk Factors



Treatment Principle: Part I (What works)

The most effective interventions in reducing recidivism among medium and high risk offenders:

- target offenders' most critical risk factors
- utilize cognitive behavioral strategies.

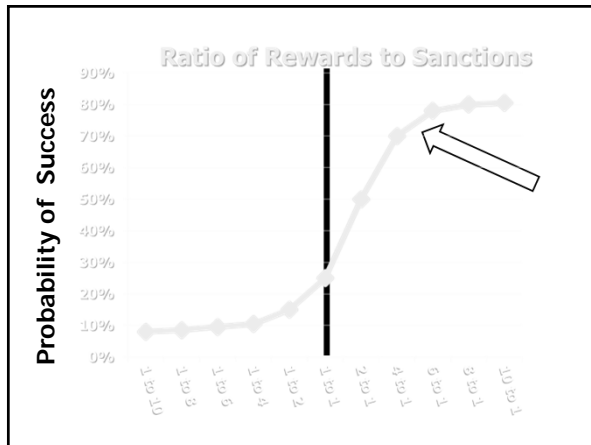
Behavioral Strategies: Behaviors Have Consequences

Positive

- Rewards/Positive Reinforcement
- Incentives
- 4:1 ratio

Negative

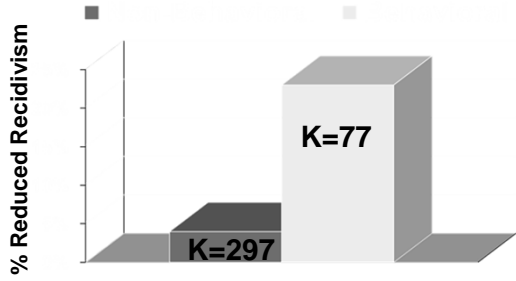
- Swift, certain, and proportionate (fair) sanctions
- Severe sanctions are counter-productive



Behavioral Strategies: Skill Building

- Role models
- Demonstration
- Role play
- Feedback
- Skill practice

Behavioral v. Non-Behavioral



Behavior

Visible

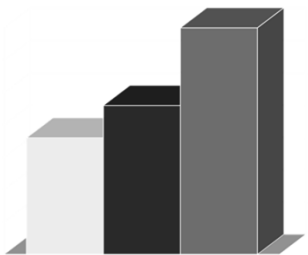
**Thoughts
Feelings**

**Sometimes
Aware**

**Cognitive Structure
(Beliefs and Attitudes)**

**Beneath the
Surface**

T4C: Recidivism Rates



28-50% reduction in recidivism compared to traditional probation

What Doesn't Work: Non-Behavioral Strategies

- Shaming programs
- Drug education programs
- Drug prevention classes focused on fear or emotional appeal
- Non skill-based education programs
- Non-action oriented group counseling
- Bibliotherapy
- Freudian approaches
- Talking cures
- Vague, unstructured rehabilitation programs
- Self-esteem programs

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What Doesn't Work: Traditional Sanctions Alone

- Punishment, sanctions, or incarceration
- Specific deterrence, or fear-based programs (e.g. Scared Straight)
- Physical challenge programs
- Military models of discipline and physical fitness (e.g. Boot Camps)
- Electronic monitoring
- Intensive supervision

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Treatment Principle: Part II (Responsivity)

Both the intervention (treatment, supervision, or interaction), and personnel delivering the intervention, must be matched to certain characteristics of the individual offender.

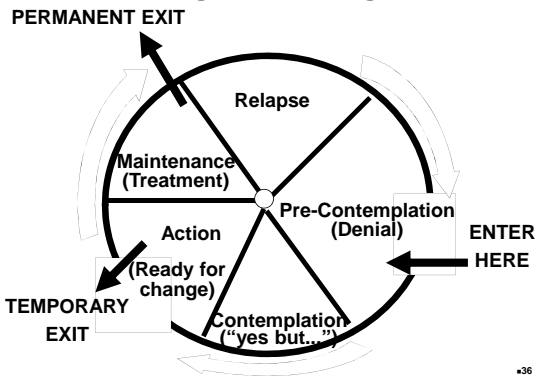
Responsivity Factors: Offender Characteristics

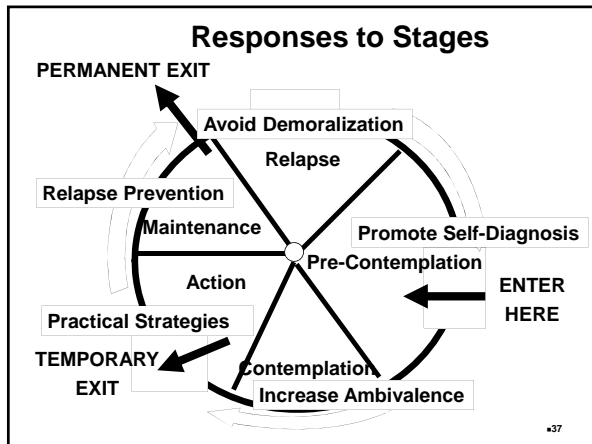
- Gender
- Literacy
- Mental Health
- Motivation
- Stages of Change

Promoting Offender Motivation

- Coerced Treatment
- Extrinsic \rightleftarrows Intrinsic Motivation
- Firm & Caring, Dual-Role Relationship

Stages of Change





EB Responses to Violations

- GOALS: Accountability & Risk Reduction
- PROCESS: Swift, certain, consistent, & fair

Procedural Fairness

Improved compliance and motivation when the offender views the decision-making process as "procedurally fair":

- Views decision-maker as impartial
- Has an opportunity to participate
- Is treated with respect
- Trusts the motives of the decision maker ("trustworthiness")

EB Responses to Violations

- **GOALS:** Accountability & Risk Reduction
- **PROCESS:** Swift, certain, consistent, & fair
- **TOOLS**
 - Administrative response policies & guidelines
 - Continuum of graduated rewards, incentives, services, and sanctions
- **FACTORS**
 - Severity of violation
 - Underlying offense history
 - Violation/compliance history
 - Risk level/re-assessment
 - Relationship of violation to critical risk factors
 - Stages of change

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