

Evidence-Based Sentencing to Reduce Recidivism and Hold Offenders Accountable

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State Chief Justices

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

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

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

State Chief Justices

Top two reform objectives:

- Reduce recidivism through expanded use of evidence-based practices, programs that work, and offender risk and needs assessment tools
- Promote the development, funding, and utilization of community-based alternatives to incarceration for appropriate offenders

Evidence Based Practice (EBP)

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

Evidence-Based Sentencing (EBS)

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

Purposes of Sentencing

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

Risk Reduction
& Management

Three Basic Principles of EBP

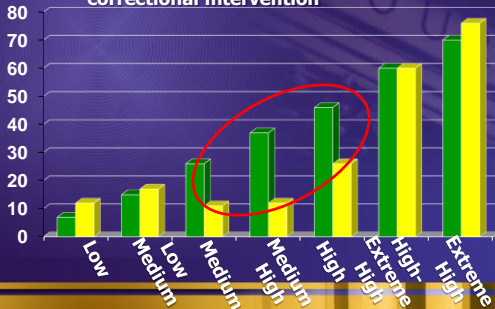
- Risk Principle (Who)
- Needs Principle (What)
- Treatment Principle (What Works)

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.

Potential Impact on Recidivism

■ Recidivism rates absent treatment
■ Likely recidivism rates with effective correctional intervention



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% |

Needs Principle (What)

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

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) Failure to eat fruits and vegetables
- 8) Failure to exercise

Dynamic Risk Factors (Criminogenic Needs)

- Anti-social attitudes
 - Anti-social friends and peers
 - Anti-social personality pattern
 - Family/marital
-
- Substance abuse
 - Education
 - Employment
 - Anti-social leisure activities

Anti-Social Personality Pattern

- Lack of self-control
- Risk taking
- Impulsive
- Poor problem solving
- Lack of empathy
- Narcissistic
- Anger and hostility

Actuarial Risk/Needs Assessment (RNA)

- The engine that drives evidence-based recidivism reduction strategies
- Much more accurate in predicting recidivism
- Identifies dynamic risk factors
- Risk is dynamic; risk scores are static
- Intended to inform not replace professional judgment

Use of RNA Information in Setting Probation Conditions

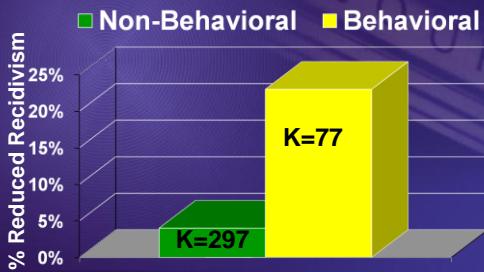
- Level and length of probation supervision
- Nature and intensity of treatment conditions to address specific criminogenic needs (dynamic risk factors)
- Nature and intensity of control conditions to monitor, manage, or control the risk of recidivism
- In the absence of reliable RNA, wherever possible, courts should defer to probation in setting terms and conditions

Treatment Principle (What works)

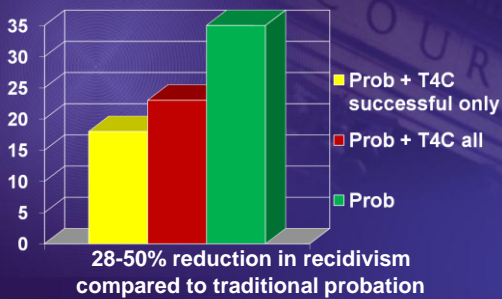
The most effective interventions in reducing recidivism among medium and high risk offenders:

- target offenders' most critical risk factors
- utilize a **cognitive behavioral** approach
 - positive reinforcement & incentives
 - swift, certain, & proportionate sanctions
 - skill development
 - address criminal thinking patterns

Behavioral v. Non-Behavioral



T4C: Recidivism Rates



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

EB Responses to Probation Violations

- One size does not fit all violations
 - Nature and severity of violation
 - Current risk level
 - Extent of prior compliance
 - Criminal history
- Reassessment of treatment plan
- Incentives and positive reinforcement to promote future compliance
- Graduated continuum of both sanctions and services
- Swift, certain, and proportionate sanctions
- Administrative sanctioning policy that allows for flexibility by probation

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