

Evidence Based Sentencing to Improve Public Safety and Reduce Recidivism
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I. Principles of EBS

- A. Risk Principle
 - 1. Who
- B. Needs Principle
 - 1. What
- C. Treatment Principle
 - 1. What Works
- D. Responsivity Principle
 - 1. How

II. Risk Principle

- A. The level of supervision or services should be matched to the risk level of the offender; i.e. higher risk offenders should receive more intensive supervision and services.

III. Needs Principle

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

B. Criminogenic Needs (Likely to affect future crime.)

- 1. Anti-social attitudes/values
- 2. Anti-social friends and peers
- 3. Anti-social personality pattern
 - a. Lack of self-control
 - b. Risk taking
 - c. Impulsive
 - d. Poor problem solving
 - e. Lack of empathy
 - f. Narcissistic
 - g. Anger and hostility
- 4. Low self control
- 5. Substance abuse
- 6. Family/marital stressors
- 7. Lack of employment/education achievement
- 8. Lack of pro-social leisure activities

Top 4 factors more likely to correlate to future crime. See D. A. Andrews and Craig Dowden, *The Risk-Need-Responsivity Model of Assessment and Human Service in Prevention and Corrections: Crime-Prevention Jurisprudence*, 49 Can. J. Criminology & Crim. Just. 439-464 (2007).

C. Non Criminogenic Needs (Not likely to affect future crime.)

- 1. Anxiety/stress
- 2. Low self esteem

3. Intelligence
 4. Health and physical conditioning
 5. Mental health
 - a. A 2006 study found that serious mental illness and substance abuse had little effect on future criminality. The study concluded that: "Unless factors unique to serious mental illness can be specifically associated with behavior leading to incarceration, the criminalization hypothesis should be reconsidered in favor of more powerful risk factors for crime that are widespread in social settings of persons with serious mental illness." John Junginger, Ph.D., et al., *Effects of Serious Mental Illness and Substance Abuse on Criminal Offenses*, 57 Psychiatric Services 879-882 (June 2006).
 6. Transportation
 7. Financial support
 8. Pro-social & sustainable housing
- D. Use of Risk/Needs Assessment Information at Sentencing
1. Identify offenders who should be targeted for interventions.
 2. Identify dynamic risk factors to target with conditions of probation.
 3. Risk scores are not intended to determine the severity of the penalty, or whether an offender should be imprisoned.
- E. Setting Probation Conditions
1. Target criminogenic needs and dynamic risk factors.
 - a. Treatment conditions that lead to successfully completing a treatment program.
 2. Monitoring/control conditions such as drug testing, intensive supervision, etc.
 3. Avoid less relevant conditions
 4. Be realistic
 5. Provide flexibility to the PO

<i>LOW RISK</i>	<i>MEDIUM RISK</i>	<i>HIGH RISK</i>
Lowest reporting requirements.	Increased reporting requirements.	Highest reporting requirements including field visits.
No need for intensive discretionary programs.	Discretionary programs depending on clinical determination of need.	Use of surveillance programs. Most intensive cognitive based treatments.
Caseload: 500-1,000	Caseload: 65-75	Caseload: 10-15 Extreme High Risk; 65-75 High Risk

F. SUMMARY

1. Assess offender risk factors through use of actuarial risk/needs assessment tool and professional judgment.
2. Avoid significant intervention with low risk offenders.
3. Target moderate to high risk offenders.
4. Target criminogenic needs in setting conditions of probation, and in identifying appropriate programs.
5. Do not distract the offender and impede probation by imposing additional conditions of probation beyond those directly related to an offender's risk/needs.

G. Purpose of Sentencing

1. Reduce recidivism, integrate appropriate intermediate sanctions and behavioral controls to achieve sentencing objectives.
2. Old model
 - a. "Just deserts" penalty or punishment proportionate to the gravity of the offense and blameworthiness of the offender.
 - b. Public Safety
 - (1) Rehabilitation
 - (2) Specific Deterrence
 - (3) Incapacitation/Control
 - (4) General Deterrence
 - c. Restitution/Restoration



Risk Reduction and Management

IV. Treatment Principle

- A. The most effective services in reducing recidivism among higher risk offenders are cognitive behavioral interventions based on social learning principles.
- B. Social Learning: Behaviors Have Consequences
 1. Positive
 - a. Rewards
 - b. Incentives
 - c. Reinforcement
 2. Negative
 - a. Swift, certain and proportionate sanctions
 - b. Severe sanctions not necessary
- C. Behavioral Model
 1. Behavior: visible
 2. Thoughts/Feelings: sometimes aware
 3. Cognitive Structure (beliefs and attitudes): beneath the surface

- D. Cognitive Behavioral Programs
 - 1. Interrupt anti-social thinking patterns - restructure
 - 2. Create dissonance/ambivalence
 - 3. Provide skills to handle situations such as conflict management, problem solving.

- E. Cognitive Behavioral Approaches
 - 1. Cognitive Restructuring: What we think.
 - 2. Cognitive Skills Development: How we think/process.

- F. What Doesn't Work to Reduce Recidivism
 - 1. Traditional Sanctions
 - a. Punishment, sanctions or incarceration
 - b. Specific deterrence, or fear-based programs; i.e. Scared Straight
 - c. Physical challenge programs
 - d. Military models of discipline and physical fitness; i.e. Boot Camps
 - e. Intensive supervision without treatment

 - 2. Most Traditional Services
 - a. Shaming programs
 - (1) hanging sign on neck, standing on street corner
 - b. Drug education programs
 - (1) that are lecture oriented to simply provide awareness, must learn and practice skills
 - c. Drug prevention classes focused on fear or emotional appeal
 - (1) limited time effect
 - d. Non-action oriented group counseling that does not require learning of new skills, applying them and reporting back
 - e. Bibliotherapy
 - (1) reading book, report on lessons; non-behavioral
 - f. Freudian approaches
 - g. Vague, unstructured rehabilitation programs
 - h. Self-esteem programs
 - (1) usually don't target criminogenic needs
 - i. Non skill-based education programs

- V. Responsivity: How
 - A. Characteristics of the individual offender must be matched:
 - 1. To the intervention, treatment, program or supervision; and
 - 2. To the personnel delivering the services to the offender.

- B. Offender Characteristics
 - 1. Age
 - 2. Gender
 - 3. Culture
 - 4. Learning style
 - 5. Intelligence
 - 6. Mental health
- C. Stages of Change
 - 1. Pre-contemplation: denial
 - 2. Contemplation: “yes, but...”
 - 3. Action: ready for change
 - 4. Maintenance: Doing something, i.e. treatment
 - 5. Relapse: skills to maintain without relapse
- D. Responses to Changes
 - 1. Promote Self-diagnosis: pre-contemplation
 - 2. Contemplation: increase ambivalence
 - 3. Practical Strategies
 - 4. Action: Practical strategies
 - 5. Relapse Prevention: Maintenance
 - 6. Avoid Demoralization: Relapse
- E. Promoting Offender Motivation
 - 1. Coerced Treatment
 - 2. Extrinsic That Moves to Intrinsic Motivation
 - 3. Engagement
 - 4. The Offender is in Charge
- F. Summary
 - 1. Treatment must be matched to the offender’s individual characteristics
 - 2. Use the “Stages of Change” model
 - 3. Intrinsic motivation is a critical requirement for offender behavioral change