

## Evidence-Based Sentencing to Control Crime and Reduce Costs

Judge Roger K. Warren (Ret.)  
President Emeritus  
National Center for State Courts

Colorado Commission on  
Criminal & Juvenile Justice  
June 12, 2009

## State Sentencing Reform: The Recent History

- Pre-1975: the "Rehabilitative Ideal"  
Consequences
  - Rapid rise in violent crime
  - Disparities
  - "Nothing works"
- 1975-2005: Determinate Sentencing

## Sentencing Reform: The Recent History (cont.)

- The Consequences
  - Highest incarceration rates in the world
  - Unprecedented recidivism rates
  - Rapidly growing costs
  - Great disparities
  - Diminishing benefit of incapacitation
  - Same violent crime rate as mid-70's
  - We know "what works"

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

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

## Public Opinion about Sentencing: 2006 NCSC Survey

- Supportive of rehabilitation
- Supportive of more judicial discretion
- Supportive of treatment instead of prison for non-violent offenders
- Does not see punishment and rehabilitation as an either/or proposition

## Attitudes about Rehabilitation

Which statement best describes your own views about efforts to rehabilitate offenders?



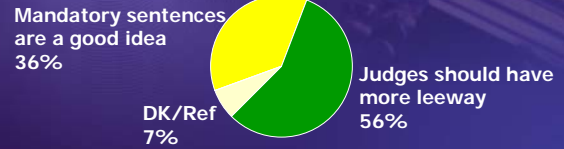
## Attitudes about Prisons

Which would you most want your tax dollars spent on: 1) building more prisons, or 2) funding programs that help offenders find jobs or get treatment?



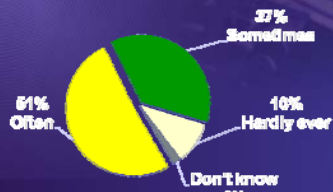
## Mandatory Sentences

In general, do you think that mandatory sentences are a good idea, or that judges should have more leeway in deciding what the punishment should be?



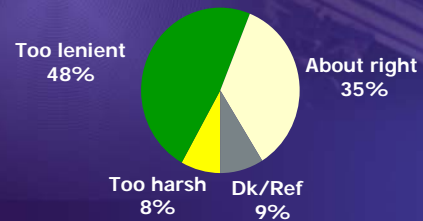
## Support for Alternative Sentences in Non-Violent Cases

How frequently should alternatives to prison be used in sentencing for non-violent crimes?



## Attitudes about Sentences

In general, do you think sentences are too harsh, too lenient, or about right?



## Public's Top Sentencing Reform Priorities

Percent who say each goal is "very important"



## Purposes of Sentencing

1. "Just Deserts:" punishment proportionate to the gravity of the crime
2. Public Safety
  - Rehabilitation/Specific Deterrence [Recidivism Reduction]
  - General Deterrence
  - Incapacitation/Control
3. Restitution/Restoration

## State Chief Justices

### Top concerns of state trial judges in felony cases:

1. High rates of recidivism
2. Ineffectiveness of traditional probation supervision in reducing recidivism
3. Absence of effective community corrections programs
4. Restrictions on judicial discretion that limit ability of judges to sentence more fairly and effectively

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## State Chief Justices

### Top two reform objectives:

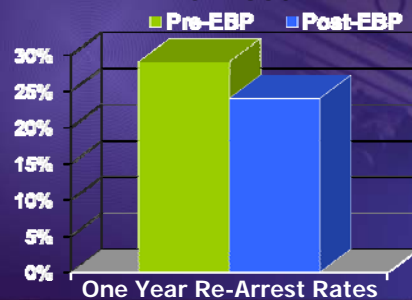
- Reduce recidivism through expanded use of evidence-based practices, programs that work, and offender risk and needs assessment tools
- Promote the development, funding, and utilization of community-based programs for appropriate offenders

## Washington State Institute for Public Policy

- Meta-analysis of 571 studies
- "Cautious" approach
- Adult EB programs reduce recidivism 10-20%, with a benefit/cost ratio of 2.5:1
- Moderate increase in EBP would avoid 2 new prisons, save \$2.1 billion, and reduce crime rate by 8%.

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## Travis Re-Arrest Rates Pre-Post EBP



## Principles of EBP

- Risk Principle (Who)
- Needs Principle (What)
- Responsivity Principle (How)

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## Risk Principle (Who)

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

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## Needs Principle (What)

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

## Risk of Heart Attack

- 1) Elevated LDL and low HDL levels
- 2) Smoking
- 3) Diabetes
- 4) Hypertension
- 5) Abdominal obesity
- 6) Psychosocial (i.e., stress/depression)
- 7) Failure to eat fruits and vegetables
- 8) Failure to exercise

## Dynamic Risk Factors

- Anti-social attitudes
- Anti-social friends and peers
- Anti-social personality pattern
- Family and/or marital factors

## Anti-Social Personality Pattern

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

## Dynamic Risk Factors

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

## Risk/Needs Assessment

- 1<sup>st</sup> generation: subjective professional/clinical judgment
- 2<sup>nd</sup> generation: actuarial, static risk factors
- 3<sup>rd</sup> generation: actuarial, dynamic risk factors
- 4<sup>th</sup> generation: recommend interventions



## Use of Risk/Needs Assessment Information at Sentencing

- The engine that drives EBP and EBS
- Intended to inform not replace professional judgment
- Identify offenders who should be targeted for interventions
- Identify dynamic risk factors to target with conditions of probation

## Responsivity Principle (How)

The most effective services in reducing recidivism are **cognitive behavioral** interventions based on **social learning** principles.

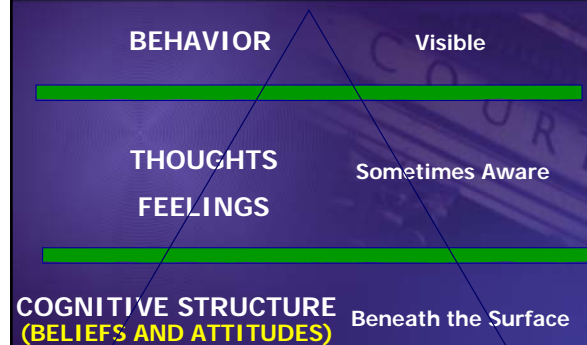
## Social Learning: Behaviors Have Consequences

### Positive

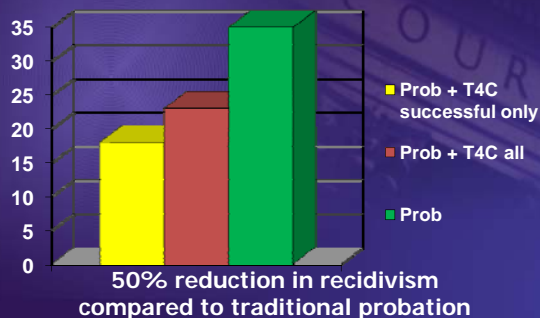
- Rewards
- Incentives

### Negative

- Sanctions should be swift, certain, proportionate, and graduated
- Sanctions need not be severe



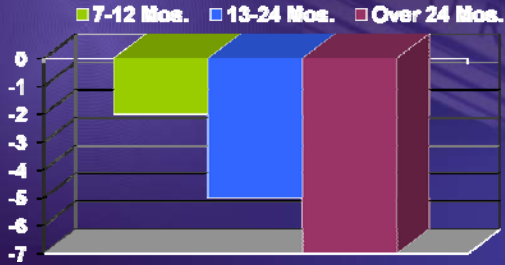
## T4C: Recidivism Rates



## What Doesn't Work

- Punishment, sanctions, or incarceration
- Specific deterrence, or fear-based programs (e.g. Scared Straight)
- Physical challenge programs
- Military models of discipline and physical fitness (e.g. Boot Camps)
- Intensive supervision without treatment

## Impact of Length of Incarceration on Recidivism



## What Doesn't Work

- Shaming programs
- Drug education programs
- Drug prevention classes focused on fear or emotional appeal
- Non-action oriented group counseling

## What Doesn't Work

- Bibliotherapy
- Freudian approaches
- Vague, unstructured rehabilitation programs
- Self-esteem programs
- Non skill-based education programs

## EBS for Drug Offenders

	Pro-Social	Anti-Social
Substance Addiction	<ul style="list-style-type: none"> <li>Low level supervision</li> <li>Intensive S/A Tx services</li> <li>Tx compliance is short-term goal</li> <li>Abstinence is long-term goal</li> <li>Emphasize positive reinforcement</li> </ul>	<ul style="list-style-type: none"> <li>Intensive supervision</li> <li>Strict monitoring/control conditions</li> <li>Intensive S/A, C/B, &amp; ED/Employ Tx services</li> <li>Compliance is short-term goal</li> <li>Abstinence is long-term goal</li> <li>Emphasize positive reinforcement</li> </ul>
Substance Abuse/Misuse	<ul style="list-style-type: none"> <li>Low level supervision</li> <li>Low level services</li> <li>Most likely to respond to sanctions</li> </ul>	<ul style="list-style-type: none"> <li>Intensive supervision</li> <li>Strict monitoring/control conditions</li> <li>C/B &amp; Ed/Employ Tx services</li> <li>Compliance &amp; abstinence are short-term goals</li> <li>Emphasize positive reinforcement &amp; sanctions</li> </ul>

## Conclusions

- High quality research unequivocally shows that what we are doing today to reduce recidivism borders on malpractice and in some cases actually results in increased criminality
- The general public, including those who have been victims of crime and those who generally think sentences are too lenient, support rehabilitation and recidivism reduction strategies for less serious offenders

## Conclusions

- The benefits of EBS and EBP include
  - Lower crime and victimization rates
  - Lower criminal justice costs
  - Less recidivism
  - More cost-effectiveness in reducing crime
  - Lower probation revocation rates
  - More prison beds are available for violent and serious offenders
  - States can re-focus spending on education, health, and other priorities
  - Lower social and economic costs and less harm to offender families

## Conclusions

- Punishment and recidivism reduction are not an either/or proposition—we can and should do both. Recidivism reduction strategies should not be used in lieu of punishment, but in combination with control mechanisms and intermediate sanctions
- Recidivism reduction strategies are not “soft on crime”
  - They demand much more of offenders than incarceration, and are often perceived by higher risk offenders as more severe
  - By holding offenders more accountable for compliance with court-ordered probation conditions and behavioral change, EBS achieves more offender accountability than current policies

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