

# **RESEARCH-BASED SMARTER SENTENCING**

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Training for Prosecutors, Public Defenders, Judges, and Community  
Corrections Professionals

**Participant  
Notebook**

# RESEARCH-BASED SMARTER SENTENCING

## Participant Notebook

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This project was supported by Grant No. 2008-DD-BX-0683 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice.

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# Introduction to Research-Based Smarter Sentencing & Course Overview





*Prosecutors, defenders, judges, and community corrections professionals all play critical roles in reducing the risk of re-offending and through a systemic application of research-based practices can work to reduce recidivism.*

Ever since the 1970s, the prison population in the United States has been growing by leaps and bounds. The justification for placing an ever greater number of offenders behind bars has been the need to protect the community against a rapidly spreading wave of crime. Yet even after the dramatic increase in crime rates of the 1980s began to taper off in the 1990s and into the new millennium, the pace of imprisonment continued to grow. The result has been an enormous expansion in the number of men and women coming out of prison each year, who are increasingly unsupervised by law enforcement agencies and who are generally unprepared to lead law-abiding lives. It is this issue of prisoner reentry, some 700,000 persons annually, not counting jails, which has led scholars and practitioners alike to question the wisdom of the sentencing practices in criminal justice which have resulted in these skyrocketing rates of incarceration. These queries have been raised in light of a rapidly growing body of research, known as Research-Based Practices, which demonstrates that the goals of changing offender behavior

and reducing recidivism can be achieved more effectively and at lesser cost in community corrections compared to jail and prison. Indeed, the same research demonstrates that incarceration may make the incidence of reoffense worse rather than better.

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#### ICON KEY




-  Learning objective
-  Materials & resources
-  Worksheets & exercises
-  Test your knowledge

This course is designed to work with the primary stakeholders in the criminal justice system—prosecutors, defenders, the judiciary, and probation and parole—to apply high-quality research to practices of plea negotiation, sentencing, and revocation from community supervision in local jurisdictions. Its goal is to provide the knowledge and skills to practitioners required to develop Smarter Sentencing policies that will reduce reliance on the expensive sanction of incapacitation, whether in jail or prison, while enhancing public safety.

## Module 1 Learning Objectives

This module is designed to explain the background and rationale for this course and to introduce the basic concepts that will be discussed during the course. At the end of this module, participants will



-  Understand the reasons why “smarter sentencing” has become a buzz word in criminal justice
-  Identify how smarter sentencing relates to offender reentry into the community and to the reduction of recidivism
-  List potential benefits of smarter sentencing

## Rationale for the Course



This course is designed to apply the latest high-quality research to the practices of plea negotiation, sentencing, and revocation in local criminal justice jurisdictions in order to

- Reduce reliance on the expensive sanction of incapacitation through incarceration in jail and prison
- Enhance the ability of persons released from jail and prison, whether under community supervision or not, to lead law-abiding lives

- Improve the capacity of the local criminal justice system to change offender behavior and reduce recidivism
- Create and institutionalize a process of “smarter” sentencing that will increase the capacity of the local criminal justice stakeholders, both individually and collectively, to protect public safety the core of Research-based practices is the understanding that **risk reduction is key**—preventing tomorrow’s crime is just as important as punishing yesterday’s act. Many of the practices used widely in the justice system fail to achieve risk reduction, and in fact some, as evidenced by the research, in fact increase risk.
- Certainly, this is not to suggest that traditional practices should be dismissed entirely. Rather, prosecutors, judges, and defenders should understand the evidence around these practices so that informed decisions are made about cases and defendants.

At the end of this course, participants will be able to:

- Define research-based smarter sentencing
- List the primary elements of Research-Based Practice
- Apply research to smarter sentencing practices
- Explain how Research-Based Practice improves the quality of criminal justice decision-making and enhances the power of professional discretion
- Develop an action plan for introducing smarter sentencing practices into local jurisdictions

## Background



Smarter sentencing has become an important topic in criminal justice in the past few years for a number of reasons:

- The cost of incarceration has skyrocketed over time. Over the last two decades state spending on prison construction and operations has increased faster than any other portion of state budgets. For example, state spending on corrections rose 127% during this time while spending on higher education rose only 21%.

- Reentry has become an increasing problem for states and localities. High rates of imprisonment have led to high rates of release, and over 95% of all prisoners do return home. Every year almost 700,000 offenders leave state prisons.
- At the same time as rates of incarceration have increased dramatically, research in Canada and the United States has demonstrated effective ways to change the behavior and reduce the recidivism of all but the highest risk offenders. The research shows that better results along both measures can be achieved under community supervision than in jail and prison.
- Probation and parole agencies in particular have taken this research, known as Research-Based Practice, and applied it to their clientele with significant results, achieving on average anywhere from 10% to 30% reductions in recidivism.
- Probation and parole agencies cannot achieve research-based outcomes alone. They function in local and state criminal justice systems in conjunction with other stakeholders ranging from prosecutors to defenders to judges. Policies focusing on research-based Smarter Sentencing practices can enhance the ability of all stakeholders to expand their capability for protecting public safety.
- All stakeholders in a local jurisdiction must know about and apply Research-Based Practices in their decision making. If they do not collaborate, the actions of one stakeholder may cancel out or even contradict those of another, resulting in a “wash” when it comes to reducing recidivism.
- Many of the budget cuts taking place in criminal justice agencies are leading to the elimination of programs that are research-based and capable of positively affecting criminal behavior.
- On the other hand, Smarter Sentencing practices can both save money and reduce recidivism.

#### Incarceration: The Costs

- One in 100 adult Americans are in jails or prisons for an annual cost of \$50 billion
- Average cost per inmate is \$79/day or \$29,000/year
- In the year 2000
  - 13 million American were ex-felons (6% of population)
  - 11% of adult males were ex-felons
  - 29% to 37% of adult black males were ex-felons

- In the state of Washington every dollar invested in new prison beds reaps only 37 cents in averted crime

#### Reentry: An Official Definition

The term reentry is used by different people to refer to different types of “reentry.” For the purposes of this course, the following definition of reentry is used.

*According to the United States Department of Justice, Office of Justice Programs, “reentry involves the use of programs targeted at promoting the effective reintegration of offenders back to communities upon release from prison and jail....to assist offenders in acquiring the life skills needed to succeed in the community and become law-abiding citizens.”*

#### Reentry: The Numbers

- 700,000 prisoners are being released each year
- Among state parole discharges in 2000
  - 41% successfully completed supervision
  - 42% returned to prison or jail
  - 9% absconded
- Parole violators account for 35% of admissions to state prisons (60% in California)
- Half of local jail inmates were on probation or parole when they were arrested
- More than 40% of probationers do not complete supervision successfully

#### The Cost of Recidivism

Any reduction in the revocation and reincarceration rate of offenders on parole can have tremendous fiscal savings for a state. Consider the following two examples:

- In Georgia, a one percent reduction in parole recidivism saves the state \$7 million in incarceration costs
- In Texas, a one percent reduction in felony revocation and return to incarceration saves the state \$55 million in incarceration costs alone

## Why Are These Outcomes Unacceptable?



Identify the reasons why you think the criminal justice system has not been as successful as it could be when it comes to reentry.

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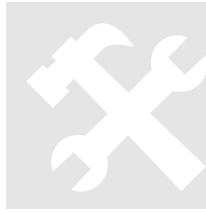
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## Exercise: How Do My Decisions Affect My Colleagues?

In small groups, participants should address the three questions listed below. Answers should be recorded on the flip chart provided and a spokesperson elected to share the group's responses with the larger group.

1. How do my decisions and actions as a (prosecutor, judge, defender, community corrections professional) support the efforts of my colleagues in reducing the rate of recidivism and reincarceration of reentry offenders?
  - a.
  - b.
  - c.
  - d.
  - e.
  
2. How do my decisions and actions hinder the efforts of my colleagues to achieve this goal?
  - a.
  - b.
  - c.
  - d.
  - e.
  
3. What three things might we do differently to enhance #1 and what three things might we do differently to reduce #2?
  - a.
  - b.
  - c.  
  - a.
  - b.
  - c.





## What is Smarter Sentencing?

*Prosecutors, judges, defense counsel, and corrections officials make the best decisions they can given the evidence they have; however, having access to the state-of-the-art in what works to help guide decision-making enhances professional discretion and can result in even smarter sentencing.*

**T**here is a growing sentiment among criminal justice practitioners and researchers that the criminal justice system is “broken” and needs repair. The imbalanced reliance on incarceration, the growing costs of operating the system and the failure significantly to reduce recidivism rates of offenders are among the problems constantly highlighted by reviewers. While most research on improving the function of criminal justice has focused on probation and parole, there is a growing awareness of the network aspects involved in protecting public safety. Actions taken by one stakeholder either at the front end of the process in terms of plea negotiation and sentencing, as well as at the back end of the process, in terms of revocation from community supervision, can result in positive, neutral or even harmful outcomes. Unless stakeholders become willing to recognize their interdependency in dealing with each other and with offenders, they run the risk of working at cross purposes to their mutual detriment and to the detriment of the public that they serve. At present too many decisions by too many key stakeholders are being made without regard to the consequences for the criminal justice system as a whole and without regard to scientific research. Smarter Sentencing is a policy and practice designed to deal with both of these issues and to enhance the quality and reliability of the professional decisions that prosecutors, defenders, judges and community corrections staff make every day.

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### ICON KEY

-  Learning objective
-  Materials & resources
-  Worksheets & exercises
-  Test your knowledge

The Module is designed to introduce the concept of Smarter Sentencing and apply it to the process of professional decision making both at the front end of the criminal justice system, in terms of plea negotiation and sentencing, and at the back end, in terms of revocation from probation or parole.

It justifies the need for Smarter Sentencing because:

- A growing body of research supports the notion that stakeholders can make “smarter” and better decisions in terms of changing criminal behavior by paying more attention to scientific evidence
- Despite the adversarial nature of the criminal justice system, collaboration based on scientific evidence can produce more just and more effective decisions for the offender and for the public
- The financial cost of continuing down the current path can no longer be supported by taxpayers, especially if it does not address the growing problem of reentry and the failure to reduce their rates of recidivism.

## Module 2 Learning Objectives



This module focuses on the policy and practice of Smarter Sentencing. It examines the function of criminal justice sanctions, the impact of these sanctions on criminal behavior and recidivism, the role of scientific research in improving professional judgment, and the effect of Research-based decision making on questions of reentry. It concludes by providing a rationale and justification for adopting Smarter Sentencing practices as an important means for improving system collaboration and effectiveness and for changing offender behavior and criminal activity. By the end of this module, participants will be able to:

- 👉 Define the goals of the criminal justice system and criminal sentencing process
- 👉 Identify the primary criminal justice sanctions used to achieve these goals
- 👉 Apply research concerning the purpose and effectiveness of each goal
- 👉 Define smarter sentencing and its role in enhancing the quality of professional decision making in criminal justice

## Background



### Goals of the Criminal Justice System

In 1993, the Bureau of Justice Statistics in the United States Department of Justice convened a distinguished panel of scholars, headed by political scientist John DiIulio, to identify the primary goals and performance measures of the American criminal justice system. The panel agreed that three goals in particular were of greatest importance:

- Efficiency: economically apply available resources to accomplish statutory goals and improve public safety
- Effectiveness: proper regard for equity, proportionality, constitutional protections and public safety outcomes
- Fairness: equal treatment and handling of similarly situated offenders

### The Elements of Risk Management

Ever since the 1970s, when the sociologist Robert Martinson argued in an influential research article that “nothing works” in terms of correctional treatment and rehabilitation, American correctional policy has focused on incapacitating offenders either in jail or in prison. Conservative scholars and politicians argued that the only way to manage offender risk to the community was through punishment and control. In the process they ignored the fact that correctional risk management actually consists of two factors: control and reduction. They further ignored a burgeoning body of research that demonstrates that, despite Martinson’s contentions (which he later recanted a few years after his initial article), the application of risk reduction techniques to offender behavior can alter it in a pro-social direction and diminish the potential for recidivism.

Today a more balanced, Research-based approach to the issue of offender risk management has reinstated both the factor of control and reduction to sentencing policy and practice. It defines

***Risk control*** as aiming to reduce crime by limiting the offender’s *capacity* to carry out new criminal acts, and

***Risk reduction*** as seeking to diminish the likelihood that an offender will *elect* to commit another crime.

## Sentencing & Risk Management

One of the primary mechanisms for achieving risk management is the process of criminal sentencing. It involves four key stakeholders: prosecutors, defenders, judges, and community corrections staff. Sentencing can take place after a person has been charged and arraigned for a crime (the front end of the process) or after a person has violated an existing order of the court or a parole board while under community supervision (the back end of the process), either by being rearrested or for technical reasons, such as failure to pass a drug test or to appear for a scheduled office visit. While each stakeholder has an “adversarial” interest in the outcome of the sentencing process, all stakeholders are generally agreed that criminal sentences are designed to apply five types of sanctions.

### Criminal Justice Sanction Functions

There are five different criminal justice sanctions:

1. Retribution (Just Desserts)
2. Incapacitation
3. Deterrence (General and Specific)
4. Rehabilitation
5. Restoration

Each of these sanctions serves as a penalty that can be imposed upon an offender by a court or other lawfully authorized criminal justice practitioner for behavior that violated criminal law. The sanctions are essential elements of the sentencing function and serve two basic purposes:

- They symbolize society’s support for violated social values
- They reduce the offender’s future criminal conduct

#### *Retribution (Just Desserts)*

Retribution is not designed to serve a utilitarian purpose by preventing future criminal wrong or achieving a societal good. It is what the offender deserves. It is the punishment that is morally required by the offense that has been committed. It focuses solely on the need of society to enforce community norms. It is characterized by phrases such as “an eye for an eye,” “a tooth for a tooth,” or “let the punishment fit the crime.”

Although claims are often made that retribution has a positive impact on crime, there is very little research that supports this claim or has any last resulting on changing criminal behavior. In fact, research overwhelmingly confirms that punishment:

- By itself will not change criminal behavior and reduce recidivism
- Produces short-term compliance by the offender at best
- Taken alone actually tends to increase recidivism slightly
- Can be effective as a behavioral modification support for treatment and rehabilitation

### *Incapacitation*

Incapacitation seeks to prevent future criminal wrong doing by physically restricting the offender or limiting the offender's activities in some way. While it does prevent most criminal acts during the offender's period of confinement, unless it is linked with some type of treatment, it slightly increases the risk of recidivism after reentry. Incapacitation alone is not an effective way of changing behavior and reducing the risk of recidivism. During their time of incarceration, most offenders do not "see the light" and become determined to lead law-abiding lives upon release.

The most comprehensive statistical study to date, completed by Patrick A. Langan and David J. Levin for a three-year period from 1991 to 1994, illustrated what occurs to most state prisoners upon release:

- 67% committed a least one serious new crime within 3 years
- The total number of new arrest charges in the 3 years was 744,000
- Highest recidivism rates were among nonviolent offenders
  - Motor vehicle theft (78.8%)
  - Possession or sale of stolen property (77.4%)
  - Larceny (74.6%)
  - Burglary (74.0%)

A meta-analysis of 50 studies dating from 1958 involving 336,052 offenders found that:

- Prisons produce slight increase in recidivism
- Lower risk offenders are negatively affected
- Prisons should not be used with expectation of reducing criminal behavior
- Excessive use of incarceration has enormous cost implications
- Primary justification of prison should be to incapacitate and exact retribution

The proponents of incarceration as the primary way of dealing with the crime problem in the United States have always contended that incarceration is an effective (if not the most effective) way to protect public safety, that the public wishes to see offenders “locked up,” that correctional professionals see jail and prison as the only effective alternative, and that offenders themselves fear jail and prison and will do anything to avoid getting sent there.

Putting each of these contentions under the microscope of scientific research, the resulting picture becomes quite different from the argument:

- *Incarceration and the public*

If election campaigns were the only bellwether of public opinion concerning its attitude towards crime, it would seem that “throwing away the key” and “exacting a pound of flesh” were the only alternatives on its mind. But over the last ten to fifteen years, one public opinion survey after another has demonstrated that Americans, while certainly interested in punishing offenders, had a quite nuanced perspective on how to deal with offenders to get them to change their unlawful ways and habits. One recent comprehensive summary of these polls discovered that

- There is a large reservoir of punitive sentiments towards offenders
- These beliefs are not fixed or rigid, but are flexible and “mushy”
- Public support for the correctional system to rehabilitate offenders is strong, especially for non-violent offenders
- Public support for juvenile rehabilitation, including youthful offenders, is very strong

A 2006 National Center for State Courts Survey regarding the public’s support for incarceration found:

- Broad public support for treatment and rehabilitation to reduce offender recidivism, especially non-violent offenders
- 80% of respondents said offenders can turn their lives around
- 77% preferred to use tax dollars to fund jobs and treatment rather than new prisons
- Overwhelming majority favored treatment over prison for mentally ill, youthful offenders, and drug offenders

- *Incarceration and corrections professionals*

Just as the public has been pictured as demanding vengeance and retribution by the proponents of incarceration, so too has a similar image been painted of correctional professionals. While there does not seem to be solid research concerning most professional's attitude towards incarceration, it can be noted that in probation and parole over the last two decades there has been a general adoption of Research-based Practices as an effective method for dealing even with violent offenders in the community. Among institutional correctional professionals, there has been a growing recognition that we cannot simply deal with crime by locking away its perpetrators. Such a strategy would not only bankrupt states and localities, but would get relatively little "bang for the buck" in terms of reducing recidivism, especially among a reentry population from jail and prison.

- *Incarceration and offenders*

Most people assume that offenders see jail and prison much as they do, as a place to be avoided at all costs. For the average citizen, spending a night behind bars is unimaginable. If they do make a mistake, they would much prefer to pay back their debt under some form of community supervision. While most offenders certainly do not want to be caught and punished for their crimes, and would certainly like to remain at liberty, recent research has clearly demonstrated that for offenders, incarceration does not necessarily hold the same horror that it does for the law-abiding citizen. One recent study of offender preferences among criminal justice sanctions indicated that

- Offenders, especially incarcerated offenders, do not necessarily see prison as the most stringent punishment they can receive
- Many offenders see alternatives to incarceration as a significant "gamble" and not worth the effort
- At least one-third of offenders, especially non-violent offenders, would choose prison over any duration of an alternative, or would not serve as much of an alternative as prison

- For offenders with prison experience, prison may be “the lesser of two evils”
- Prior prison experience makes one less fearful of prison and more willing to return than serve time in community

*Deterrence (General & Specific)*

Among all sanctioning goals, deterrence is probably the most widely supported in the sentencing process. Deterrence rests on the premise that human beings want to maximize pleasure and avoid pain and enhance the personal benefits of their action and minimize the costs. Thus, according to the theory, when criminals see the punishment meted out to those of their colleagues who have been caught and prosecuted, their example will deter them from committing similar acts and going down the same law-breaking path. In effect, even if they are inclined to rob, steal and do violent harm, they will think twice before actualizing their thoughts. They will weigh the chances of being caught and look to avoid the pain of being punished. The greater the possibility that they will be apprehended and the higher the price they will have to pay, the less the likelihood that they will commit the crime.

Deterrence as a sanction has two targets:

- *General deterrence* seeks to prevent future crime by making an example of someone. It sends a message to the community that “this could happen to you.” It reinforces social norms and prevents most people from stepping over the line and breaking the law.
- *Specific deterrence* seeks to prevent future crime by the individual on whom the sanction is to be imposed. The intent is to frighten the offender out of future wrong doing.

Despite the tremendous belief in the efficacy of deterrence as a sanction among law enforcement and criminal justice professionals, until recently these ideas have rested more on assumptions than on solid research. What research does exist, still is producing mixed results.

The application of most deterrence sanctions is based on what economists and scientists call rational choice theory. This theory assumes that there is basically only one norm of action, namely rationality, that guides an individual’s choice in making decisions. The more extreme versions of rational choice basically see people as cost-benefit computing machines, who use near-perfect information to enhance pleasure and minimize pain, or as economists like to say, to maximize personal preference schedules

As a form of rational choice theory, deterrence contends that most offenders are rational like everyone else and that they are aware of the sanction, perceive it as unpleasant, weigh the costs and benefits, assess the risk, and make a rational choice wherever possible.

Mark Kleiman, one of the nation's leading scholars on deterrence theory and offender desistance from crime, addresses the notion of the "rational" offender. He notes that in terms of cost/benefit calculations, most crime really "does not pay" in the sense that the present value of illicit gain is often far less than what can be made even from unskilled lawful endeavors:

- A residential burglar receives less than \$10 in illicit gains per expected day spent behind bars
- Retail crack dealers in many markets earn less than the minimum wage per expected day spent behind bars

Kleiman shows that the criminally active population is overrepresented with persons who are

- Present-oriented, reckless and impulsive
- Give undue weight to immediate future over even the slightly long term
- Under estimate the small risks of large disasters by comparison with high probabilities of small gains
- Less likely to respond to the severity of punishment

Nonetheless, according to Kleiman, deterrence may work within some contexts if

- Punishment is swift and certain and not just severe
- The time between violation and response is short
- The deterrent threat is directly communicated to potential violators

Despite some early success for deterrence in the form of desistance theory, it is still based on the efficacy of punishment as a vehicle for changing offender behavior. Ed Latessa at the University of Cincinnati, a long-term proponent of Research-Based Practices, observes that behavior research shows that certain people appear to be resistant to punishment under any circumstances, and that criminals are disproportionately represented in this population. Resisters to punishment are:

- Psychopathic risk takers
- Those under the influence of a substance
- Those with a history of being punished

*Restoration* is another and the newest criminal justice sanction to be used by stakeholders as a goal of sentencing. Restoration seeks to restore the harm done to a victim, the community, and the offender by the commission of a criminal act. It often refers to “making whole the torn fabric of the community.”

Research on the effectiveness of restorative justice in reducing crime, especially with respect to higher risk offenders, is weak. According to Edward Latessa, restorative justice applications show some evidence that victim satisfaction increases, may be most appropriate for lower and medium-risk offenders; are most effective in terms of property crimes, and have better effect sizes with juveniles than with adults. In addition, it is unclear how much effect restorative justice applications have with higher-risk adult offenders.

#### *Rehabilitation and Treatment*

Rehabilitation and treatment are the primary criminal justice sanctions intended to deal with risk reduction. While punishment is not a utilitarian sanction, and incapacitation focuses primarily on risk control, and deterrence seeks to deal with risk reduction in the context of external punishment, rehabilitation focuses on changing offender cognitions and behavior:

- *Rehabilitation and Treatment* seek to prevent future criminal behavior by focusing on the criminogenic needs of the offender and offering some way to have those needs addressed.

#### What is Smarter Sentencing?

Smarter Sentencing is the use of research and science to enhance the decision making ability of criminal justice stakeholders in the selection and application of fair, just, proportionate and effective sanctioning goals.

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## Exercise: Sanction Policy Assessment<sup>1</sup>

### INSTRUCTIONS: PLEASE READ CAREFULLY

This survey is designed to assess your notions about various sanction policies. Several situations are described in the questionnaire. Four alternative patterns of individual behavior or attitudes have been supplied as possible responses to each situation. Each of the four alternatives to each situation is slightly different from the other three. Therefore, read all four alternatives before answering so that you can select the alternatives most and least characteristic of you.

There are no right or wrong answers. The best answers are those which are most descriptive of you or what you believe. Therefore, answer honestly, since only realistic answers will provide you with any useful information about yourself.

### DIRECTIONS: READ ALL FOUR ALTERNATIVES IN EACH QUESTION

From among the four alternatives, select the one which is most characteristic of you. Place the letter (a, b, c, d) of that item on the scale immediately below each question at the point towards the *Completely Agree* end which best shows how much that item represents your point of view. Then, select the letter on the appropriate point towards the *Completely Disagree* end of the scale. Once you have found the most and least characteristic alternatives, enter the letters of the remaining alternatives within this range according to how characteristic each alternative is. For example, you might answer as follows:

:	d	::	:	8	:	7	:	6	:	5	::	:	4	:	3	:	2	:	b	:	1	:	c	:	
	10																								
	Completely Agree											Completely Disagree													

**OR**

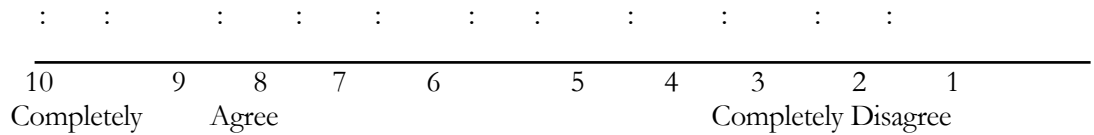
:	:	b	:	:	:	d	:	c	:	:	:	:	a
	10	9	8	7	6	5	4	3	2	1			
	Completely Agree						Completely Disagree						

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<sup>1</sup> Used with permission from the author: Vincent O'Leary, School of Criminal Justice, University of Albany, State University of New York

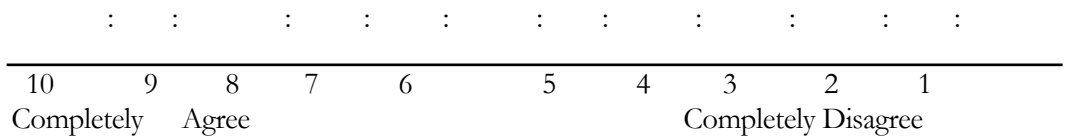
1. **Officials are deciding whether a 20 year old youth convicted of assault and committed to a correctional institution should be released on parole. He has been in the institution for 36 months, which is 12 months longer than is typical for this type of offense. A marginal though acceptable release plan is now available; however, clinical staff believes there is a significant chance that he could commit another assault if released. In such a case, I would:**

- a. Parole him since the offender has clearly served more time than is typically required for the type for offense that he has committed.
- b. Deny parole for now because of the continued risk this offender poses to the community.
- c. Parole him because of the existence of an acceptable release plan which may not be available when he is released later.
- d. Deny parole as a lesson to others that assault is a serious crime and will not be tolerated.



2. **A legislative committee is drafting a bill governing the operation of the State's correctional institutions. They recognize that such institutions serve purposes but they want to give priority to one while recognizing the others. How should the following purposes of a correctional institution rank in terms of their importance?**

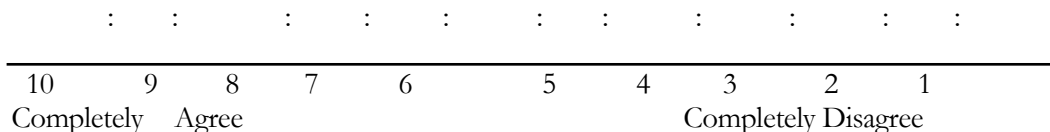
- a. A place where offenders learn new attitudes and skills so that they will not commit crimes after their release.
- b. A place where offenders are securely held during the period of their sentence to ensure public safety.
- c. A place where offenders serve their sentences as an example to others of the punishment that will be imposed if they commit a similar crime.
- d. A place to which offenders are committed to pay the appropriate price for the crimes they commit.





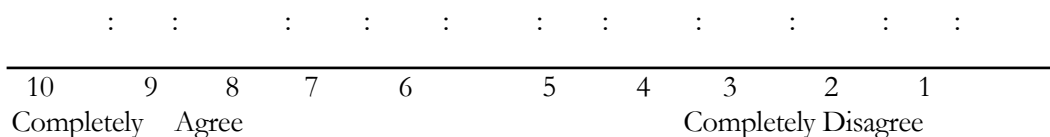
5. **Two young men, one 16 years of age and the other 18, were apprehended after burglarizing several homes, including that of a widow. She was quite frightened when she found them in her home and slightly injured when they pushed past her to escape. Neither of the young men had a prior conviction. The 18-year old was tried as an adult, convicted and given six months jail and two years probation. The staff recommended two years probation for the 15-year old with no time in a detention center since he is a first offender and time in detention would cause him to associate with serious offenders and increase his self-definition as a delinquent. In such a case I would:**

- a. Not require time in detention since the offender poses little risk to the public
- b. Require up to three months in detention since fairness requires at least some degree of similarity with the sentence of the co-defendant.
- c. Not require time in detention since it would be of little benefit to the young man and would likely affect his future behavior negatively.
- d. Require no less than 6 months in detention because of the need to deter others from preying on older people.



6. **The information about a convicted person that is presented to the judge at the time of sentencing should focus on:**

- a. The nature of the crime committed so that a punishment proportionate to the seriousness of that offense can be imposed.
- b. The criminal record of offenders and other reports that help identify how dangerous they are so they can be placed under appropriate control to protect the public.
- c. The views of officials and the public to determine what sentence is necessary to deter other persons from committing similar offenses.
- d. The mental and social character of the criminal offender so that programs can be required of them that will lesson the probability that they will commit crime when they are no longer under the state's control.



7. **A 22-year old man convicted of check forgery for the third time has a clearly established drinking problem. He was committed to a community-based facility for 18 months and has completed 6 months of that term. He gave facility officials information that prevented a violent outbreak between members of two gangs and they are urging immediate release on parole as a reward for a type of behavior important to the effective operation of the facility. The man has completed 2 months of a 6-month alcohol treatment program which has shown some success with similar persons. While the program could be completed outside of an institution it will be much less effective. In this situation, I would:**

- a. Refuse release to parole supervision because of the need to complete four months more of alcohol treatment before release.
- b. Release on parole because of the need to stop violence in the institution by encouraging offenders to give information to institutional officials.
- c. Deny parole because the original sentence was appropriate for the crime committed and it should not be cut by two thirds.
- d. Release on parole since the man can be given close supervision in the community and thus poses little risk to the public.

:	:	:	:	:	:	:	:	:	:	:
10	9	8	7	6	5	4	3	2	1	:
Completely	Agree							Completely		Disagree

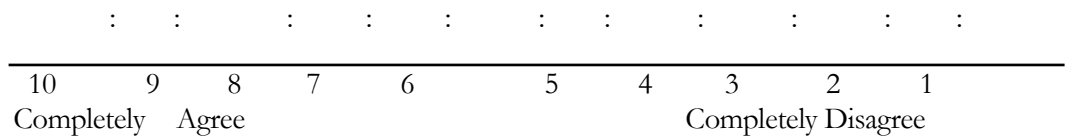
8. **A businessman with a reputation for honesty is convicted of the illegal financial manipulation of several insurance companies that resulted in a gain of several million dollars for him. In such case, I would favor:**

- a. A sentence of at least ten years in prison with no parole to warn other potential white collar criminals of the severe penalty that was imposed for this breach of public trust.
- b. Probation with a large fine, and several years of community service with the underprivileged to impress upon the offender how his behavior affected the lives of many unfortunate people.
- c. A sentence that would be the same as any other offender who violated a public trust which resulted in an illegal gain of large amounts of money.
- d. Some form of sentence in the community and fine since this person does not represent a threat to the public nor require the security of a costly prison cell.

:	:	:	:	:	:	:	:	:	:	:
10	9	8	7	6	5	4	3	2	1	:
Completely	Agree							Completely		Disagree

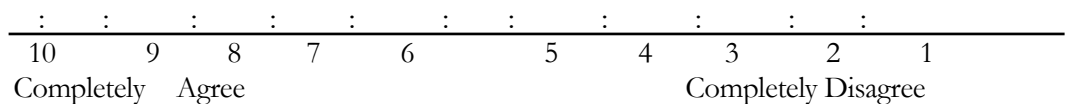
**9. After persons are convicted of serious crimes and sent to prison, should they be able to be released under parole supervision at any time less than the full term to which they were originally sentenced, less a small amount of time for good behavior in prison?**

- a. Yes, since almost all offenders will be released, sometimes it is best that the time of release should be determined by trained professionals at the most favorable time and under circumstances that will promote future law abiding behavior on their part.
- b. No, the deserved penalty for the crime persons commit should determine how long they should serve in prison and the judge should make that decision at the time of sentencing.
- c. Yes, the dangerousness of a person should be the basis of deciding what kind of custody is needed at any time and that judgment can't be fully determined at the time of sentencing since much can be learned about offenders after sentencing.
- d. No, releasing a person from prison before he or she has served the full sentence undermines the deterrent effect of the law and encourages criminal behavior by others.



**10. The amount of money that can be spent on research in criminology is limited. If you were on a panel distributing funding, what type of research should enjoy the highest priority?**

- a. Research that would help us correctly identify those who are very likely to commit new crimes so that we could hold them in custody for a long period of time.
- b. Research that reveals what sentence length and type of penalties are most likely to stop others from committing new crimes.
- c. Research that will tell us what kind of treatment program--education, hard work, therapy--will work with specific offenders so that they will be less likely to commit crime when they are released.
- d. Research that will reflect how fair and equitable is our sentencing system in ensuring that criminals are similarly punished for the crimes they commit.



### Scoring Instructions

Each of the four alternatives which were presented in every one of the questions in the Sanction Policy Assessment represented one of the justice sanctions – treatment, incapacitation, just deserts and deterrence. Where you placed the letter designating that alternative on the ten point scale determined how much weight you gave a specific policy as it was presented in a particular situation. To see how you weighted these alternatives, go back through the questionnaire and score it as instructed below.

Step 1 – in the columns below, the letters for each of the alternatives presented in each question are shown. Over each letter (note they are not arranged in alphabetical order) insert the score you gave that particular alternative. The scores will be found below the lines on which the alternatives were placed in the questionnaire.

Question	Treatment	Incapacitation	Just Desserts	Deterrence
1.	_____ C _____	_____ B _____	_____ A _____	_____ D _____
2.	_____ A _____	_____ B _____	_____ D _____	_____ C _____
3.	_____ B _____	_____ D _____	_____ C _____	_____ A _____
4.	_____ B _____	_____ D _____	_____ A _____	_____ C _____
5.	_____ C _____	_____ A _____	_____ B _____	_____ D _____
6.	_____ D _____	_____ B _____	_____ A _____	_____ C _____
7.	_____ A _____	_____ D _____	_____ C _____	_____ B _____
8.	_____ B _____	_____ D _____	_____ C _____	_____ A _____
9.	_____ A _____	_____ C _____	_____ B _____	_____ D _____
10.	_____ C _____	_____ A _____	_____ D _____	_____ B _____

Step 2 – Total each column

## Sentencing Choices Exercise: Case Scenarios



### ***Case 1: JIM***

- Jim is an immature African American 19 year old high school graduate
- Has a wide variety of friends (some positive, some in trouble with the law)
- Wants to be everyone's friend; has a strong desire to please and has, on occasion, bought cigarettes and alcohol for his friends although he does not smoke or drink himself
- Jim's friends heard that a neighbor lady was out of town and had a large super-sized TV screen.
- They convinced Jim to help break into her house to play videos.
- While inside, a caretaker arrived and caught the boys in the home, pulled out a gun and confronted the boys, almost pulling the trigger.
- The youngest boy jumps through the glass pane window to escape.
- Jim was immediately caught.
- Because it was a first offense, the burglary charge changed to trespassing. Jim pled guilty.
- Jim's other life factors:
  - Parents were shocked and disappointed in his behavior
  - He experienced a lot of remorse and shame over his actions
  - He works at Best Buy and the manager has taken a liking to him and agreed to help him get through the court process and keep his job for him
- Prosecutor argues that even though it was a first offense, the crime was serious, a gun was drawn, someone could have been hurt, and the defendant made a series of bad choices. The prosecutor asks for:
  - Probation and maximum jail sentence (90 days)
  - 100 hours of community service
  - Restitution
  - Educational class on alcohol/drugs
- Defense counsel argues that this is his client's first conviction, felt remorse, has a lot going for him, and has learned his lesson. Defense asks for:
  - Probation but no jail
  - 50 hours of community service
  - Victim apology
  - Home detention for 15 days

**Vote** on the following sentencing choices:

1. Prosecutor's recommendation
2. Defense attorney's recommendation
3. Probation, restitution, victim/offender dialogue, 20 hours of community service
4. Probation, alcohol evaluation & treatment, restitution, no contact order
5. 90 days jail, alcohol evaluation and treatment, restitution, no contact order

***Case 2: ALEX***

- 28 year old Native American male
- Has five felonies and 15 misdemeanor convictions as a juvenile and adult (for drinking offenses and assault)
- Has been in 14 different treatment or correctional institutions, successfully graduating from one
- He is one of the leaders of a Native American gang and is often called upon to execute "justice" on rival gang members
- While at a local bar, Alex was accidentally bumped into by a patron and, without further provocation, Alex hit him from behind, knocking him unconscious
- The victim suffered some vision loss due to the assault
- Alex was charged with misdemeanor assault.
- Alex's other life factors:
  - Alex's father has been in prison twice as well as a number of uncles and cousins
  - He has no interest in changing his behavior and blames all of his troubles on racial bias
  - His only major stated goal in life is to get everyone off his back and live independently
  - He has no significant relationships (i.e., spouse or children) other than gang affiliation
- Prosecutor argues that Alex is hopelessly anti-social, has had enough chances, is gang affiliated, and severely hurt the victim. The prosecutor asks for:
  - Maximum jail allowed
  - Restitution
  - Electronic monitoring
  - Intensive probation
- Defense counsel argues that Alex has had a hard life, is finally ready to change, and committed a minor offense. Defense asks for:

- Probation
- Substance abuse treatment
- Restitution
- Employment counseling

**Vote** on the following sentencing choices:

1. Prosecutor's recommendation
2. Defense attorney's recommendation
3. Maximum jail time, restitution
4. Maximum jail, half suspended on condition of restitution payment, drug treatment, job assistance, and mentoring
5. Maximum jail, intensive probation, urinalysis

***Case 3: KYLE***

- Kyle is age 40, married for 16 years
- Successful business man/high income
- Has four kids ages 8, 10, 16, and 17
- Coaches kids' baseball and soccer teams
- Kyle and his wife argued over money
- She pushed him and he hit her repeatedly, causing a small laceration on her chin, a bruised cheek, and choke marks on her neck
- There have been numerous police calls and warnings
- There has been one prior arrest but no conviction
- There has been one prior restraining order
- The wife was hospitalized once before with broken bone (suspected abuse but never proven)
- Kyle's other life factors:
  - Kyle has been under a lot of work pressures lately
  - He witnessed his father abusing his mother when he was a child
  - He was assessed and determined to have a significant anger problem, poor coping skills, and a lot of anxiety
- Prosecutor argues that although he has limited convictions, there are lots of signs of prior problems, fears for the victim safety despite her denial of serious problems. The prosecutor asks for:

- Probation
  - 15 days jail
  - 10-week domestic violence class
  - No similar offenses
- Defense counsel argues that Kyle has no prior convictions, feels terrible about his actions, is under business pressure, and is willing to go to counseling. Defense asks for:
    - Probation
    - Psychological counseling
    - Domestic violence class

**Vote** on the following sentencing choices:

1. Prosecutor's recommendation
2. Defense attorney's recommendation
3. Maximum jail with majority of jail suspended, two years probation, one year of domestic violence cognitive behavioral treatment, drug/alcohol evaluation, no contact with victim
4. Intensive probation, one year of domestic violence cognitive behavioral treatment, short term jail, quick response on violations, no contact with victim
5. Maximum jail with majority of jail suspended, one year of domestic violence cognitive behavioral treatment, mental health evaluation, no contact with victim

#### ***Case 4: LYDIA***

- Lydia is a 36 year old Caucasian female
- She has been in and out of substance abuse treatment most of her life
- She is growing tired of the lifestyle but feels hopeless in changing it
- After getting into a fight with her boyfriend, Lydia got drunk and ran into a car driven by a young man and his son
- She was convicted of drunk driving
- She has a number of prior offenses including two drunk driving charges, one felony drug possession, one felony forgery, and a misdemeanor assault
- She has been arrest-free for five years until this charge
- Lydia's other life factors:
  - Lydia has a sixth grade education and cannot read or write well enough to get most jobs
  - But, her goal is to become a nurse
  - She has been in and out of jobs, never holding one for longer than four months

- She has a strong support system with her boyfriend of six years and her sister
- She has one child who is living in a foster home
- She has been diagnosed with depression and PTSD
- Her substance abuse allows her to forget an untreated sexual assault that occurred when she was fifteen
- Prosecutor argues that Lydia has had numerous prior convictions and has not learned. She could have seriously injured the victims. The prosecutor feels that treatment is a waste of resources and asks for:
  - Probation
  - Jail (maximum allowed)
  - Restitution
- Defense counsel argues that Lydia had a slip up (having been crime free for five years), is in need of help, and has goals/wants to make further changes. Defense asks for:
  - Probation
  - Substance abuse treatment
  - 50 hours community service at a children's hospital
  - Employment counseling

**Vote** on the following sentencing choices:

- Prosecutor's recommendation
- Defense attorney's recommendation
- Probation, short-term jail, long-term counseling, job/employment/education assistance, mentoring
- One year jail, five years probation, attend AA five times per week, ignition interlock, large fine
- Deferred prosecution







# How Do Research-Based Practices Ensure Effective Sentences to Reduce Recidivism?

*Prosecutors, defenders, judges, and community corrections officers all play critical roles in reducing the risk of re-offending, and through a systemic application of research-based practices can work to reduce recidivism.*

Over the past several decades, a substantial body of knowledge has emerged about what works to reduce the risk of re-offending, and more recently, to help formerly incarcerated persons re-enter the community as productive citizens. Although the research focuses predominantly on what corrections and community corrections can do to change criminal behavior, this knowledge has direct relevance for prosecutors, defenders, the courts, and community corrections officers as part of a Smarter Sentencing process.

As the gate keepers to the justice system, prosecutors have tremendous authority to charge a person with a criminal offense, to negotiate pleas, and to recommend sentences for convicted offenders. Defense attorneys advocate for their clients, preparing the best defense possible, negotiating plea offers on behalf of the client, and working to ensure the most appropriate outcome for their clients. Judges have the ultimate authority to accept pleas and sentence offenders. At each of these decision points, there is opportunity to use Research-Based Practices to increase the likelihood

that the defendant/offender will not re-offend. Community corrections officers impose and recommend sanctions for violations of probation and parole.

ICON KEY	
	Learning objective
	Materials & resources
	Worksheets & exercises
	Test your knowledge





This module focuses on the basic principles of Research-Based Practice and explores its potential application to plea negotiations, sentencing, and revocation. It is designed to assist participants in understanding how they currently make sentencing-related decisions and how

research can improve the quality of those decisions for both offenders and the public. It will provide an empirical basis for stakeholders to practice Smarter Sentencing in order to reduce their reliance on incarceration, to enhance the cost efficiency of criminal justice practice, and to provide offenders with the ability to lead law-abiding lives.

## Module 3 Learning Objectives

This module is designed to help prosecutors, defense attorneys, judges, and community corrections officers explore the practical application of Research-Based Practices. At the end of this module, participants will be able to



-  Define Research-Based Practices
-  Identify core elements of Research-Based Practices
-  Integrate Research-Based Practices with Smarter Sentencing
-  Apply core elements of Research-Based Practices to the practice of Smarter Sentencing

## Rationale



This module is designed to demonstrate how Research-Based Practice supports Smarter Sentencing by

- Making transparent the current basis of sentencing and revocation practices
- Applying research to sentencing-related decision making
- Providing empirical alternatives to incarceration as a means of managing offender risk
- Demonstrating effective and efficient ways to enhance public safety by working with offenders to change their criminal behavior and to reduce recidivism

## Basic Principles of Research-Based Practices and Sentencing

There are several reasons to use research-based sentencing practices in local criminal justice jurisdictions:

- Given the current state of knowledge in the criminal justice and behavioral management fields, we can expect better outcomes than have been realized in the past.
- Better outcomes will be derived if sentencing processes are improved and existing resources (including non-incarcerative and incarcerative) are used more effectively.
- The U.S. justice system was framed around a set of core ideals. Research-based decision making can assist in honoring and protecting these ideals through sentencing practices.

## Research-based Practices: A Definition

Research-based Practice can be defined as

“a progressive, organizational use of direct, current scientific evidence to guide and inform efficient and effective criminal justice decision-making and the provision of correctional services.”

Research-Based Practice is a core ingredient of Smarter Sentencing, seeking to enhance the quality of the professional judgment that stakeholders use every day in making determinations during the sentencing process

It is not the exclusive form of evidence to be used during the sentencing process, but up to now it has often been the most neglected and most overlooked

Its neglect by professionals can do harm and lead to a violation of the Core Ideals of American Justice (such as wrongful convictions)

## Standards of Research Evidence

The **Standards of Research pyramid** provides the criteria for measuring the quality of social scientific research (see [Figure 1](#)). The most solid forms of evidence are Gold, which are randomized, replicated and controlled experimental studies, and Silver, which are quasi-experimental in nature. Bronze indicates studies that have produced significant results, have a scientific basis, but are weaker in methodological rigor.

Only studies that can be classified as Gold, Silver or Bronze are accepted as part of Research-Based Practice. Studies that are Iron generally are considered non-scientific in nature, and Dirt refers to research that is of the quality of Gold or Silver but has demonstrated conclusively that something does not work or even does harm.

Two other types of evidence are commonly used in practice in criminal justice and corrections, but are not generally considered “Research-based.” They are clinical or professional judgment and what is known as a “promising practice,” a study or studies that provide useful information but are not experimental in design.

### Reducing Recidivism

Researchers cite several reasons why offender recidivism rates have remained consistently high over the last thirty years:

- We are focusing on the wrong issues and the wrong sanctions (retribution, incarceration, deterrence)
- We are giving too much attention to the low risk and too little to the high risk offender
- Programs have not applied research knowledge nor are these practices applied with fidelity
- The system is not in alignment

In fact, the primary reason that policy makers have come to care about Research-Based Practice revolves around the issues of recidivism and victimization. They believe that the application of Research-Based Practices to the daily practice of criminal justice

- Improves outcomes, especially recidivism
- Reduces victimization
- Prevents harm
- Enhances collaboration
- Establishes research-driven decision making
- Targets funding toward the interventions that bring greatest returns

## Doing Good/ Doing Harm

In the summer of 2005, the National Institute of Justice held its annual research conference on the topic “Evidence-Based Policy and Practice.” The conference is attended by criminal justice policy makers, practitioners and researchers from across the country. At the opening plenary session, “Evidence-Based Policies and Practices: Making the Case That Research Can Provide What Criminal Justice Policymakers Need,” a group of distinguished panelists argued that given the current state of knowledge about changing offender behavior, it was no longer acceptable for policy makers and practitioners to ignore this research in their daily practice. They contended that criminal justice professionals now had the moral obligation to “do good” and to “avoid harm” by using available research to make their decisions.

From the perspective of these and other researchers at the conference, empirical data showed that “doing good” reflected the following practices:

- All correctional treatment programs reduce recidivism on average by 10%
- Programs using cognitive-behavioral technologies reduce recidivism by 25-30%
- Programs incorporating interpersonal skills training, behavioral interventions, cognitive skills training, and mentoring reduce recidivism by 40%
- Programs employing functional family therapy, family empowerment, and multi-system therapy reduce recidivism by 60%

Similarly, “doing harm” reflected the following:

- Incarceration compared to probation increases recidivism on average 2%
- In the Denver youth study, arrests and sanctions resulted in persistence of or increase in delinquency

The researchers were particularly concerned about practices and programs that consistently had no or harmful effects on recidivism and that resulted in a tremendous waste of public dollars. Using the results of a series of meta-analyses (“studies of studies”) from over a twenty year period, they concluded that there was

- No effect size for intermediate sanctions, deterrence-based interventions, “scared straight,” intensive supervision, arrest, restitution, boot camps, drug testing, electronic monitoring
- An increase in recidivism for the last six items, especially without a treatment component being present

### What Works

Programs with the following characteristics will tend to produce an average reduction of recidivism around 30%:

- Target criminogenic risk and need
- Cognitive/behavioral in nature
- Incorporate social-learning practices
- Balanced integrated approach to sanctions and interventions
- Incorporate the principle of responsivity
- Have therapeutic integrity

### What Doesn't Work

Types of programs that do not work generally do not target those individual and environmental factors that correlate with criminal behavior, do not have a behavioral and cognitive-behavioral treatment component, and do not integrate sanctions and personal accountability with skills-based behavioral change.

- Direct deterrence efforts
- Physical challenge programs
- Military models of discipline and physical fitness
- Intensive supervision without treatment
- Non-behavioral group counseling (without skills practice and behavioral reinforcement)
- Inmate-centered, non-directive therapy
- Approaches of non-skill education (didactic learning)

Examples of non-behavioral approaches include

- Drug prevention classes focused on fear and other emotional appeals

- Shaming offenders
- Drug education programs (DARE)
- Non-directive, client centered approaches
- Bibliotherapy
- Freudian approaches
- Talking cures
- Self-Help programs
- Vague unstructured rehabilitation programs
- Medical model
- Fostering self-regard (self-esteem)
- “Punishing smarter” (boot camps, Scared Straight)

#### Summary of Benefits and Costs (2001 Dollars)

Several recent cost-benefit analyses of research-based and non-research-based programs for adults and juveniles have demonstrated that the public gets much greater bang for the buck from the former rather than the latter. The Washington State Institute for Public Policy, a legislatively funded research and analysis organization, demonstrated in 2001 that behaviorally based programs had a significantly greater impact on recidivism than non-behavioral programs (see [Figure 2](#)). Although they might seem expensive in terms of each individual served, they were extremely successful in changing delinquent and offender behavior and averting new crimes with all their attendant victimization and criminal justice costs. In contrast, non-behavioral programs such as Scared Straight, which seem inexpensive to run, actually produce negative benefits for the taxpayer, as they tend either to have no effect on criminal behavior or actually make it worse.

#### The Big Four Principles

Four key elements must be in place for any organization successfully to implement Research-Based Practices, change offender behavior, and reduce recidivism. These four key principles are

**Principle 1: Risk.** Research shows that use of validated actuarial instruments best predict the risk of re-offending. Assessments help identify appropriate supervision and treatment needs of offenders and their results should be considered in plea negotiations, sentencing recommendations, and sentencing. Supervision and treatment resources can then be prioritized for higher risk offenders.

**Principle 2: Need.** Individual criminal behavior can be linked to a variety of individual and environmental factors, known as criminogenic needs. These needs include antisocial attitudes and values, anti-social peers, certain personality and temperament traits, family and relational factors, substance abuse, employment, school and occupational training, and the use of personal and leisure time. When these needs are addressed, especially the first four which are the most important, criminal behavior can change and recidivism reduced.

**Principle 3: Treatment/Responsivity.** Treatment programs and services should be matched to individual characteristics, such as culture, gender, developmental stage, and learning style. Doing so has an impact on how well an offender responds to the treatment. Moreover, the treatment that is provided should be based on cognitive-behavioral and social learning practices that have been proven effective through rigorous study.

**Principle 4: Fidelity.** Faithful application of treatment, based on offenders' criminogenic needs, can significantly reduce recidivism. Implementation of Research-Based Practices requires commitment to the principles of evaluation and a demonstration of progress through evaluation toward the essential outcome of diminished recidivism.

The research of the last three decades boils down to four simple statements concerning what is most effective in changing offender behavior. These are

- Who you put in a program is important – pay attention to risk
- What you target is important – pay attention to criminogenic needs
- How you target offender for change is important – use behavioral and cognitive-behavioral approaches and match to offender type
- How well you implement is important – adhere to research-based program and intervention designs

Research shows that the more practitioners adhere to the core principles of risk, need and responsivity, the greater the reduction in offender recidivism they achieve. Whereas implementing none of the principles may actually do harm and slightly increase reoffending, following all three produces average drops in recidivism of close to 30 percent (see [Figure 3](#)).

## Applying Research-Based Practices in Decision Making

### *The Risk Principle: Actuarial Risk Assessment*

Risk is defined as the likelihood of reoffense, which could be seen as rearrest, reconviction, reincarcerations or a combination of the three. Most validated risk instruments predict the possibility of rearrest.

Whatever profession you are involved in, actuarial or statistical risk instruments always get the most accurate results and out predict professional judgment alone. In order to get the best results the tool that you use should be normalized and validated with respect to your target population.

- Most tools do not predict on the basis of the legal seriousness or high stakes nature of the instant offense, which research shows is not a factor correlated with risk of future criminal actions
- Some tools will predict risk of particular types of rearrest, such as violent crimes, sex crimes, or driving under the influence
- All actuarial tools predict results for groups of people and not for individuals. Even the best of instruments will have false positive and false negative results at the individual level.

Criminal justice professionals are often skeptical about the use of actuarial risk instruments in their business. There is the notion among prosecutors, defenders, judges and community corrections staff that their experience will tell them who is at high risk of a new crime and who is not. The fact is that there is some truth to this feeling. While validated actuarial risk instruments will always outperform clinical judgment in predicting recidivism, the best results will occur when the information from the instruments are combined with professional scrutiny. But such scrutiny must not be allowed constantly to overrule statistical prediction, especially without justifiable cause.

Research clearly underscores that criminal justice professionals, in terms of risk reduction, should

- Focus on medium and high risk offenders. Since they pose a significant risk of reoffense, they also pose the greatest threat to the community. We often are reluctant to follow this Research-based practice because we find these types of offenders difficult to deal with, unmotivated, and unresponsive to our authority
- Pay much less attention to low risk offenders. Involving them in programs and interventions will only make them worse and increase their average rate of recidivism. Yet we like to spend a lot of attention on them because they are easy to deal with, motivated, and responsive to our authority.
- Do risk control rather than risk reduction with the extreme high-risk population, which is about five percent of all offenders, at least until there is some sense that they are willing to respond. Although promising research is being conducted about treating them, it is still preliminary. The immediate risk management issue remains controlling these offenders.

The risk principle helps criminal justice professionals do effective risk management with offenders throughout the sentencing and case management process, thereby reducing recidivism and improving public safety. What needs to occur is a research-based, balanced approach to risk management of offenders

- Risk Elimination (Low Risk Offenders): involves providing least restrictive, most appropriate sanctions and supervision
- Risk Reduction (Moderate-High Risk Offenders): involves determining criminogenic needs and reducing risk factors through effective intervention and appropriate supervision
- Risk Control (Extreme High Risk Offenders): involves techniques that control risk of reoffending while under correctional authority

The research-based principle of Risk Reduction can be summarized as follows:

- **GET OUT OF THE WAY.** Intensive treatment for lower-risk offenders can actually increase recidivism
- **LIVE IN THEIR BACK POCKET.** Provide most intensive control to extreme high-risk offenders
- **ZERO IN.** Target those medium and high-risk offenders with a greater probability of recidivism

*The Need Principle: Criminogenic Needs*

Once the question of risk has been answered in terms of focusing resources and attention primarily on medium and high-risk offenders, the next question is, What about them as individuals and in their environment increases their risk of criminal activity?

There are two types of risk factors: static and dynamic. Static factors are predictors of future criminal behavior which we cannot change. The most important are age, gender and criminal history. Dynamic risk factors are predictors of future criminal behavior which we can work with the offender to diminish and alter. These are called criminogenic needs (dynamic risk factors). Criminal justice practitioners need to focus on these criminogenic needs, which are identified using actuarial risk and need assessment tools.

Criminogenic needs have the following characteristics:

- They are dynamic as opposed to static
- They are predictive
- They provide the ingredients for Smarter Sentencing and case intervention
- They can be measured over time to determine effectiveness of intervention
- If done correctly, they can drive major sentencing and correctional policy

Research over the last three decades clearly shows that socio-economic status and issues of personal distress and pathology do not correlate with criminal risk, despite popular opinion. Thus being poor, being clinically depressed or having low self-esteem does not predict risk of recidivism. The most important factors pertain to belief and value patterns, the people that the offender associates with, familial relationships, and certain temperamental characteristics such as poor anger management and decision making ability as well as a lack of empathy for others.

*The Big Four Criminogenic Needs*

These four characteristics are the strongest correlates with criminal activity:

- Anti-social cognition
- Anti-social companions
- Anti-social personality or temperament

- Poor family and/or marital relationships

If the offender scores high on these needs in an assessment, they must be addressed before all other issues. They are what might be called the “drivers” of criminal behavior.

The one criminogenic need among the Big Four that is constantly misunderstood is anti-social personality or temperament. As mentioned above, criminal justice professionals have historically tended to focus on personality issues such as depression or lack of self-esteem that might be important for an offender’s mental health, but whose amelioration will have little effect on recidivism. The most important anti-social temperament issues are

- Lack of empathy
- Anger and hostility
- Poor problem solving/decision making
- Risk taking
- Impulsive
- Lack of focus
- Narcissism

#### *The Lesser Four Criminogenic Needs*

The lesser four criminogenic needs are as follows:

- Substance abuse
- Un- or under-employment
- Poor performance or failure in school
- Poor use of leisure and/or recreational time

While these four criminogenic needs are important elements in helping offenders to change their behavior, they are not as strong predictors as the Big Four. If the assessment of the client shows a high score on one or more of the Big Four criminogenic needs, they must be addressed along with any of these needs for lasting change to occur.

There is also a sequence for dealing with criminogenic needs. For example, sending an offender who has strong anti-social values and beliefs to a job without first or simultaneously dealing with those values and beliefs will probably not have a positive outcome. What the anti-social offender will see in his/her new place of employment is not necessarily an opportunity to earn a legitimate living, but quite possibly an opportunity to steal in an environment where people trust each other and security of personal and business property might be lax.

Similarly, while substance abuse is certainly a criminogenic need, just sending addicted offenders to drug treatment, while ignoring their anti-social values and peers criminogenic needs, might make them clean, but it will not necessarily make them law-abiding.

Figures 4 and 5 illustrate the criminogenic needs and suggested responses.

#### *The Need Principle and Recidivism Reduction*

The principle of criminogenic need answers the question, What about Offenders and Their Environment Should Be Targeted? Stakeholders who focus on criminogenic needs in making their sentencing and revocation decisions will be much more likely to reduce the probability of offender recidivism, both during supervision in the community and after re-entry from incarceration.

Targeting an individual's criminogenic needs can "do good" by reducing recidivism, while targeting non-criminogenic needs can actually "do harm" by slightly increasing recidivism, wasting scarce taxpayer resources, and endangering public safety.

While the criminogenic need principle seems straightforward to follow, there are a slew of experiential correctional programs and "creative sentences" that judges and other stakeholders involved in the sentencing process are using. No one knows how extensive such "creative sentences" are, nor how they stack up in terms of frequency of use in contrast to Research-based or Smart Sentences.

#### *Benefits of Risk/Needs Assessment for the Criminal Justice System*

There are many ways in which an understanding of the Research-based principles of risk and need can affect the sentencing process and the decisions of stakeholders in that process. For example, applying research-based practice can help stakeholders determine

- Suitability for arrest (law enforcement)
- Suitability for diversion (prosecutor and defender)
- Level of incapacitation for extreme high risk (judges)

- Level of community based controls (judges and community corrections)
- Sentencing conditions and treatment (prosecutor, defender, judges and community corrections)
- Treatment targets (community corrections and corrections)
- Responses to violations (prosecutor, judge and community corrections)

#### Treatment/Responsivity Principle

The following are the most common reasons provided as to why community corrections as a sanction has failed to deliver on its promise to change offender behavior and reduce recidivism:

- Spending too much time on non-criminogenic needs, monitoring
- Overwhelmed with court conditions
- Management expectations and concerns around lawsuits and public pressure (CYA)
- Lack of knowledge and skills
- Caseloads too high

While all of these factors are important explanations, there is another equally important and often overlooked reason why expected results are not being achieved. This reason pertains to the research on the type of programming and interventions that actually do produce offender behavioral change.

#### *Social Learning: Basic Principles*

Research-Based Practice consists of two interrelated theories about human behavior: cognitive-behavioral theories, which will be discussed later in this Module, and social learning theory.

Social learning theory rests upon several basic principles about how individual learning occurs

- Everyone learns from their environment all of the time
- Most learning occurs in a social context, generally from persons with whom we are in daily contact, such as parents, siblings, teacher and peers

- New skills are learned behaviorally, whereby a skill is demonstrated and then practiced over and over again until it is mastered
- Positive and negative sanctioning will either enhance or extinguish the new skill being learned
- New skills are not mastered in a day and there will be relapse to previous behaviors along the way

As shown on [Figure 6](#), on average non-behavioral interventions actually created harm and increased recidivism by about seven percent. In contrast, behavioral interventions decreased recidivism by an average of 29 percent.

### *Increasing Motivation to Change*

It is important for sentencing stakeholders to understand the cycle of behavioral change.

In 1983 psychologists James O. Prochaska and Carlo C. DiClemente discovered that there was a structured process to behavioral change. They noticed with regard to smokers trying to quit that most failed the first few times that they tried. They found that on average a person had to attempt to give up smoking seven different times before succeeding. As a result of their research with smokers, they developed a stage model for behavioral change, illustrated in [Figure 7](#).

They argued that for most persons the process of behavioral change started at a stage which they labeled “pre-contemplation.” At this point the individual was relatively clueless that he or she even had a problem to be addressed. It was only when the dissonance between the problem and what the individual desired in life became great enough, that a person started to contemplate or think about achieving new cognitions and skills. Once intent to change was established, the remaining stages involved action and practice to maintain what was being learned. But always there was a catch, and that was the fact that anywhere during this cycle a person could relapse back to old habits.

Appropriate positive and negative sanctioning must be part of the behavioral change cycle for it to work properly. Offenders must not only learn new ways to deal with their criminogenic needs, but they must be held accountable for mastering those new skills. Positive reinforcers must predominate over negative reinforcers by a ratio of at least 4 to 1. When negative reinforcers predominate, especially when an offender is practicing a new behavior and not quite getting it, the new behavior will be quickly extinguished. Nonetheless, inappropriate or anti-social behavior cannot be ignored. It must be responded to swiftly, consistently and proportionately; otherwise it will continue to be justified in the offender’s mind.

*Applying the Treatment/Responsivity Principle*

In order to do Smarter Sentencing, stakeholders must recognize the following about behavioral change and offenders

- Most offenders start at a pre-contemplative stage regarding their criminogenic needs
- Dissonance must be created to get them to realize that they even have a problem
- Behavioral techniques, such as motivational interviewing, must be used for creating such dissonance
- Newly learned behavior must be positively reinforced
- Relapse will occur
- Proportionate or graduated sanctions must be in place to appropriately respond to relapse

Research shows that treatment and other interventions must be matched to the learning styles and personal abilities of each individual offender in order for her or him to master new beliefs, attitudes and skills. Oftentimes we see offenders as unmotivated or resistant to treatment, when in fact we are trying to teach them in ways to which they cannot respond.

The classic example is the didactically structured classroom consisting of lecture, listening and reading. A large proportion of our offenders have failed again and again in such a pedagogical environment. Most offenders have what we call a “doing” learning style, i.e. they learn not by listening to someone or reading something, but by actually doing it in a concrete fashion. Placing such persons yet again in a classroom about DUI or substance abuse as part of a sentence of the court or a condition of parole is only a recipe for failure.

The principle of Responsivity consists of two basic elements:

- Matching the characteristics of the individual offender to the intervention (treatment, program, supervision)
- Matching the personnel delivering the service to the population

One of the most important responsivity issues is gender. Men and women learn differently. Women, for example, are much more relationship oriented and tend to process information much more assiduously than men. Women offenders also tend

to suffer from past traumatic situations that affect their ability to learn in groups run by male facilitators.

### *Three Components of Responsivity*

There are three components of Responsivity:

- Offender character traits: these are characteristics of each offender that affect the way in which they learn and respond; each offender learns differently and treatment needs to be compatible with these traits in order to be effective
- Traits of the individual working with the offender: these are characteristics of the treatment provider, who might be a group facilitator, a community corrections case manager or even a judge in a problem-solving court. Where there are conflicts between the personality and delivery style of the provider and the learning style of the offender, the mastery of new cognitions and skills can be impeded
- The program components: these are the characteristics of the program that affect learning. Offenders whose learning style reflects an emphasis on “doing” will not do well in traditional didactic settings. Similarly, extremely introverted or shy offenders may not be able to function in groups.

While mental health issues are not generally criminogenic needs, they can very well affect the offender’s ability to respond to instruction and learn new skills. For example, severely impaired clients who might be extremely anxious or depressed will need to have their mental health issues addressed either before or simultaneously with their involvement in group treatment.

Similarly, although substance abuse is a criminogenic need, an individual who is severely addicted and not capable of functioning in daily life will, from a responsivity perspective, need to enter substance abuse treatment for addiction before other forms of intervention addressing other criminogenic needs can be successful.

The responsivity principle informs Smarter Sentencing in several ways:

- It allows stakeholders to exercise research-based discretion on plea negotiation and sentencing in each case: pleas and sentences should be in alignment with Research-Based Practices wherever possible
- It avoids a “one size fits all” approach: it is about the offender as much as it is about the offense
- It helps stakeholders find ways to make mandatory sentencing laws more flexible: such restrictions often negate the responsivity principle

### *Cognitive-Behavioral Interventions*

Research over the last three decades is very clear that structured behavioral, social learning and cognitive behavioral strategies are the best way to teach offenders new pro-social cognitions and social skills.

Results from most recent meta-analysis of research on the effects of cognitive-behavioral therapies (CBT) on offender recidivism, which was completed in 2007 by Mark Lipsey and his colleagues, are instructive:

- On average CBT reduced offender recidivism by 25%, from a 40% rate (control) to 30% rate (experimental)
- The best configured CBT programs dropped recidivism by 50%, from a 40% rate (control) to a 19% rate (experimental)
- None of the major CBT brand name programs outperformed any other
- Fidelity to treatment model during implementation was a key factor for successful outcomes

The four principles of cognitive-behavioral intervention are as follows:

- Thinking affects behavior: the structure, patterns, and ways in which we think have a direct causal relationship to how we behave
- Antisocial, distorted, unproductive, irrational thinking causes antisocial and unproductive behavior: medium and high risk offenders generally exhibit such thinking patterns and score high in assessments on the criminogenic need of anti-social values, attitudes and beliefs
- Thinking can be influenced: interventions with offenders such as cognitive-behavioral therapy can help them change the way in which they think, solve problems and make decisions
- We can change how we feel and behave by changing what we think: addressing various criminogenic needs through cognitive-behavioral therapy will change offender behavior and reduce recidivism

Cognitive-behavioral programming includes three key components:

- Cognitive restructuring which focuses on the content of what is being thought, especially anti-social thinking patterns

- Cognitive skills development which emphasizes the process of how we think and act
- Behavioral strategies which model and reinforce the pro-social patterns being learned in restructuring and skills development

### *The Fidelity Principle*

The fourth principle of Research-Based Practice, namely Fidelity, is absolutely crucial for the success of treatment and other programmatic interventions with offenders. As Mark Lipsey's meta-analysis of CBT's demonstrated, without fidelity and integrity in terms of program design, implementation and presentation with clients, the expected reductions in recidivism will not be achieved.

Effective programs evaluate what they do. They

- Use quality assurance processes (both internal and external)
- Assess offenders in meeting target behaviors
- Track offender recidivism
- Have an evaluator working with the program

All stakeholders in the sentencing process must have a stake in fidelity in order for Smarter Sentencing to be realized.

### Summary

To summarize, the research tells us that

- Use of Research-Based Practices to change offender behavior can be cost-effective
- A significant reduction in recidivism is possible by paying attention to risk levels and focusing on criminogenic needs
- Programs based on retribution, just deserts, or deterrence by themselves do not reduce recidivism
- Incarceration of low risk offenders can increase recidivism
- When individuals and agencies work collaboratively toward a common goal, there is a greater likelihood of success

## 10 Pathways to Smarter Sentencing

The 10 pathways to Smarter Sentencing are as follows:

1. Target the moderate to high risk offenders
2. Target criminogenic needs in pleas, court orders and programs
3. Avoid significant intervention with low risk offenders. Recidivism among low risk offenders increases when they are included in programs with high risk offenders
4. An accurate assessment of offender risk and needs requires an actuarial tool plus professional judgment. It can be used to inform plea negotiations, sentencing recommendations and sentences, and responses to violations of probation
5. Imposing additional conditions of probation beyond those directly related to offender's risk/needs only distracts and impedes the offender and probation
6. Use cognitive behavioral programs rooted in social learning theory which are the most effective at reducing recidivism
7. Use both positive and negative reinforcements. Offenders will tend to behave in ways that result in the most rewards and fewest punishments
8. However, use more positive than negative incentives. Positive reinforcement is more effective than sanctions
9. To the degree possible, involve the family, as treatment programs must provide a continuity of care that includes support from the persons closest to the offenders
10. Make sure that treatment is individually determined as treatment style needs to be matched to the offender's personal characteristics and motivation (responsivity)

## Conclusion: The Benefits of Smarter Sentencing

In conclusion, there are many significant benefits of research-based Smarter Sentencing for criminal justice decision-makers. Successful application of Smarter Sentencing practices can

- Enrich and enhance the quality of their discretionary decision-making
- Enhance their role in protecting communities from criminal offending
- Reduce their reliance on incapacitation as the primary means for holding offenders accountable

- Improve their ability to do justice by providing offenders with scientifically proven alternatives to a criminal life.

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Figure 1: Standards of Research Evidence

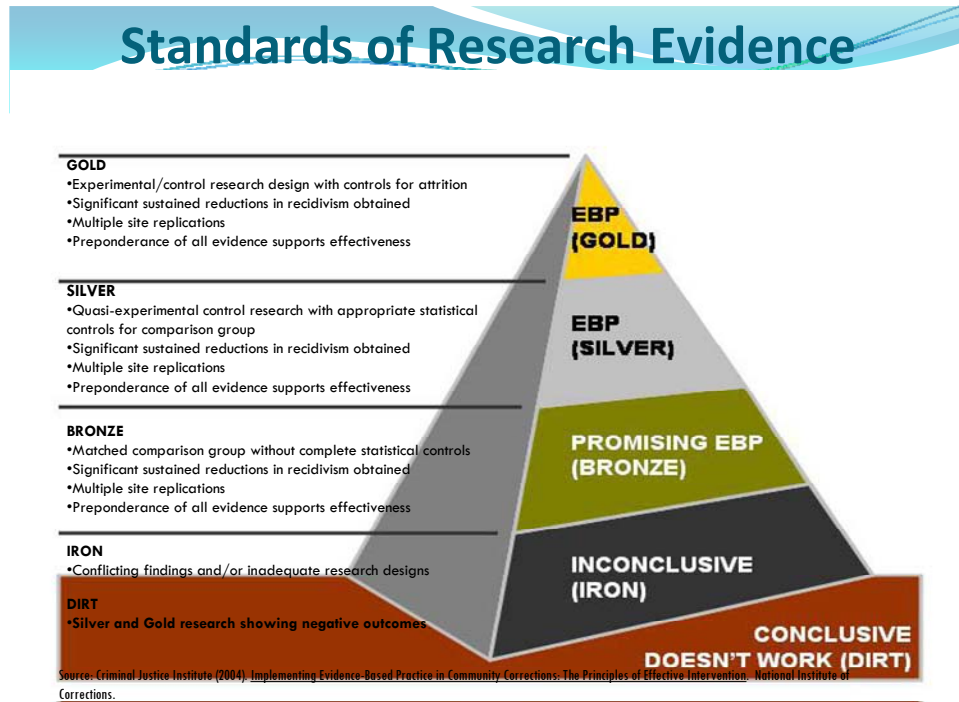


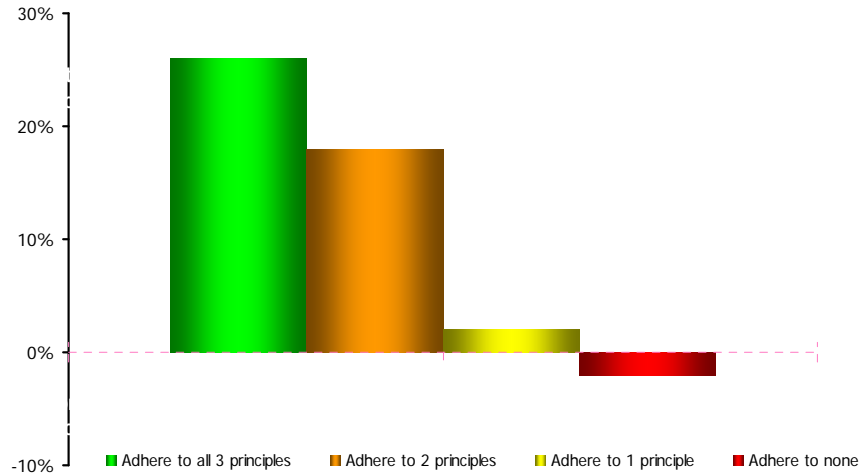
Figure 2: Summary of Benefits and Costs

<b>Summary of Benefits and Costs (2001 Dollars)</b>			
<b>Dollars Per Person:</b>	<b>Benefits</b>	<b>Costs</b>	<b>B - C</b>
<b>Early Childhood Education</b>	\$17,202	\$7,301	\$9,901
<b>Nurse Family Partnership</b>	\$26,298	\$9,118	\$17,180
<b>Functional Family Therapy</b>	\$16,455	\$2,140	\$14,315
<b>Aggression Repl. Training</b>	\$9,654	\$759	\$8,805
<b>Multi-D Treat. Foster Care</b>	\$26,748	\$2,459	\$24,290
<b>Intensive Juv. Supervision</b>	\$0	\$1,482	-\$1,482
<b>Scared Straight Programs</b>	-\$11,002	\$54	-\$11,056
<b>Adult Drug Courts</b>	\$5,787	\$4,019	\$1,768
<b>Int. Adult. Sup: Surveillance</b>	\$0	\$3,478	-\$3,478
<b>Int. Adult. Sup: Treatment</b>	\$5,870	\$4,000	\$1,870

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Figure 3: Impact of Adhering to Research-Based Principles

### Impact of Adhering to the Core Principles of Effective Intervention: Risk, Needs, and Responsivity\*



Source: Andrews, Donald A., Dowden, C., & Gendreau, P. (1999). "Clinically relevant and psychologically informed approaches to reduced reoffending: A meta-analytic study of human service, risk, need, responsivity, and other concerns in justice contexts." Unpublished manuscript, Ottawa, ON: Carleton University.

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Figure 4: The Big Four Criminogenic Needs

The Big Four	
Criminogenic Need	Response
Anti-social cognition	Reduce anti-social cognition, recognize risky thinking and feelings, adopt an alternative identity
Anti-social companions	Reduce association with criminals, enhance contact with pro-social
Anti-social personality or temperament	Build problem solving, self management, anger management, and coping skills
Family and/or marital	Reduce conflict, build positive relationships and communication, enhance monitoring/supervision

Source: Andrews, Donald A. (2007), "Principles of Effective Correctional Programs", in Motiuk, Laurence L. and Serin, Ralph C. (2007). *Compendium 2000 on Effective Correctional Programming*. Correctional Service Canada. Available at <http://www.csc-scc.gc.ca/text/rsrch/compendium/2000/index-eng.shtml>

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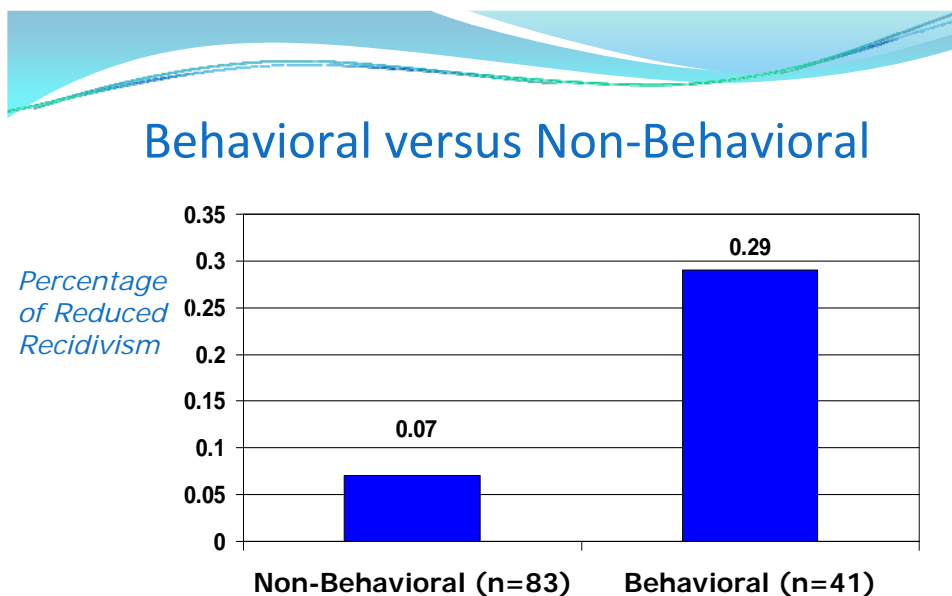
Figure 5: The Lesser Four Criminogenic Needs

## The Lesser Four

Criminogenic Need	Response
Substance abuse	Reduce usage, reduce the supports for abuse behavior, enhance alternatives to abuse
Employment	Provide employment seeking and keeping skills
School	Enhance performance rewards and satisfaction
Leisure and/or recreation	Enhance involvement and satisfaction in pro-social activities

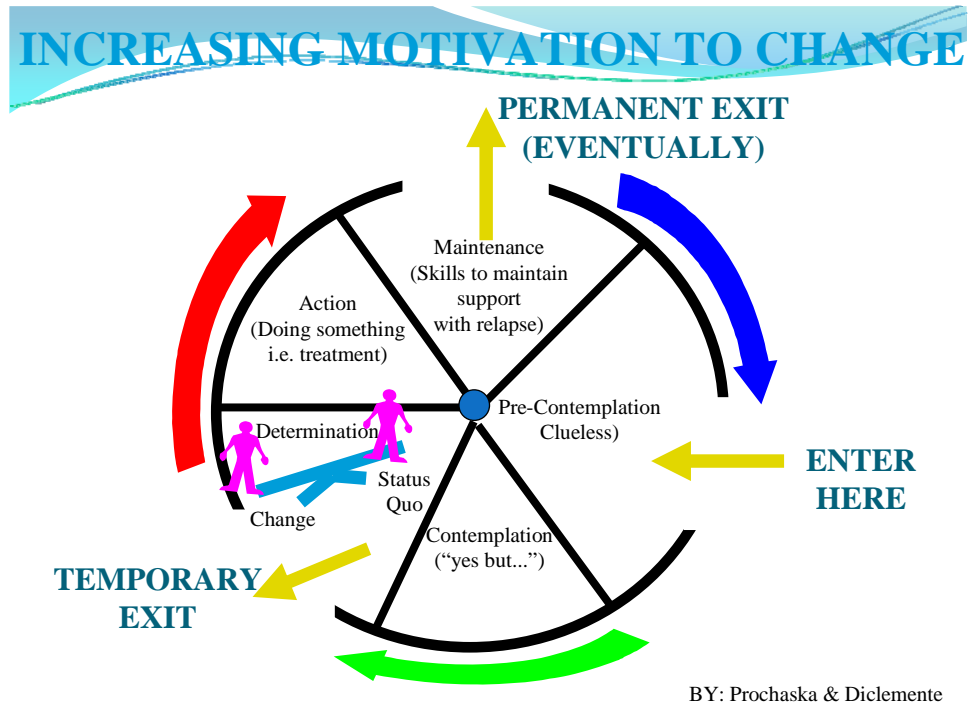
Source: Andrews, Donald A. (2007), "Principles of Effective Correctional Programs", in Motiuk, Laurence L. and Serin, Ralph C. (2007). Compendium 2000 on Effective Correctional Programming. Correctional Service Canada. Available at <http://www.csc-ccc.gc.ca/text/rsrch/compendium/2000/index-eng.shtml>

Figure 6: Behavioral vs. Non-Behavioral Interventions



Source: Andrews, D.A. 1994. "An Overview of Treatment Effectiveness. Research and Clinical Principles," Ottawa, Canada: Carleton University, Department of Psychology

Figure 7: Stages of Motivation to Change





DOING GOOD,  
DOING HARM

QUIZ FOR SENTENCING  
STAKEHOLDERS



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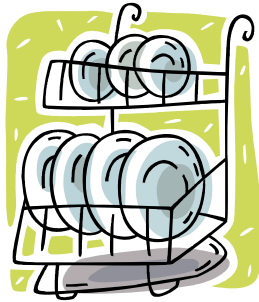
<b>Quiz Question</b>	<b>Answer</b>
<p>1. Which of the following sentencing options best reduce recidivism in the long term?</p> <ul style="list-style-type: none"> <li>a. Boot camps</li> <li>b. Wilderness programs</li> <li>c. Escalating sanctions</li> <li>d. Cognitive behavioral programs</li> </ul>	
<p>2. Which is not a criminogenic need?</p> <ul style="list-style-type: none"> <li>a. Depression</li> <li>b. Anti-social peers</li> <li>c. Low victim empathy</li> <li>d. Unemployment</li> </ul>	
<p>3. True or false. The lack of education is among the top four criminogenic needs</p>	
<p>4. Responsivity means:</p> <ul style="list-style-type: none"> <li>a. Being responsive to the needs of offenders</li> <li>b. Using actuarial risk/need assessment tools</li> <li>c. Focusing on offender strengths</li> <li>d. Matching the individual traits of the offender with the program components</li> </ul>	
<p>5. True or false. It is generally true that treatment can be effective and therefore it is more important that you provide lots of treatment than to be concerned with the type of treatment</p>	
<p>6. True or false. Placing offenders with low self esteem in programs that increase their confidence does not reduce recidivism</p>	
<p>7. True or false. It is generally true that most treatment has not worked in reducing recidivism and therefore sentencing should focus on holding the offender accountable and restoring the crime victim</p>	

<p>8. Which of the following programs work in reducing recidivism over the long term:</p> <ul style="list-style-type: none"> <li>a. Gardening and horticulture</li> <li>b. Yoga</li> <li>c. Drum circles</li> <li>d. Lectures designed to give insight</li> <li>e. AA</li> <li>f. None of the above</li> </ul>	
<p>9. Which of the following program components contribute the least to reduced recidivism:</p> <ul style="list-style-type: none"> <li>a. Offenders rehearsing skills learned in programs</li> <li>b. Staff role modeling</li> <li>c. Positive reinforcement</li> <li>d. Programs designed to provide insight</li> </ul>	
<p>10. Which is more important in lowering recidivism:</p> <ul style="list-style-type: none"> <li>a. Lower workload for staff</li> <li>b. Providing staff with training and skills</li> <li>c. Getting more resources</li> <li>d. Use of external control</li> </ul>	
<p>11. Mixed gender offender treatment groups is:</p> <ul style="list-style-type: none"> <li>a. Effective for role modeling and controlled exposure to mixed gender issues</li> <li>b. Harmful to positive results</li> <li>c. Neither harmful nor positive</li> <li>d. None of the above</li> </ul>	
<p>12. Evidence based practices is not used in the fields of:</p> <ul style="list-style-type: none"> <li>a. Medicine</li> <li>b. Nursing</li> <li>c. Corrections</li> <li>d. Plumbing</li> <li>e. None of the above</li> </ul>	
<p>13. True or false. It is important to give offenders positive reinforcement and feedback when they are pro-social if your goal is risk reduction.</p>	
<p>14. True or false. It is important to give offenders negative consequences when they are non-compliant if your goal is risk reduction.</p>	

15. True or false. The best program for the extreme high risk offender is a cognitive restructuring program	
16. What is the ratio of the number of positive reinforcing statements that must be given before an individual will hear a critical comment? a. 4:1 b. 1:1 c. 2:1 d. 10:1	
17. Dosage and intensity of the treatment intervention is critical for reduction of recidivism. The average number of treatment hours needed for reduced recidivism for a higher risk offender is: a. 200 hours b. 25 hours c. 50 hours d. There is not enough research to know the right amount of dosage	
18. Punishment can be effective at changing behavior if: a. All misbehavior is caught b. Misbehavior is responded to quickly with an effective response c. Alternative behaviors are taught d. All of the above e. None of the above	
19. True or false. Putting all offenders in a drug class to make sure that all get educated on harm of drugs is a good strategy.	
20. Putting lower risk offenders in a cognitive behavioral class will: a. Help settle the class down by providing positive role models for the disruptive, higher risk offenders b. Increase the lower risk offender recidivism rates c. Decrease the higher risk offender recidivism rates d. Not have any real effect	



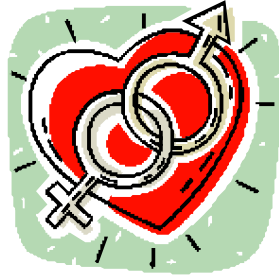
## Exercise: Rank the Plates



**Instructions:** at each table there will be a set of thirteen plates. The task of each group at the table is to rank the plates according to the following criteria. Once the plates have been satisfactorily ranked, the results should be written on flip chart paper and conserved. The correct ranking will be revealed later in the Module:

- ➡ Identify which of the plates are non-criminogenic (5 of them)
- ➡ Of those that are criminogenic (8 of them), identify the top four (most influential) and the lesser four
- ➡ Try to list them from most influential to least
- ➡ DO NOT look at the Participants' Manual. That is cheating and we have cameras
- ➡ Write your plates in rank order on flip chart and hold until correct answers are revealed later in the Module

## Exercise: The War Of the Sexes



### Instructions

The items on the following list are either more true of men or of women. Determine whether each statement is more applicable to men or women, by writing M for male and F for female by each item.

- 13 times more likely to score above 700 on SAT
- Twice as likely to be mentally retarded
- 3 times more likely to stutter
- More susceptible to chronic headaches
- More susceptible to bed wetting
- 2.3 times more likely to be psychologist
- More likely to recall childhood memories
- Works out less often
- 4 times more likely to commit suicide
- 72% more likely to develop lung cancer
- Smiles more often
- One twelfth to have group sex
- 2 times more likely to develop Alzheimer's
- Speaks sooner, makes fewer speech errors
- Brain ages faster, more damaged by aging
- 100 times more likely to be chess grandmaster
- 3 times more likely to buy X rated movies
- 5 times more likely to have had more than 20 sex partners

## NAME THAT SENTENCE



**Instructions:** now that you have learned about the concepts of offender risk and criminogenic need, it is time to try to craft a sentence using that knowledge. In your jurisdictional teams, work together to complete the table below with respect to one of the previous case studies that will be assigned to you. Try to determine the risk level of the offender (low, medium, high, very high) and to identify the top four criminogenic needs that are present, placing them in rank order of importance. Then in your group, craft and justify a sentence that you believe would be most appropriate for your offender, selecting from all the sanctioning options available to you (retribution, incarceration, deterrence, rehabilitation, restoration).

<b>Offender:</b>	
<b>Risk Level</b>	
<b>Criminogenic Need #1</b>	
<b>Criminogenic Need #2</b>	
<b>Criminogenic Need #3</b>	
<b>Criminogenic Need #4</b>	
<b>Smarter Sentence</b>	
<b>Smarter Sentence Rationale</b>	





## Smarter Sentencing in Action: Other Jurisdictions' Experiences

*Prosecutors, defenders, judges, and community corrections personnel all play critical roles in reducing the risk of re-offending, and through a systemic application of research-based practices can work to reduce recidivism.*

Most practitioners do not have time to conduct literature searches on applied research that might assist with existing practice. Much of the research in the literature is written without regard to its application. That is, it contains methodological descriptions and its findings explore possible results and relative strengths of the correlations. Few studies point out the potential day-to-day application of the conclusions. Practitioners tend to learn best by examining what their colleagues have done as these individuals' real world experiences are practical and relevant to the challenges of application. Caution should be exercised when looking at other jurisdictions for at least two reasons. First, what worked in one jurisdiction may not work in another. Different organizational cultures, community sentiment, and personnel traits are just some of the variables that might improve or mitigate the likelihood of success in another area. Secondly, if the experience in another area does not align with research it might not be a good idea to replicate. Many practices sound promising but fall short of positive outcomes (such as boot camps). Examining other jurisdictions' experiences that align with research-based practices is perhaps the most useful as it integrates the evidence with the real-world application.

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### ICON KEY

-  Learning objective
-  Materials & resources
-  Worksheets & exercises
-  Test your knowledge

Some of the more widely reported reasons for examining how other jurisdictions have been implementing Research-Based Practices are as follows:

- Theory and research are often difficult to apply and seeing how practitioners have operationalized lessons learned can be valuable
- Criminal justice stakeholders may want to talk with their colleagues in other jurisdictions who have applied Research-Based Practices in order to avoid mistakes and maximize their chances for success
- Others' experiences can often spark a modified approach in another area

## Module 4 Learning Objectives

This module is designed to demonstrate Smarter Sentencing in practice. By the end of the module, participants will be able to



- ✎ Describe how other jurisdictions are applying Research-Based Practices to policy and practice
- ✎ Identify one or two practices that can be immediately adopted in their system, or otherwise pursued
- ✎ Increase the number of creative risk reduction practices that might be possible based on research

## Rationale

Jurisdictions across the country have been applying research to criminal justice practice and policy. This module describes the experiences of Travis County (Austin), Texas, and six jurisdictions in Wisconsin as they have adapted and implemented research-based principles in their assessments and pre-sentence investigations.

Additional examples of research-based criminal justice policy and practice can be found in the Appendix.

## Travis County Community Impact Supervision

The Travis County Community Supervision and Corrections Department (CSCD) is an adult probation agency that operates in Travis County (County Seat-Austin), Texas. In 2005 it began a reengineering effort to apply evidence-based practices. The project was called **TCIS**, or Travis Community Impact Supervision (see [Figure 1](#)). TCIS included a wide variety of activities including but not limited to the following:

- training staff on evidence-based practices,
- using motivational interviewing with offenders,
- referring to cognitive behavioral programming, and
- assessing offender risk.

In addition, the agency

- conducted strategic and action planning,
- validated the risk assessment instrument,
- created a central diagnostic unit,
- revamped the manner in which it wrote pre-sentence investigations, and
- redesigned differential supervision strategies for the offender population.

### The Diagnostic Report

The Department uses the Wisconsin Risk Assessment instrument, the SCS (Strategies for Case Supervision), plus other tools that screen for substance abuse and mental health issues. The final Diagnostic Report identifies risk levels for reoffense, criminogenic needs, and offender profile types that assist the courts in setting conditions and help officers determine the kind of supervision that would be most successful with the offender.

Travis County planners worked with the judges to make the PSI and risk assessment process as user friendly as possible. The judges and probation collectively agreed that color coding made sense. As a result, the low risk offender is given the color yellow, the medium risk offender is given the color blue, and the high risk offender is given the color red. The corresponding sentencing policy is as follows:

- *Low risk offenders* are placed on minimum supervision and required to report to the probation officer as directed, pay fines, and pay fees. These individuals may be placed on maintenance caseloads or other forms of minimum supervision. If needed, referrals are made to educational or short term assistance programs.

- *Medium risk offenders* are given programs designed to change their behavior. A progressive sanctions grid guides sanctions based on severity of violation and risk level. Referrals are made to outpatient treatment programs and/or cognitive classes.
- *High risk offenders* may be placed on surveillance caseloads and are seen more frequently. Violations are processed quickly with less tolerance for non-compliance. In addition to referrals made to intensive outpatient or residential programs, high risk offenders are referred to specific high risk cognitive programs.

The goal of the probation department changes based on risk (see [Figure 2](#)). Therefore, the outcomes expected are as follows:

- Low risk offender objective is to divert the person from the system and not consume too many resources
- Medium risk offender objective is to reduce the likelihood that this offender will commit a future crime
- High risk offender objective is to have compliance, reduce recidivism, and revoke quickly if he/she is non-compliant

The Wisconsin Risk Assessment indicates potential risk to reoffend. The SCS score classifies the profile of the offender (see [Figure 3](#)). The headings on the grid (SIS, SIT, ES, CC, LS) stand for the different profiles. For example, LS means Limit Setting which instructs the supervising agent to be clear on boundaries with this offender and set very tight limits on his or her movement. The court is not asked to learn about the profile of the offender but to look at the grid, which is embedded in the PSI, to determine where the offender falls within the color sections. At a quick glance the judge knows the risk level and the desired outcome.

The grid in [Figure 4](#) lists the criminogenic needs along the left hand column (criminal thinking, peer relations, drug use, etc.). The columns to the right represent the degree to which the individual may possess those traits or factors. Items that are shaded mean that the court should consider dispositional conditions that address those needs as they are correlated with future crime. Again, with a quick glance, the courts can ascertain the primary issues that need attention..

### Results: Revocation Rates, 2005-2008

At the same time they designed TCIS, Travis County planners established an evaluation plan to ensure that their efforts had the anticipated effect on probationers.

The data in [Figure 5](#) compare felony revocation rates pre & post implementation of TCIS. The revocation rate is felony revocations out of the total felony population under supervision for two different fiscal years: FY 2005 and FY 2008. The left column shows that the total revocation rate declined from 10.2% in 2005 to 9.0% in 2008. The right column shows the effect on “technical” revocations, which are revocations due to non-compliance with the conditions of probation. In this case, the rate declined from 5.9% of the total felony population in 2005 to 3.4% in 2008. This latter figure represents a 47% decrease in the number of offenders whose probation was revoked for non-compliance. It also marks reversal of a three-year incline in technical revocations prior to 2005.

*Source:* Texas Department of Criminal Justice Community Justice Assistance Division (Statistical Data File provided to Justice Center, Council of State Governments, January 2009).

### Results: Re-Arrest Rates, 2005-2008

The comparison shown in [Figure 6](#) is of 1,287 felons placed on probation pre-TCIS from January to June 2006 to 614 post-TCIS probationers placed from July to October 2007. Both groups were tracked for one year after placement for new arrests using the statewide Department of Public Safety database. The table shows the re-arrest rate by risk level. The percent re-arrested in one year after placement on probation declined from 29% in the pre-TCIS group to 24% in the post-TCIS cohort. This represents a decline of 17% from the pre-TCIS group. For purposes of comparison the risk levels of the two groups were determined. This reduction is even more significant considering the risk level of the post-TCIS group. The data showed that 59% of the pre-TCIS cases were high-risk, while 67% of the post-TCIS cases were high-risk.

What is especially noteworthy about these various research studies is not just the quality of the evidence involved but that the evidence is of *recidivism reduction*, not just low recidivism rates. In the absence of evidence of recidivism reduction, low recidivism rates may merely reflect that the participants in the program were persons who were not likely to re-offend in the first place.

Additional materials describing the Travis County approach can be found as separate files on this CD-ROM.

## Wisconsin AIM (Assess, Inform, and Measure)

In 2004, the Wisconsin Court System’s Planning and Policy Advisory Committee established an Effective Justice Strategies Subcommittee (EJSS) to explore and assess the effectiveness of policies and programs designed to improve public safety and reduce incarceration. The subcommittee’s work was premised on the notion that the nature and value of information provided in advance of sentencing is critical to the determination of when an individual is appropriate for diversion from a jail or prison sentence.

The resulting process – Assess, Inform, Measure (AIM) –consists of several key components. Each offender is assessed for level of risk, criminogenic needs, and responsivity factors using validated instruments. Judges are informed of the results of the assessment process throughout various stages of the decision-making process; they are also provided a summary of this individual including demographic information, criminal history and potential community-based programming to address their assessed needs. In addition, the program incorporates two “feedback loops”: a “process” loop to measure and report the value of the information being provided to the court, and an “outcome” loop to measure and report aggregate recidivism outcomes and ongoing validation of the screening/assessment process.

Six counties – Eau Claire, Iowa, La Crosse, Marathon, Milwaukee, and Portage – are implementing AIM in a pilot project, with two additional counties coming online within the next six months. Each county selects its target population and corresponding validated assessment tools to best meet local needs. However, data collection, definitions, and reporting methods must be consistent across the counties, and all of them utilize AIM web-based software for this purpose.

Milwaukee County launched its AIM project in May 2009. Eligible offenders include those convicted of Class F, G, H, or I felonies as outlined by Wisconsin statute. Offenders are ordered to complete AIM assessments upon entry of a guilty plea or a guilty finding. The assessments are conducted by AIM staff, relying on available data and validated assessment tools. The process includes the following:

- Collection of basic demographic information, utilizing the Milwaukee County Pretrial Services Intake Screening Instrument.
- Review and summary of current charges and criminal history.
- Review and summary of prior history with community-based supervision.
- Risk and needs assessment, utilizing the LSI-R.

- Substance abuse screening for offenders with identified histories, utilizing validated AODA instruments.
- Responsivity assessment, utilizing SOCRATES, the Stages of Change Readiness and Treatment Eagerness Scale.
- Review and summary of available community-based programming, utilizing three existing databases in the county.

The data are compiled in a user-friendly format that is submitted to the sentencing judge. Process and outcome feedback loops are still under construction.

La Crosse County has been implementing evidence-based practices for many years under the umbrella of the Chemical Health & Justice Sanctions program, a county project designed to develop programs that reduce the jail population and reduce recidivism. The AIM process was folded into the existing practices in January 2009.

In order to bring more system-wide improvements to the sentencing process, La Crosse County has chosen to bring in a broad offender population to AIM with the following parameters:

- The person has been ordered or recommended for bond supervision by Justice Sanctions.
- The court has sentenced the person to electronic monitoring as a condition of a sentence.
- The person is referred to OWI Treatment Court or Drug Treatment Court.

Individuals identified for the AIM process are assessed using the LSI-R risk and needs instrument. The URICA (University of Rhode Island Change Assessment) and the SARA (Spousal Abuse Risk Assessment) are specialized tools utilized by Chemical Health & Justice Sanctions staff. Approximately 25% of the criminal defendants in La Crosse County have had an AIM assessment completed.

*Source:* Wisconsin Supreme Court, Office of Court Operations

A sample AIM report can be found as a separate file on this CD-ROM.

## References



Fabelo, Tony, Ph.D (2007) *Travis Community Impact Supervision: Two Year Department Reassessment: Accomplishments and Areas of Further Work*, Report submitted by The JFA Institute to TCIS in August, 2007.

Figure 1: TCIS Model: Travis County, TX

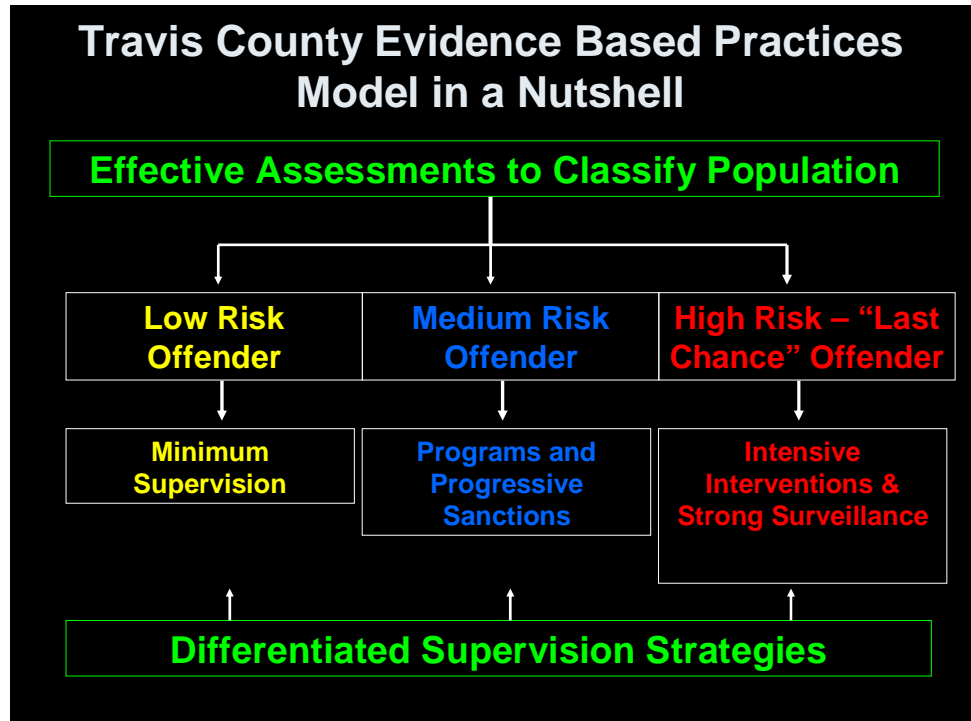


Figure 2: TCIS Outcomes

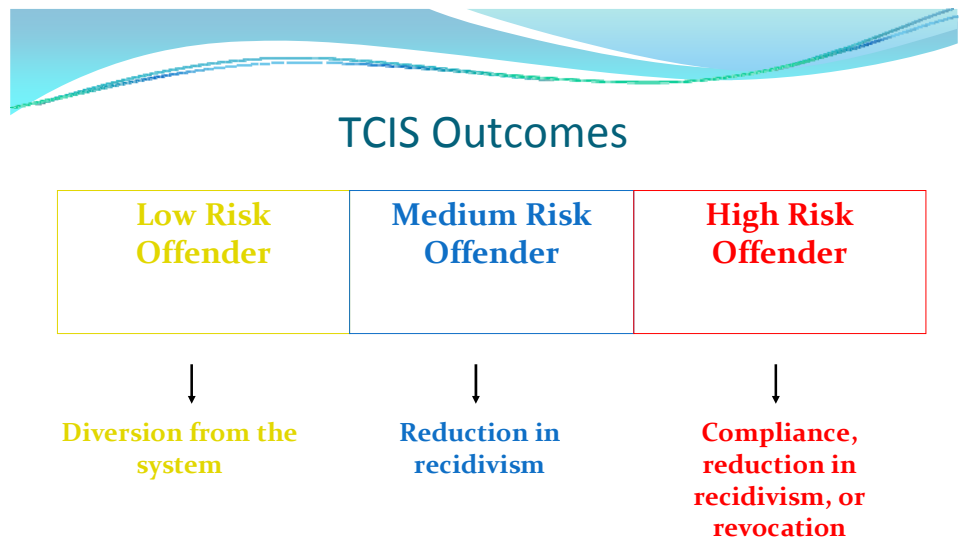


Figure 3: Travis County Classification Grid



## Travis County, Texas

Initial Risk	SCS Score - Classification				
	SIS	SIT	ES	CC	LS
Low					
Medium					
High				XX	

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Figure 4: Criminogenic Risk Factors

The shaded areas  
indicate criminogenic risk factors

Domains	Summary Evaluation Social Indicator		
	Not An Issue (NI)	Potential Concern (PC)	Salient Problem (SP)
<b>Criminal Thinking/Orientation</b>	First time offender. Pro-social	Negative environmental influences, peers etc. Escalating Criminal History	Lengthy criminal history. Entrenched criminal value system.
<b>Peer Relations</b>	Generally positive and associations with non-offenders	Occasional association with other offenders	Gang member or associates with other offenders/drug dealers. Easily influenced
<b>Assaultive Behavior</b>	No evidence of emotional instability or assaultive behavior	Single prior episode of assaultive behavior	Current or multiple episodes of assaultive behavior
<b>Alcohol Use</b>	None or Social.	Occasional abuse, some disruption of functioning	Frequent abuse, serious disruption
<b>Drug Use</b>	No Current Use	Occasional abuse, some disruption of functioning	Frequent abuse, serious disruption *Prior juvenile arrest for drugs *Tested positive for recent marijuana use
<b>Sexual Behavior</b>	No evidence of inappropriate sexual behavior	Current or past statutory offense	Current and/or multiple incidents, which have occurred in the last 5 years

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Figure 5: Travis County Felony Revocation Rates

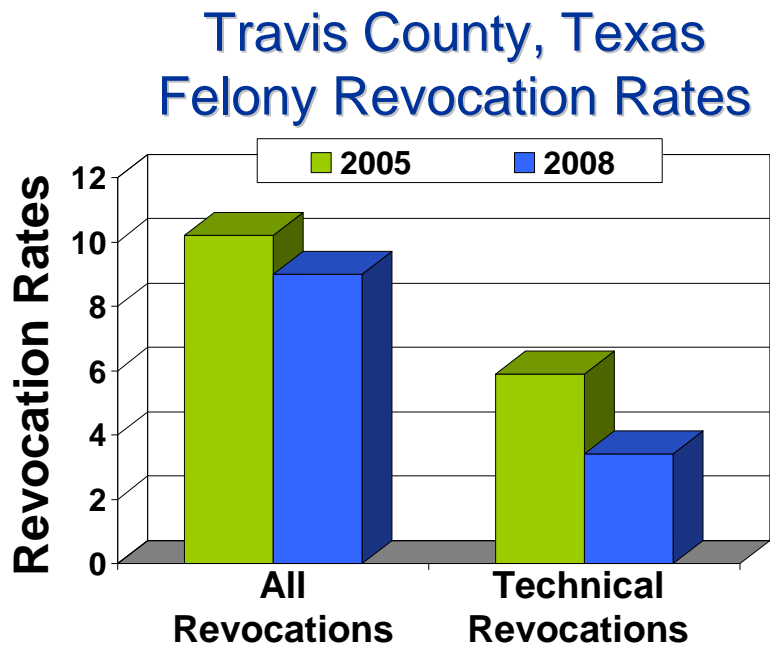


Figure 6: Travis County Re-Arrest Rates

#### One-Year Re-Arrest Rates Lower After TCIS

% Re-arrested 1 year later by Risk Level	Pre-TCIS	Post-TCIS	% Change in Rate Pre- to Post-TCIS
LOW	26%	6%	-77%
MED	26%	13%	-50%
HIGH	34%	31%	-9%
OVERALL	29%	24%	-17%



## Action Planning

*Long-range vision and strategic planning are great tools, but we need to get some things done before lunch.*

Most criminal justice systems are under immense pressure to process cases, manage existing or potential crises, and meet legislative mandates with limited resources. As such, stakeholders often view the idea of crafting a thorough, detailed plan of action as a luxury they can ill-afford despite a desire to do so. While planning certainly does occur it frequently requires an abundance of effort and rarely includes built-in feedback loops to determine if the plan was implemented properly and had the intended consequences.

The majority of change efforts fail to meet their desired outcome, even as many as 85% of initiatives. The reasons are many and usually involve not taking the time to manage the human side of the change process. That is, people need time to have input, shape the changed policy or practice, have time and training to learn new ways of implementing the change, and have opportunities to learn from failures before the change effort becomes routine and well understood.

Action planning toward changes in evidence based practice and policy is one way to help an agency or a system develop a thoughtful roadmap, gain consensus and buy-in, anticipate possible problems, make assignments, collaborate with each other, hold each other accountable to the agreed-upon actions, and determine the degree to which the change was successful and/or if adaptations need to be made. This planning is usually viewed more favorably by system players than strategic planning because it deals with the current reality and because outcomes are realized more quickly.

This is not to say that action planning is easy. The process of developing an action plan can be tedious and difficult due to the many players that need to be part of the solution and because every solution creates another set of anticipated or unanticipated side effects. However, the actual planning process can be completed in a relatively short period of time (2-3 days) after proper

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### ICON KEY

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Learning objective



Materials & resources



Worksheets & exercises



Test your knowledge




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attention is given to the preparation stages. Once completed, a written action plan serves as a roadmap that can be revisited periodically to determine progress and make refinements as the change process yields positive or negative results.

## Module 5 Learning Objectives



The Module is designed to begin the action planning process for moving toward the implementation of Research-based Sentencing in a jurisdiction. As a result of this module, participants will:

-  Be able to define the key components of an effective action plan
-  Understand the action planning process
-  Prepare a preliminary action plan

### Introduction to Action Planning

Action planning is not usually greeted with a great deal of excitement by stakeholders. The idea of being tied up for three days in a room with dozens of flip chart papers taped on the walls does not usually bring about eager anticipation, especially among prosecutors who were attracted to the job in part because of the important and sometimes high profile decisions that must be made on a daily basis. However, if the goal of the agencies and system is to make the public safer then action planning is a necessary part of the job.

There are three core reasons why action planning is important if an agency or system wants to be successful in driving down recidivism rates

- Most change efforts fail without a strategic set of steps designed to overcome stubborn obstacles
- Often, stakeholders are busy and preoccupied with a large set of responsibilities resulting in distraction from the details required for change to be successful

- Previous efforts by other jurisdictions have produced significant advancements toward Research-Based Practices when they had a plan and a body of officials that held each other accountable to a high standard

#### Definition of Action Planning

**Action planning** is defined as “A planned series of actions, tasks, or steps designed to achieve a goal.”

Action plans are:

- Detailed: Because they are action oriented, action plans provide highly detailed descriptions of what steps need to be taken by whom and when. They are not lofty or abstract but highly concrete and specific.
- Shorter-term: Action plans typically describe a set of steps that are to be taken in the next 12-18 months. For the purpose of this curriculum, an 18 month term will be used.
- Broken into smaller tasks: Larger goals and objectives will be broken into smaller steps that can be delegated for clarity around what is to be accomplished and how.
- Easy to perceive movement: Given the clarity around the goals in an action plan and the detail around the steps it is easy to determine whether movement toward the completion of the plan is occurring.

Action plans address the following:

- Definition: *A planned series of actions, tasks or steps designed to achieve a goal.* This definition stresses the specific activities required to achieve a goal. It is more interested in the operational and immediate steps to be taken.
- Key components: *Goals, Objectives, Tasks or Activities, Timeline, Person Responsible.* For action planning to be successful, the goal must be well defined and clear. From there, it can be broken down into more specific parts and timelines and people attached to them.
- Length of time: *Twelve to Eighteen months.* Action planning looks at the shorter time horizon. For the purpose of this module, steps that take up to eighteen months will be the maximum that will be used for planning purposes.

- Key questions an action plan asks: *What do we want to accomplish? How can we do it? Who will do what, when?* Action planning is more interested in the what, how, when, and who.

### Components of an Action Plan

Action plans have six key components:

- Goals, which describe the end result, not the means to the end
- Objectives, which are precise statements of what will change
- Activities or Tasks that need to be accomplished in order to achieve the objectives
- Person Responsible, which is the name of the person and/or organization who will complete the activity or task
- Timeline for completion of activities or tasks
- Outcome measure that measures the result of an activity or set of activities

It is important to note that Goals and Objectives are *not* synonymous. Goals represent the end result and objectives represent the specific things that will change that indicate progress toward goal attainment. As such, objectives can be the most difficult to define and articulate.

One approach for developing well-defined objectives is the **SMART** approach. SMART is an acronym that describes the key characteristics of meaningful objectives:

- **S**pecific (concrete, detailed, and well-defined)
- **M**easurable (numbers, quantity, comparison)
- **A**chievable( feasible, actionable)
- **R**ealistic (considering resources and context)
- **T**ime-Bound (a defined time line)

**SMART** objectives are the stepping stones towards the achievement of goals . . .

**Specific:** the objective is concrete, detailed, focused and well defined. That is the objective is straightforward, emphasizes action and the required outcome. Objectives need to communicate what you would like to see happen. To help set specific objectives it helps to ask the following questions:

- **WHAT** am I going to do? This are best written using strong, action verbs such as conduct, develop, build, plan, execute, etc. This helps your objective to be action-orientated and focuses on what's most important.
- **WHY** is this important for me to do?
- **WHO** is going to do what? Who else need to be involved?
- **WHEN** do I want this to be completed?
- **HOW** am I going to do this?

### Diagnostic Questions

- What exactly are we going to do, with or for whom?
- What strategies will be used?
- Is the objective well understood?
- Is the objective described with action verbs?
- Is it clear who is involved?
- Is it clear where this will happen?
- Is it clear what needs to happen?
- Is the outcome clear?
- Will this objective lead to the desired results?

**Achievable:** objectives need to be achievable, if the objective is too far in the future, you'll find it difficult to keep motivated and to strive towards its attainment. Objectives, unlike your aspirations and visions, need to be achievable to keep you motivated. Whilst being obtainable, objectives still need to stretch you, but not so far that you become frustrated and lose motivation.

### Diagnostic Questions

- Can we get it done in the proposed timeframe?
- Do I understand the limitations and constraints?
- Can we do this with the resources we have?
- Has anyone else done this successfully?
- Is this possible?

**Realistic:** objectives that are achievable may not be realistic. However, realistic does not mean easy. Realistic means that you have the resources to get it done. The achievement of an objective requires resources, such as, skills, money,

equipment, etc. to support the tasks required to achieve the objective. Most objectives are achievable but, may require a change in your priorities to make them happen.

### Diagnostic Questions

- Do you have the resources available to achieve this objective?
- Do I need to revisit priorities in my life to make this happen?
- Is it possible to achieve this objective?

**Measurable:** If the objective is measurable, it means that the measurement source is identified and we are able to track the results of our actions, as we progress towards achieving the objective. Measurement is the standard used for comparison. For example, what financial independence means to me, may be totally different compared to what it means for you. As is so often quoted, **if you can't measure it, you can't manage it!** Importantly, measurement helps us to know when we have achieved our objective.

### Diagnostic Questions

- How will I know that the change has occurred?
- Can these measurements be obtained?

**Time-Bound:** this means setting deadlines for the achievement of the objective. Deadlines create the all important sense of urgency. If you don't set a deadline, you will reduce the motivation and urgency required to execute the tasks. Deadlines create the necessary urgency and prompts action.

### Diagnostic Questions

- When will this objective be accomplished?
- Is there a stated deadline?

### Definition of Action Plan Terminology

**Goal:** A brief, clear statement of an outcome to be reached within a timeframe. It uses words like "increase/decrease," "deliver," "improve" and create." Goals are larger desires of achievement and should be worded in a short and easy to understand manner. Verbs should precede each goal.

**Objective:** A specific, measurable, actionable, realistic, and time-bound (SMART) condition that must be attained in order to accomplish a particular goal. They are specific and measurable. Objectives break down the goal in smaller goals called

objectives. These objectives should be measurable. Each goal should have at least one objective. Most will have several. **Goals** are general intentions; **objectives** are precise. **Goals** relate to our aspirations, purpose and vision. **Objectives** are the battle plan, the stepping stones on the path towards the achievement of my goal. A goal is an abstract and general umbrella statement, under which specific objectives can be clustered. Objectives are statements that describe—in precise, measurable, and obtainable terms—defined and desired learner outcomes.

**Task or Activity:** The steps needed to be taken to reach the goal. The objectives cannot be reached without a series of concrete steps, tasks, or activities that must be accomplished. This is the smallest work unit that will be part of the action plan.

**Person Responsible:** *The single individual who has primary responsibility to ensure that the task or activity is accomplished.* It is critical that the person responsible be a single individual. When a committee or multiple people are assigned a task the responsibility tends to get diffused. Most groups want to avoid burdening someone with a task. While this is understandable, it is not helpful. The person responsible does NOT need to do the work. The person needs to make sure that the work gets done. The individual might have a team of folks who actually perform the task but one person should ultimately be made responsible to ensure that it is accomplished.

**Timeline:** *The date by which the task or activity is completed.* Sufficient time should be provided so the individual responsible can be successful. However, timelines too far out will potentially cause delay. If the task is set many months out it may be useful to individuals have smaller task that needs to be done but have to wait before others finish their work you may want to have a “check-in” and make sure that sufficient progress is being made. It is critical that the action planning group not “simply forgive” missed deadlines. A certain standard of excellence should be articulated whereby all involved understand the importance of getting their work done in time.

**Outcome Measure:** *A recordable result achieved as a result of an activity(ies) that can be expressed quantitatively.* Each objective should have a corresponding outcome measure. This measure would indicate if and how well the objective was received. It is easy to make plans. It is more difficult to identify a measure that indicates whether that plan is accomplishing its intended result. This is an important component to action planning. The selection of an outcome measure often crystallizes exactly what the objective is trying to achieve and its identification has value in and of itself.

## Articulating a Goal for Research-Based Smarter Sentencing

### *Big, Hairy, Audacious Goal*

A Big, Hairy, Audacious Goal (BHAG) is a term created by the authors of the best-selling book *Built to Last* (Collins and Porras). Collins and Porras found that the most successful (profitable) companies were ones where there was no doubt as to what its

goal was. A BHAG, then, is a clear and compelling goal that serves as unifying focal point of effort, and acts as a clear catalyst for team spirit. It has a clear finish line, so the organization can know when it has achieved the goal. Without a clear, elevating goal it will not be possible to gain consensus on the action plan. There should be no doubt as to the purpose of the agency and/or the justice system for which one goal stands out as a clear goal to achieve.

### *Discussion*



What is the BHAG for your agency?

What is the BHAG for the justice system that your agency operates in?

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## Action Plan Template for Implementing Research-Based Practices

**OVERALL GOAL OF THE RESEARCH-BASED PRACTICES ACTION PLAN: To effectively implement Research-Based Practices for the post convicted population with the overall goal of reducing recidivism by xx percent.**

**Goal 1: Apply actuarial and dynamic risk / need tools to determine the best method of plea negotiation, sentencing, offender intervention, and proper case management (planning) tools and techniques**

*Effectiveness in risk reduction requires the use of targeted interventions that are proven to be effective by research. The first step toward this end is to fully understand the characteristics of the individual offender that lead to criminal behavior and corresponding application of techniques that lead to reduction in criminal behavior. This goal is designed to ensure that actuarial tools are put in place that effectively and efficiently allow agency staff to determine the best course of action toward risk reduction.*

<b>What should be done? Objectives</b>	<b>How will it be done? (Tasks or Activities)</b>	<b>Who will take the lead?</b>	<b>When will it be done?</b>	<b>How will we know it's done? (Outcome Measure)</b>

**Goal 2: Increase offender engagement and motivation through strength-based techniques**

*Individuals are more likely to actively participate in their own intervention plan if they contribute toward the creation of that plan and are in agreement with the goals and strategies. Enhancing intrinsic motivation requires skillful techniques and understanding of human behavior. This goal seeks to maximize the use of offender strengths and intrinsic motivation toward the creation of a case plan and subsequent interventions and for direct service staff to use positive reinforcement to encourage compliance and advancement toward risk reduction interventions. The use of strengths and rewards/incentives must be balanced with the effective use of consequences. Anti-social behavior and non-compliance must be responded to consistently and effectively.*

<b>What should be done? Objectives</b>	<b>How will it be done? (Tasks or Activities)</b>	<b>Who will take the lead?</b>	<b>When will it be done?</b>	<b>How will we know it's done? (Outcome Measure)</b>

**Goal 3: Target and apply the most effective intervention**

*Effective correctional interventions contain certain features and characteristics that must be matched with the offender profile in order to accomplish risk reduction objectives. Failure to take the research on matching (responsivity) into account can actually lead to higher recidivism rates. This goal seeks to match the offender, program features, and staff characteristics for maximum risk reduction results. And, it seeks to fill out the continuum of services in order for staff to have sufficient criminogenic targeted services to provide what is needed for the diversity of offender profiles. Finally, revocation practices should be aligned with the research that demonstrates effective results such as certainty, consistency, short response delay, etc.*

<b>What should be done? Objectives</b>	<b>How will it be done? (Tasks or Activities)</b>	<b>Who will take the lead?</b>	<b>When will it be done?</b>	<b>How will we know it's done?(Outcome Measure)</b>

**Goal 4: Supervision strategies for diversion and formal probation/parole**

*Certain case management strategies and techniques are more effective than others in addressing criminogenic factors. Well trained staff who have direct contact with offenders understand that every interaction with an offender represents an opportunity to drive home pro-social learning. In addition, how the probation officer spends the one-on-one time with an offender is critical toward promoting behavioral change. The time should be spent in a targeted way, addressing the major criminogenic needs such as anti-social peers, or personality factors. The agency must address how the staffing is aligned and structured by ensuring that caseload size is commensurate with the expected duties around risk reduction and that staff profiles match the kind of caseload duties assigned.*

<b>What should be done? Objectives</b>	<b>How will it be done? (Tasks or Activities)</b>	<b>Who will take the lead?</b>	<b>When will it be done?</b>	<b>How will we know it's done?(Outcome Measure)</b>

**Goal 5: Support meaningful and long-term community and family involvement in informal social control**

*The progress made within correctional programs can be thwarted if the social network of the offender does not reinforce the offender's new pro-social learning, skills, and competencies. In addition, the community holds important keys to social bonding that an offender must have access to such as housing, mentorship, family support, recreation, and faith community participation. This goal seeks to find ways to strengthen the community and family involvement with the offender in a pro-social manner. In addition, the agency can provide leadership in ensuring that community providers are implementing effective programming through techniques such as preferred provider lists, partnering around training, performance based contracting, etc.*

<b>What should be done? Objectives</b>	<b>How will it be done? (Tasks or Activities)</b>	<b>Who will take the lead?</b>	<b>When will it be done?</b>	<b>How will we know it's done? (Outcome Measure)</b>

**Goal 6: Information System Development, Fidelity, Quality Assurance, Feedback, and Evaluation**

*The organization needs to measure and evaluate its activities and communicate this data to those who are performing the work day-in and day-out. Programs should be evaluated on a periodic basis and information should support data based decision making. Direct service staff and management need to receive regular feedback on key indicators. And, fidelity measures should be put in place to ensure that programs and activities are being delivered effectively and according to the program model. The agency should have adequate fidelity measures, process measures, intermediate measures, outcome measures, and use evaluation and research to guide its practice.*

<b>What should be done? Objectives</b>	<b>How will it be done? (Tasks or Activities)</b>	<b>Who will take the lead?</b>	<b>When will it be done?</b>	<b>How will we know it's done? (Outcome Measure)</b>

## Appendix: Other Applications of Research- Based Practice and Policy

The Appendix provides additional examples of research-based criminal justice policy and practice in five areas:

- Assessment/Pre-sentence Investigations
- Sentencing
- Rewards and Sanctions
- Programs and Supervision
- Legislation

This list is not meant to be exhaustive. Creative solutions are being generated across the country. Research-based policies and practices may already be operating in your jurisdiction.

### Assessment and Pre-Sentence Investigations

This section describes the experiences in two states that have applied research to offender assessments and pre-sentence investigations:

*State of Missouri* discovered that judges who followed the PSI recommendations when that PSI was guided by a risk assessment got better results than those who did not; and

*State of Florida* law enforcement used assessments to determine how to process domestic violence cases resulting in a drop in lethality

## Missouri Sentencing Assessment Report

In November 2005, the state of Missouri implemented a system in which pre-sentence information incorporated sentence recommendations and recidivism risk information for judges to consider when making sentencing decisions. The goal of the new system was to “support the exercise of discretion with the best information practicable.” (Wolff, 2006; pg. 95)

Under this new system, judges, prosecutors and defense counsel are provided pre-sentence information from probation officers in a Sentencing Assessment Report, which includes (among other things):

- The offense and
- Offender characteristics and risk

Preliminary data support the use of Sentencing Assessment Reports – recidivism rates are lower than expected when the judge follows the recommended sentences. For example, when the recommended sentence is probation and the actual sentence is probation the recidivism rate is 13.9% for a new conviction within 5 years, compared to 22.5% when the actual sentence is prison (when probation is recommended). This data appears to support the use of risk tools, however, caution should be exercised with this data as a control group was not used for comparison purposes.

## Florida Domestic Violence Assessment Checklist

Law enforcement agencies in Florida began using a Domestic Violence Assessment Checklist to identify circumstances when a victim is most vulnerable and to determine how best to intervene.

The Domestic Violence Assessment Checklist is a set of 22 questions designed to identify risk factors and obtain crucial information on the victim and the history of the domestic relationship. The patrol officer will complete this form, which is mandatory for domestic/intimate partner violence calls, and forward it for review by detectives in the Assault and Battery Unit of the Criminal Investigations Division.

Victims who answer “yes” to certain questions are automatically referred to INVESTeam (a team of trained individuals who will conduct a personal interview and assessment). Several “yes” answers to other questions may indicate that the violence is escalating to lethality and INVESTeam may contact these victims. A “yes” answer to these questions can also give cause to the patrol officer to obtain a warrant for arrest, instead of filing the case with the State Attorney’s office. INVESTeam provides services to victims in the form of immediate response, case management, education on domestic violence, safety planning, individual/group counseling, referral information on community resources, crisis intervention, advocacy in the judicial system, and emergency shelter services.

*Source:* Phone conversation with Carol Wicks, CEO of Harbor House (the organization partnering with the Orlando Police Department on this). Contact Victor Uvalle, Orlando Police Department for more information

Law enforcement officers in Jacksonville Florida started using the checklist five years ago and found that domestic violence homicides dropped 50% in three years. The State Attorney General has now implemented the checklist in four other sites in Florida, including Orlando.

Note that while the data are believed to be accurate, cause and effect requires a more rigorous design to ensure that other factors may not be contributing to the outcomes. Harbor House is currently partnering with the University of Central Florida’s Sociology Department to collect data and conduct an analysis.

## Sentencing Practices

There are not as many national examples of how the courts have altered sentencing practices from a policy perspective. However, judges’ interest in Research-Based Practices has been increasing and it is expected that more progressive practice will emerge soon.

This section describes briefly two state’s experiences:

*Oregon:* A judge in Oregon has been collecting sentencing and outcome data. He has devised a system where he can see the results from prior sentencing decisions. The goal is to have data to help the judge know what intervention works best for the particular profile of offender.

*Illinois:* In some jurisdictions in Illinois the courts allow discretion for the probation agency to provide matched treatment based on valid risk assessments without burdening the court system with court reviews.

## Oregon DSS-Justice Database

Under the “Smart Sentencing” system in Multnomah County, Oregon, the judge has at the bench the following information

- Data files on offenders including profile and results
- Screens whereby each new case is matched to historical cases using charge, prior record, and demographics
- Graphs illustrating the most successful/unsuccessful interventions based on rearrest information

The data screens show judges and supervision officers how similar offenders, sentenced for similar crimes, have or have not avoided criminal behavior after being subjected to any of the available sanctions.

The system is called the DSS-Justice database. The database is automatically filled with information from a variety of computerized operational information systems. The courts, police, sheriff, district attorney, and department of corrections provide access to their data. Data warehouse technology extracts a copy of the needed information from each source, transforms it so it is understandable, and transfers it to the “warehouse” where criminal justice users can query it for answers that cannot be obtained from any one source alone.

The program constructs a bar chart (see [Figure 1](#)) based on data for the offender and the charge selected. The chart includes a bar reflecting the proportion of those receiving that sanction who were free of any new conviction for a similar crime within three years. It allows the judge to compare outcomes based on similar cases.

- A “similar offender” is one who has a similar criminal record and similar demographics (age, gender, and ethnicity).
- A “similar” criminal record is one that reflects the same rating, from “none” to “severe,” in each of six crime categories: violent crime, sex crime, property crime, drug crime, major traffic crime (including impaired driving), and domestic violence.

Users can modify all of the variables and generate a new bar chart in seconds.

In this portrayal, offenders who had a similar criminal history and profile had different outcomes (i.e., recidivism rates) based on what sanction they received. This shows how a court could use real-time data to help determine what the best sentencing disposition might be based on previous cases.

Remember that this is just an illustration. No one is recommending that sentencing be conducted simply by looking at a computer screen. However, if one type of sentencing disposition works better than another when sentencing an individual with a certain kind of profile, the court would be better informed when determining how to proceed.

### Illinois Open Mandate

A common concern expressed by judges and prosecutors when considering how to apply Research-Based Practices to sentencing is that in many jurisdictions the presentence investigation is not available at the time of the plea. The negotiated agreement is made before receiving any risk and criminogenic need information. Given the importance of pleas in keeping the system process efficient, this dilemma has left many in a quandary as to what to do. A few jurisdictions in Illinois use a concept called “Open Mandate” to address this.

The Open Mandate system basically allows probation to

- Determine treatment needs based on valid risk assessments after the plea/sentencing and require the offender to participate; and
- Reduce unnecessary and counter-productive conditions

These actions by probation can be taken without returning to court. Offenders can always request a hearing if they do not agree with the probation agency decision but very few take that course of action. This procedure allows the treatment needs to be met without having to have the PSI/risk tool completed at the time of plea or sentencing.

*For more information* contact Cheryl Barrett, Administrative Office of the Illinois Courts.

## Rewards and Sanctions

This section provides examples of three jurisdictions that have applied either sanctions or rewards effectively. Research has given agencies clear direction as to what is a good investment in resources if the goal is to gain compliance and public safety.

*Oregon* learned that sanctions alone do not make a difference in future violations or rearrest.

*Hawaii* learned that certainty of a sanction is a key factor in gaining offender compliance.

*Georgia* learned that rewards are effective at shaping behavior and can be administered with consistency and low cost.

### Oregon Probation Study

The Multnomah County Community Justice Department of Oregon asked the Vera Institute to examine its violation practices. The following three questions were posed:

- What are the most frequent condition violations among clients on supervision and the most frequent sanctions associated with those violations?
- What is the incidence and prevalence of jail sanctions?
- Is there an association between sanctions and short- and long-term outcomes?

Using matched samples, the Vera researchers found that

1. Intermediate sanctions had a negative effect on long-term outcomes, both re-arrest and reconviction.
2. The re-arrest rate for clients who received at least one sanction or intervention was 20 percent higher than that of the matched control group who received no sanctions; and the reconviction rate for clients who received any sanction or intervention was 15 percent higher than that of the matched control group.

3. The use of jail had a heightened negative impact on the short-term outcomes of clients on supervision. The number of jail days given was not significant when predicting failure at discharge.
4. There was no difference in patterns of success or failure in terms of whether clients received exclusively custodial sanctions or were given custodial sanctions in addition to other programs while on active supervision.

### Kansas Revocation Outcomes

Kansas attempted to decrease its prison population by developing local policy and practice to handle some parole violations at the community level. As a result of a structured decision making process, the Department of Corrections was able to significantly reduce the number of admissions to prison due to parole revocations. Most importantly, the relative recidivism rates of the parole population remained steady despite the fact that a smaller percentage of parolees were being returned (see [Figure 2](#)).

*Source:* Center for Effective Public Policy

### Hawaii HOPE Probation Project

In 2004, First Circuit Judge Steven Alm launched a pilot program to reduce probation violations by drug offenders and others at high risk of recidivism. This is a high-intensity supervision program, called HOPE Probation (Hawaii's Opportunity Probation with Enforcement). Probationers in HOPE Probation receive swift, predictable, and immediate sanctions - typically resulting in several days in jail - for each detected violation, such as detected drug use or missed appointments with a probation officer.

In HOPE Probation, defendants are clearly warned that if they violate the rules, they go to jail. Defendants are required to call a hotline each weekday morning to find out if they must take a drug test that day. Random drug testing occurs at least once a week for the first two months.

Probationers who test positive are arrested immediately. If they fail to appear for the test or violate other terms of probation, warrants for their arrest are issued immediately. Once the offenders are apprehended, a probation modification hearing is held two days later, and violators are typically sentenced to a short jail term. The jail time may increase for subsequent violations and repeat offenders are often ordered into residential treatment.

Note that these are preliminary outcomes, and while they are quite promising, caution should be exercised in interpreting the data. There are other possible explanations for the increased compliance rates that must be studied before it can be proven that the HOPE program was the reason for the changed results. This study is underway. Nonetheless, the results are promising at this time:

- For meth users, the rate of missed and dirty UA's dropped by more than 80%
- The rate of missed probation appointments fell from 13.3% to 2.6%
- Dirty drug tests fell from 49.3% to 6.5%

### Georgia BRAG

Positive reinforcement can be a more powerful method of shaping behavior than sanctions alone. Agencies are increasingly finding ways to provide rewards and incentives to help offenders maintain prosocial behaviors and attitudes.

The Georgia Parole agency created a BRAG chart (Behavior Response and Adjustment Guide) to help officers more consistently use rewards when offenders were compliant. This guide was put on a matrix and staff was encouraged to find ways to provide consistent rewards (see [Figure 3](#)).

*Source:* Georgia Parole Board

## Programs and Supervision

Much of the relevant research has been done on programs offered to offenders. There are hundreds of studies on this topic. The following are just a selected few:

*Tippecanoe County, Indiana:* Cognitive behavioral programming works best with most higher risk offenders

*Correctional Services of Canada:* Probation supervision can make a significant impact but only if they focus their time on criminogenic and behavioral matters

*Pinellas County, Florida:* Giving offenders information up-front on how to succeed on probation increases likelihood of success

### Tippecanoe County, Indiana: Thinking for a Change (T4C)

A study was conducted of a cognitive behavioral program called **Thinking For a Change (T4C)** in Tippecanoe County, Indiana. This cognitive behavioral program is commonly used and represents one of many cognitive behavioral programs now available nationwide. Tippecanoe County probation department is located in central Indiana and provides services to adult offenders brought into the correctional system for a felony or misdemeanor offense.

The study results indicate that participation in the T4C program is associated with a 28-50% reduction in recidivism compared to traditional probation (see [Figure 4](#)). These findings show that a specific cognitive behavioral curriculum that is readily available to correctional agencies can work to reduce recidivism.

Furthermore, the program was delivered by community corrections staff that did not necessarily possess any exceptional qualification or credentials aside from training on facilitation of the T4C program. Data were collected from 217 individuals in Tippecanoe County who were placed on probation for a felony offense.

### Correctional Services of Canada Research

James McGuire conducted a meta-analysis (study of studies) of correctional treatment programs. In his book, *What Works: Reducing Reoffending — Guidelines from Research and Practice*, he summarizes the findings:

- All correctional treatment programs reduce recidivism on average by 10%
- Program using cognitive-behavioral technologies reduce recidivism by 25-30%
- Programs with interpersonal skills training, behavioral interventions, cognitive skills training, and mentoring reduce recidivism by 40%
- Programs with functional family therapy, family empowerment, or multi-system therapy reduce recidivism by 60%

### Pinellas County, Florida Offender Orientation

Pinellas County, Florida was experiencing a high volume of probation violations due to missed appointments, failure to stay in contact with the probation officer, and other technical violations.

Officials observed that offenders were violating probation for technical reasons. They discovered that some offenders did not understand the rules of probation sufficiently to comply. Other offenders failed to problem-solve effectively when they fell out of compliance and made some false assumptions about what would happen if they contacted their probation officer.

In response to these findings, Pinellas County created an orientation program entitled “Making Supervision Work For You.” It was designed to help offenders succeed and to decrease the number of probation revocations. The program included

- Orientation program designed to let probationers know what to expect on supervision
- Tips on how to talk to probation officer, especially after misbehavior or no-show
- Giving the offender a fuller explanation of the rules up front and teaching concrete problem solving skills

Officials report a large improvement in successful discharges

## Legislation

State legislatures have increasingly gotten interested in the adoption of laws that align with Research-Based Practices. Some are creating incentives so that effective practice is rewarded with more funds. This section describes three legislative policy shifts and explains the reasons for these changes.

*Maine:* Reduced the number of low risk cases that crowd out probation caseloads

*Oregon:* Tied funding and quality to programs that used evidence based research

*Arizona:* Provided for performance based funding

### Maine: Focus on Low Risk Cases

In 2004 a major shift in policy occurred in the State of Maine. In light of research indicating that low risk offenders do not need significant correctional attention, fewer cases in the Class D and E category (misdemeanors) were given probation as an option.

Only domestic violence, sex offenders, repeat OUI offenders (one or more prior convictions in the previous ten years), and other unusual cases posing serious risk to public safety were allowed on probation. New sentencing alternatives were provided to the judges in lieu of probation and/or incarceration. The number of misdemeanants dropped from approximately 9,000 to 7,000 as a result.

*Source:* Crime and Justice Institute

### Oregon: Incentives for Evidence-Based Practice

The Oregon legislature introduced SB 267 in 2003. SB 267 requires crime-prevention and some mental health programs to be “evidence-based.” It requires prevention, treatment or intervention programs which are intended to reduce future criminal behavior in adults and juveniles or to reduce the need for emergency mental health services to be evidence-based. The statute obligates the agencies of Departments of Corrections, Human Services, Commission on Children and Families, Youth Authority, and Criminal Justice Commission to comply with its provisions.

By July of each of the following years the statute provides that

- 25% of state funds must be for EBP (2005)
- 50% of state funds must be for EBP (2007)
- 75% of state funds must be for EBP (2009)

Each state agency is required to report biennially to the Oregon Legislature on progress toward compliance with SB 267.

## Performance Incentives

Three states are profiled in this section, all of which legislatively provided performance incentives tied to positive outcomes: Nevada, Kansas, and Arizona.

*Nevada* passed earned time credit legislation that allows probationers to earn 20 days off their probation terms for every month they’re in compliance. This positive incentive helps clear low-risk offenders off caseloads, allowing officers to concentrate on higher-risk cases

*Kansas* provides \$4 million annually in state grants to county community corrections programs that submit plans to reduce revocations by 20%. The goal is

to reduce revocations by 50%. Savings from fewer prison commitments are to be returned to the community corrections agencies.

The *Arizona* legislature created a performance funding mechanism for probation departments to employ best practices to reduce crime and violations committed by people under probation supervision. Under the new legislation, the state will award counties that successfully reduce crime and probation revocations a percentage of the cost savings generated by these reductions at the state level. The county will then be required to reinvest this supplemental funding in victim services, substance abuse treatment, and strategies to improve community supervision and reduce recidivism.

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Figure 1: Multnomah County “Smart Sentencing” Chart

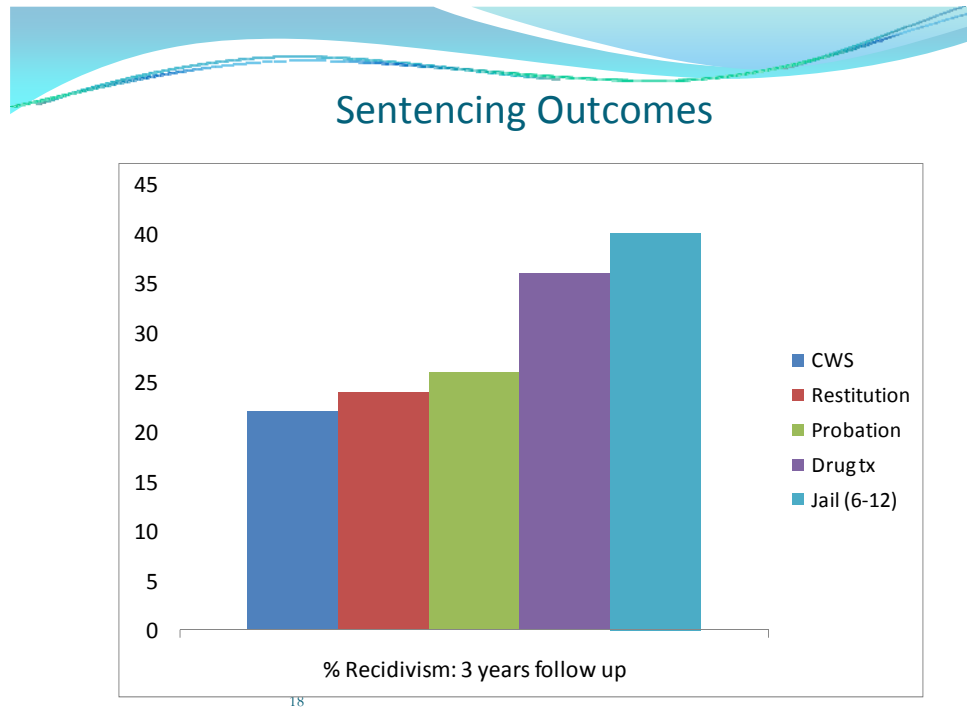
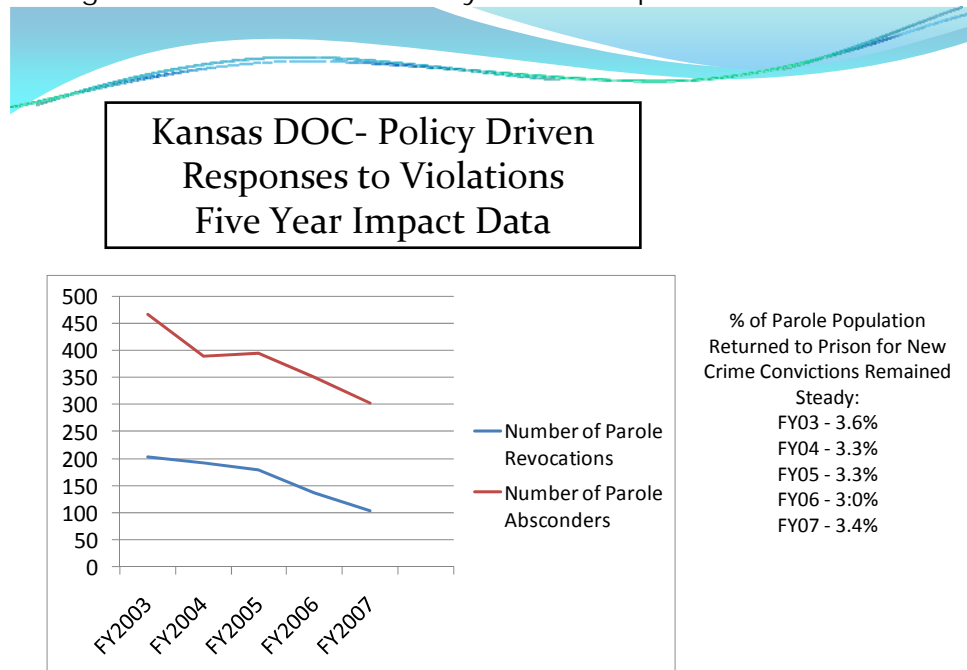


Figure 2: Kansas DOC—Policy-Driven Responses to Violations



Information provided by CEPP (Center for Effective Public Policy)

Figure 3: Georgia Behavior Response and Adjustment Guide

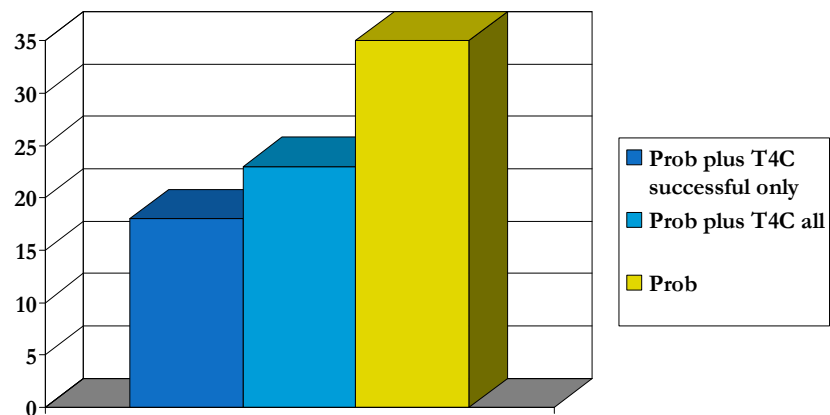
Verbal Recognition Letter of Recognition Certificate of Completion 6 Month Compliance Certificate	90 Days Clean 90 Days Employed 6 months stable residence Completed 1 <sup>st</sup> school semester or 30 days regular GED attendance Outpatient program completion 30 days EM violation-free 2 month perfect cognitive skills course attendance	L O W	Positive drug test (s) Program non-attendance(s) Failure to report EM Violations (minor) Assessment Attended No Failure to support dependants Unemployed (short period) Special condition violation Fee arrearage \$60.00 or less Technical Violation Other	Specific Issue Hearing Outpatient program Self Help program PO letter of reprimand PO verbal reprimand Increased screening Increased reporting Verbal warning
1 Year Compliance Certificate Mr./Ms. Clean Award Letter of Recognition EM early termination Certificate of Completion Supervision level reduction Reduced reporting Chief Recognition Decrease supervision level	12 months stability (employment & residence, little to no violations) 6 months clean 2 months of perfect cognitive skills class attendance Completed 1 year of school or 6 months of regular GED attendance 90 days EM violation free Outpatient program completion Cognitive skills course completion	M E D I U M	Misdemeanor arrest Multiple positive drug tests Multiple program non-attendance EM violations (serious) Unemployed (lengthy) Assessment Attend No (multiple) Sex offender violations (minor) Fee arrearage \$100.00 or less	Administrative Hearing In-house program Re-start program EM extension Outpatient program Specific Issue Hearing Increased screening Increased reporting Verbal reprimand Chief Restorative/Community service work Increase supervision level
Commutation Request Donated Gift Certificate (GED/ school graduation) Cognitive Skills Graduation Lifestyle Commitment Award 2 <sup>nd</sup> Mr./Ms. Clean award Reduced reporting	24 months stability Completed school or GED 12 months clean Volunteer work, church affiliation Pro-social activities	H I G H	Felony arrest Violent misdemeanor arrest or DUI Positive drug tests (Critical) Program non-attendance (critical) Sex offender violation ( serious) EM violations (critical) Possession of a weapon Absconding TRW issued Failure to attend administrative hearing Unemployed (critical) Fee arrearage over \$100	Request revocation Short-term incarceration (local detention) Electronic monitoring In-house program Administrative hearing Out-patient program EM extension Whitworth Detention Center

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Figure 4: T4C Recidivism Rates



Recidivism Rates



28-50% reduction in recidivism compared to traditional probation

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