Principles of an Effective Criminal Justice Response to the Challenges and Needs of Drug-Involved Individuals

The National Judicial College
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The Justice Management Institute
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Pretrial Justice Institute

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Community Justice & Safety for All

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Principles of an Effective Criminal Justice Response

INTRODUCTION

There is an old parable about the grasshopper who decided to consult the hoary consultant of the animal kingdom, the owl, about a personal problem. The problem concerned the fact that the grasshopper suffered each winter from severe pains due to the savage temperature. After a number of these painful winters, in which none of the grasshopper's known remedies were of any help, he presented his case to the venerable and wise owl.

The owl, after patiently listening to the grasshopper's misery, so the story goes, prescribed a simple solution: "Simply turn yourself into a cricket, and hibernate during the winter."

The grasshopper jumped joyously away, profusely thanking the owl for his wise advice. Later, however, after discovering that this important knowledge could not be transformed into action, the grasshopper returned to the owl and asked him how he could perform this metamorphosis.

The owl replied rather curtly, "Look, I gave you the principle; it's up to you to work out the details!"[1]

The right interventions . . . With the right people . . . At the right time

The parable demonstrates how difficult it is to make principles useful, transferrable, and easy to implement in a specific jurisdiction. This guide, created by **The National Judicial College**, **The Justice Management Institute**, the **Pretrial Justice Institute**, the **American Probation and Parole Association** and a cross-disciplinary panel of experts sets forth a conceptual framework for effective responses to drug-involved individuals* in the criminal justice system. The overall approach of this framework is to assist local criminal justice systems and practitioners *do the right thing . . . with the right people . . . using the right interventions . . .at the right time*. The framework consists of 10 operating principles that focus on what changes need to occur at the system level to address drug-involved individuals including: (i) identifying what level of substance abuse exists, (ii) what drivers contribute to the substance abusing behavior, and (iii) what level of intervention is most appropriate to break the cycle of drug-related crime.

* We recognize that many words could be used to define the individuals to which we refer. For example, upon arrest, the individual is an arrestee; when charges are filed she or he becomes a defendant and, if convicted, the individual becomes an offender. For ease of use, we have chosen the word 'individual.' For the purposes of this document, 'drug-involved individual' refers to someone involved in the criminal justice system who presents with a substance use disorder. Substance use disorder includes a range of abuses and dependencies on alcohol, illicit drugs, and prescription drugs.

There is no doubt about the causal link between substance use/abuse and crime. However, while attempts to decrease the number of drug-related offenses have often solely emphasized drug interdiction and incarceration, these responses have had minimal success in decreasing substance abuse or the violence associated with criminal activity by substance abusing individuals.[2] In jail and prison populations, for example, approximately one-half to two-thirds of inmates meet the standard diagnostic criteria (DSM-IV) for alcohol/drug dependence or abuse (substance use disorder).[3] More than 60 percent of adult male arrestees tested positive for drugs in 38 of 39 cities in 2003.[4] It is clear that substance abuse is a major driver of the criminal justice system. Effectively addressing this problem requires an integrated public health and public safety approach. Substance abuse places a huge burden on our economy including high health care costs, productivity losses, and other expenses associated with crime and accidents.[5] Much of the economic burden falls directly to the criminal justice system.[6]

Substance abuse treatment is cost-effective as it reduces costs related to drug use, health care, and crime, including incarceration costs. If aftercare is part of the treatment program, there is even greater cost savings. Further, research demonstrates that providing treatment to individuals involved in the criminal justice system decreases future drug use and criminal behavior while improving social functioning. However, substance abuse treatment alone does not provide the behavioral controls necessary to hold individuals in the criminal justice system accountable, nor should it necessarily be considered punishment.

Blending the functions of criminal justice supervision with substance abuse treatment optimally serves both public health and public safety concerns, whereas over reliance on incarceration is of limited and diminishing effectiveness as a crime-control strategy.[7]

A criminal justice system which expects to "control crime solely by punishing the offender's past misbehavior, without any meaningful effort to positively influence the offender's future behavior, are shortsighted, ignore overwhelming evidence to the contrary, and needlessly endanger public safety. They also demand too little of most criminal offenders, often neither requiring—nor even encouraging—offenders to accept personal responsibility for their own future behaviors."[8] Further, offender management practices which only focus on punishment are a principal source of frustration and discouragement for criminal justice professionals, victims of crime, and the public at large.[9] Frustration can also occur, if the criminal justice system responds to the individual by mandating the same conditions for everyone regardless of the severity of an individual's substance abuse or what criminogenic needs the individual may have.

Legal Considerations at Different Stages

Stage	Considerations/Purpose
Pretrial:	**E**nsure Appearance at Future Hearings / Reduce Flight Risk Pretrial Services, Monitoring Devices, Incarceration **P**rotect the Public / Safety of Victims Pretrial Services, Monitoring Devices, Incarceration, May include treatment **D**iversion Considerations Made prior to the adjudication of charges
Sentence:	**P**roportional Punishment ("just deserts") Based on the seriousness of the offense and the degree of offender culpability **R**estraint and/or Incapacitation Restrict the opportunity for an individual to reoffend for a certain period of time **R**ehabilitation and Restoration of the offender to the community Provide the opportunity and means for behavior change and enhanced skill development **R**estitution to the victim Make the victim whole **G**eneral Deterrence Discourages members of the general public from committing a similar offense **S**pecific Deterrence Discourages an individual from committing another offense
Post-Sentence Supervision:	**M**onitoring Offender Behavior **R**ehabilitation and Restoration of the offender to the community Provide the opportunity and means for behavior change and enhanced skill development **S**anction Offender for Probation Violations / Use incentives for compliance and progress

Drug courts, created in 1989, provided a new approach to dealing with individuals who entered the criminal justice system with a substance abuse problem. Drug courts serve an important function to those offenders eligible for the program. However, many individuals who enter the criminal justice system do not meet the eligibility criteria or are neither appropriate for drug court. Many are unable to obtain the services they require which may be the same or similar to what drug court participants receive. This may be due in part to the nature of the offense (e.g., violent offense), special circumstances of the offense (e.g., drug dealing) program capacity or past record, or, perhaps, the issues of the particular individual do not warrant such intensive court supervision. Whatever the circumstances may be, there are many individuals who may benefit from substance abuse interventions but do not have access to those services. Further, there are many opportunities along the criminal justice continuum to effectuate change rather than just at sentencing and probation where currently most of the emphasis is focused.

The principles, developed to address which changes need to occur at the system level for addressing drug-involved individuals, are aspirational, focusing on the individual rather than the charge, and supporting the rehabilitative and restoration purposes of sentencing. There are often several objectives and differing responsibilities of practitioners involved in the criminal justice system, whether it is the judge, prosecutor, law enforcement, defense attorney, probation, case management, or pretrial services. These principles, developed through a consensus of criminal justice stakeholders, respect and appreciate those differing responsibilities and practices as well as place emphasis on the ability of practitioners to exercise discretion within the parameters of established law. The principles also seek to increase the intercept points of the individual within the criminal justice system and break the cycle of crime and substance abuse.

Principle. A fundamental truth or doctrine, as of law; a comprehensive rule or doctrine which furnishes a basis or origin for others; a settled rule of action, procedure, or legal determination.

Principles of an Effective Criminal Justice Response to the Challenges and Needs of Drug-Involved Individuals[10]

Responsive criminal justice systems…

1 Apply the science behind substance use disorder and its interaction with behavior and criminality.

2 Make informed decisions by screening and assessing individual risks and needs.

3 Match interventions to the individual risks and needs which underlie the severity of substance use disorder, including the co-occurrence of mental health issues.

4 Integrate the recovery process and an understanding of relapse into the legal framework of diversion, adjudication, and correctional supervision.

5 When treatment is indicated by assessment, tailor the treatment plan to the specific needs and characteristics of the individual using the best available information and science.

6 Impose conditions of supervision that are realistic, relevant, and supported by research.

7 Use a range of responses including proportionate, certain, and swift incentives and sanctions to modify behaviors and promote compliance.

8 Understand the nature of the substance use disorder problem and what resources are available in the community.

9 Partner across stakeholder groups and community-based resources to build continuity of care.

10 Define system-wide outcomes which will inform policy and practice.

Responsive criminal justice systems…

Principle 1

Apply the science behind substance use disorder and its interaction with behavior and criminality.

Substance use, including alcohol abuse, is implicated in crime in at least four ways: (1) possession or sale of illicit substances; (2) crimes committed to support the substance use (e.g., stealing to get money for drugs); (3) leading a lifestyle which predisposes an individual to involvement in illegal activity (e.g., association with drug-involved offenders); and (4) under the influence at the time of the offense, (e.g., DWI, vehicular homicide).

The link between crime and substance use is challenging, precisely because it short circuits traditional public safety approaches to criminal behavior. The repeated use of habit-forming drugs changes how the brain functions, affecting its natural inhibition and reward centers. Severe users or addicts, therefore, use drugs in spite of adverse health, social, and legal consequences. Treating substance use, especially addiction, is a complex and progressive process that can involve cycles of failure and success. Nonetheless, a great deal of research has demonstrated that with effective treatment, individuals can overcome persistent drug effects and lead healthy, productive, non-criminal lives.

Responsive criminal justice systems continually take stock of what is known about substance use and its physiological effects on health and behavior. Ongoing research continues to reveal how the drug-induced brain works and changes. It also advances our understanding of the relationship between these changes to the brain and criminal behavior, which can further improve justice system responses to drug-involved individuals.

Responsive criminal justice systems…

Principle 2

Make informed decisions by screening and assessing individual risks and needs.

Many communities currently operate with one treatment modality for all drug-involved individuals, but we now know that one size doesn't fit all. Just as every criminal case is different, so too is every drug-involved individual different. Each may exhibit a different level of substance use disorder. Each will require different release or sentencing options to produce positive outcomes. Justice response options may be incarceration, intensive community supervision, diversion, treatment and rehabilitation, or others. The most cost-effective, cost-efficient, and overall positive outcomes for public safety are achieved with drug-involved individuals who are matched to appropriate responses based on their criminogenic risk for failure in standard criminal justice interventions and the criminogenic needs that underlie the substance use/abuse and criminal behavior (see Chapter 2 for more information on risk and need). Screening and assessment should identify strengths and assets that can be leveraged to support behavioral change, rehabilitation, and recovery. For example, family or peer support can be a critical ingredient to a behavioral change plan. Screening and assessment should also determine the factors underlying an individual's substance use disorder, such as the need to self-medicate an otherwise unaddressed mental health problem. Again, leveraging and addressing these factors are crucial elements to promoting public safety. These assorted assessments can go even further and help ascertain each individual's propensity to commit crime (criminogenic risk). Taken together, all of this information informs appropriate and effective sanctions and interventions to address the substance use and criminal behavior.

Time is another factor responsive criminal justice systems consider. For any individual, conditions may change dramatically over the span of three or more months especially if a significant life event occurs (e.g., served with divorce papers, death of family member). Multiple assessments may uncover emerging risks for discontinuing participation in intervention (e.g., waning motivation, re-association with anti-social peers) and identify new assets that can be leveraged (e.g., employment, family stability, new community).[11] Screening and assessment are therefore not singular, isolated events in responsive criminal justice systems. They assess involved individuals repeatedly to inform decisions at each major transition point (e.g., booking to pre-trial detention or supervision, adjudication to correctional placement or probation). Assessment information flows seamlessly through the system, avoiding unnecessary duplication of effort.[12]

Responsive criminal justice systems…

Principle 3

Match interventions to the individual risks and needs which underlie the severity of substance use disorder, including the co-occurrence of mental health issues.

Starting from sound assessment of criminogenic factors and severity of substance use, responsive criminal justice systems fashion interventions to the unique challenges of each individual; they are designed to provide each individual with the best opportunity to succeed. Because lack of stable housing, educational/intellectual deficits, mental illness, and unemployment are associated with negative health and criminal justice outcomes, they are a necessary dimension to effective interventions with drug-involved individuals. Research has recognized that interventions which are both multimodal and multisystemic are the most effective for this reason. Responsive criminal justice systems, therefore, adhere to the evidence-based practices that strategically address the constellation of issues an individual faces: staged interventions to address varying levels of impairment and functioning, pharmacological interventions, motivational interventions, a range of cognitive-behavioral strategies, modified therapeutic communities (TCs), assertive community treatment (ACT), Integrated Dual Diagnosis Treatment (IDDT),[13] and housing and employment services, to name a few. Positive outcomes associated with these approaches include reductions in substance abuse and criminal activity.

The range of options available to the responsive criminal justice system reflects this diversity of substance use and criminal behavior. At least half of drug-involved individuals who use illicit drugs or alcohol are not addicted (lower severity substance use disorder).[14] Individuals whose usage is under voluntary control require far less restrictive, intensive, and costly substance abuse interventions than individuals who have moderate to severe substance use disorder. Research demonstrates that for these low severity users, the best results are achieved with early intervention and compliance monitoring.[15] For those severe substance users, more intensive treatment and cognitive-behavioral approaches are necessary. Intensive monitoring and treatment, graduated and restrictive consequences, residential interventions, work release, or even incarceration are particularly effective with severe substance users who have failed in more traditional treatment and correctional settings. A balance between sanctions and positive reinforcement has been supported as a best practice for any drug-involved individual in the criminal justice system.[16]

One of the major challenges associated with substance use is the co-occurrence of mental illness. Over 50 percent of the U.S. correctional population has co-occurring substance use and mental health disorders.[17] Among the reasons this prevalence is important is that mental health disorders are predictive of early termination from drug treatment.[18] In fact, these individuals are less likely to enter drug treatment in the first place. Responsive criminal justice systems, therefore, are those that integrate screening and assessment for these co-occurring conditions and cater treatment to address these conditions in particular. For extensive guidance on successful approaches to treating individuals with co-occurring disorders, refer to *TIP 42: Substance Abuse Treatment for Persons With Co-Occurring Disorders and TIP 44: Substance Abuse Treatment for Adults in the Criminal Justice System*, published by the Substance Abuse and Mental Health Services Administration (SAMHSA).[19]

Another major risk factor to note is that drug-involved individuals are at far greater risk of contracting infectious diseases such as HIV and Hepatitis C.[20] Unaddressed, these significant constellations of public health problems are significant barriers to success in terms of recovery and recidivism.

Responsive criminal justice systems…

Principle 4

Integrate the recovery process and an understanding of relapse into the legal framework of diversion, adjudication, and correctional supervision.

Rehabilitation is a legitimate goal of the criminal justice system. No system can ensure public safety without a commitment to changing behaviors and reducing future offending. Effectively responding to substance use in the criminal justice system is endemic to this goal, especially given its prevalence throughout the system.

In responding to drug-involved individuals, criminal justice systems must balance addressing substance use with the legal responsibilities related to criminal adjudication. Substance use interventions and legal responses should be complementary. Nonetheless, they do represent two separate criminal justice decisions with separate responses and set of tools. Assessments of the needs of drug-involved individuals drive decisions about interventions. The factual basis of an offense, however, drive supervision and sanctioning decisions. While interventions and supervision or confinement may serve some shared purposes, such as promoting public safety, they also serve other unique purposes, such as retribution.

Effective responses require an understanding of the recovery process, which does involve periods of progress and relapse. The process takes time, and successes are incremental. Responsive criminal justice systems do hold drug-involved individuals accountable, but they also set realistic goals and benchmarks when it comes to the behavior change and recovery process (see **Principle 6**).

These systems partner with behavioral health systems to connect drug-involved individuals to support behavior change and recovery. They share common goals in this area – reduction and elimination of substance use and preventing future criminal activity. The two systems often work together to support lasting recovery which translates into safer communities.

Nonetheless, supervision, confinement, conditions, and other sanctions are necessary on a case-by-case basis as they are deemed appropriate to the nature of the crime and facts of the legal matter. In responsive systems, how to address the substance use and criminogenic risk and how to respond to the crime represent two sets of decisions that define a coordinated response to drug-involved individuals in the criminal justice system. One approach should not impede the goals of the other. Judicial oversight and supervision, as found in drug courts, have been associated with better health and justice outcomes. Randomized testing for drugs and alcohol has also been a promising monitoring tool for criminal justice supervision.[21] However, they are not appropriate in all cases and may, in fact, be counterproductive (see **Principle 3**).

Responsive criminal justice systems…

Principle 5

When treatment is indicated by assessment, tailor the treatment plan to the specific needs and characteristics of the individual using the best available information and science.

Responsive criminal justice systems use diagnostic assessments to inform interventions and supervision plans for drug-involved individuals. Diagnosis of substance use disorder and other assessment information helps identify which approaches are most likely to succeed in curbing substance use and reducing reoffending. In doing this, the responsive system is able to reserve the limited amount of intensive treatment available for those who will benefit most from it.

Research indicates that in most cases, as the severity of substance use increases, so should the intensity of treatment. Likewise, as criminogenic risk increases, so should the level of supervision and correctional control. Placing low severity and low risk persons into intensive programs actually decreases the likelihood of successful completion of treatment. Such inappropriate placements may result in ongoing criminal behavior or even escalate continued and more serious criminal behavior by disrupting an individual's protective factors – straining family life, compromising stable employment, and disassociating with pro-social people. Keying treatment type and intensity to the specific risks and needs of the individual is a crucial element of successful intervention, but it is not the only one. Research has also indicated that mixed group models involving men and women as well as culturally neutral models may be less effective than interventions designed for specific genders and cultures.[22]

Existing research and best practices can also guide decisions about dosage of treatment relative to risks and needs. Intensive drug treatment, for instance, optimally lasts a minimum of three months. It is important to note, that in cases where clients may have insurance, insurance companies often play a role in determining what type of treatment insured individuals may receive. Having insurance is helpful, but it also can be an impediment. Less intensive educational or motivational interventions may be far shorter, measured in terms of days or weeks. The constraints of the stage in the criminal justice process may also be a key determinant of dosage and treatment options. Because of the volatility of the pretrial stage (e.g., short and unpredictable stays in jail), brief interventions are more appropriate during this time. Even the severe substance user, who would ultimately benefit from intensive, longer-term services may best be served during the pretrial stage by brief interventions. However, those brief interventions might be aligned with a broader plan for continuity of care which includes intensive treatment post-sentencing, when interventions can be more robust, longer-term, and sufficiently coercive to ensure compliance and recovery.[23]

Responsive criminal justice systems…

Principle 6

Impose conditions of supervision that are realistic, relevant, and supported by research.

Required expectations for behavior of drug-involved individuals under supervision must be realistic and attuned to their needs. Probation or parole revocations for technical violations disrupt services and treatment. Inflexible conditions of supervision may similarly impede positive outcomes in an individual's rehabilitation program. Whether pretrial or during justice system supervision, staff may face zero tolerance or "three strikes" policies which make it difficult to appropriately address relapses, for instance. In the context of a chronic disease like substance use disorder, relapse is not necessarily a failure. In fact, one "dirty" urinalysis is not necessarily a relapse. Yet, because "slips" and relapse do happen (and is expected to happen in the behavioral health community), there is a pervasive belief that interventions do not work.[24] Additionally, there are other considerations for realistic supervision conditions which include the availability of treatment beds or openings, the availability of appropriate treatment, and the ability of the supervision agency to carry out its part of the conditions, among others.

Probation and parole officers, among other stakeholders in the responsive criminal justice system, learn to craft requirements and plans that are relevant to the unique circumstances of an individual and support an individual's potential for success. Working in conjunction with behavioral health providers, officers are trained to incorporate the dynamics of substance use disorders and of recovery into their supervision. Information sharing among probation and parole and the service provider community is critical to the success of supervision and those lines of communication need to stay open throughout the adjudication process and through the correctional stage. Stakeholders throughout the process, not just probation and parole officers, come to understand that evidence-based interventions for substance users are tools to improve public safety.[25]

Responsive criminal justice systems…

Principle 7

Use a range of responses including proportionate, certain, and swift incentives and sanctions to modify behaviors and promote compliance.

Sanctions provide the tools to hold individuals accountable. They are preventive measures to reduce relapses, revocations, and recidivism. Effective sanctions must have four components: (a) clear identification of noncompliant behavior; (b) swift response; (c) certain, clear, and transparent definitions; and (d) proportionality to the behavior.[26]

However, sanctions are more effective when complemented by a system of incentives. An incentive system provides an opportunity to formalize recognition for good behavior. Just as in a graduated sanction system, where penalties are progressively more onerous as the incidence of noncompliant behavior progresses, incentives reduce restraints on the individual and increase positive recognition as progress occurs.[27] An incentive system should also be swift, certain, and proportionate. In fact, rewards are such an important tool that research has found that a 4:1 ratio of rewards to sanctions produces the best outcomes.[28] Incentive systems provide a rationale for drug-involved individuals to meet milestones and targets as well as comply with criminal justice conditions.

While sanctions and incentives can be formal, as with contingency management, they can also be less formal, like expressing dissatisfaction or complimenting someone. All stakeholders, whether judges, probation officers, service providers, or others, can all play a role in a coordinated system of graduated sanctions and incentives, formal and informal.

Responsive criminal justice systems…

Principle 8

Understand the nature of the substance use disorder problem and what resources are available in the community.

Responsive criminal justice systems are consumers of data. They understand the size and scope of the substance use problem in their systems and in the communities they serve. They have information about the demographics and needs of the community, as well as the prevalence of substance use, what types of substances are used, and what trends help decision-makers and service providers target existing, limited resources. This information helps them plan strategically for the future.

More than having an aptitude with the data and using it to drive systems change, responsive justice systems understand the resources and services available in their community. Understanding what services are available, what their eligibility requirements are, and how drug-involved individuals can access them is critical to any intervention planning, whether during pretrial, community supervision, or aftercare and reentry.[29] Again, these services should not be confined to drug treatment programs or detox centers but include shelters, legal services, food pantries, workforce development programs, and other resources which would assist drug-involved individuals.

Community resource mapping can also be an opportunity to build networks between and among the criminal justice system and service providers in a range of areas. Responsive systems share knowledge and data with allies in the community who share the goal of enhancing public safety by addressing substance use.

Responsive criminal justice systems…

Principle 9

Partner across stakeholder groups and community-based resources to build continuity of care.

Responsive criminal justice systems make efforts to build a continuum of services and interventions that allow a drug-involved individual to progress through the system while maintaining uninterrupted, evidence-based responses. Of particular importance is the continuity of services from the period prior to release from jail or prison through the initial period of re-entry. These are critical timeframes for success or failure of recovery efforts. Although there are still many research questions to be answered in this area, emerging research points to improved criminal justice and behavioral health outcomes among those individuals who begin treatment while incarcerated and continue that treatment, uninterrupted, in their communities upon release.

In such systems, brief interventions during the pretrial stage may lay the groundwork for escalated levels of effective intervention post-adjudication. Information about the drug-involved individual should follow him or her from one stage to the next and transitions are planned to ensure that the positive trajectory of interventions are not impeded or disturbed. Supervision (via the criminal justice system) and treatment (via the behavioral health system) works best for drug-involved individuals when these systems collaborate and when necessary information flows seamlessly between them (see **Principles 2** and **6**).

Many justice systems use oversight or coordinating committees[32] to provide a forum for communication across stakeholder groups and improve coordination and efficiency. These committees can save scarce dollars while improving public safety. They can encourage stakeholders to take responsibility for challenges over which they may not have full control.

All key system partners must be represented on the committee and participate in its work if it is to be successful. Effective coordinating committees share a common vision and set of goals and objectives across the systems represented. **Solidarity ensures that stakeholders can take calculated risks and experiment without the fear of potential fallout or retribution if they fail to produce the intended outcome. Mutual support and the willingness of partners to share responsibility for success and failures are intrinsic to these committees.**[33]

Responsive criminal justice systems…

Principle 10

Define system-wide outcomes which will inform policy and practice.

Consistent with their focus on being both effective and efficient, responsive criminal justice systems are engaged in regular evaluation of their efforts. They define clear, specific, and transparent performance measurements that identify specific outcomes to which all stakeholders can be held accountable and from which the entire system can learn.[34]

Legal outcomes like dispositions and arrest rates may be among the system goals. However, they should not be the only goals. Success may be measured in terms of recidivism reductions, restitution collected, treatment milestones, relapse prevention, restoration achieved, persistent abstinence from drug use, sustained, gainful employment, and stable housing. Performance measures which characterize the processes in the criminal justice system may also be important. These may include measures of procedural fairness, responsiveness to the assessment information, or drug-involved individuals' and their victims' satisfaction with the quality of services.

Responsive criminal justice systems are committed to improving their responses to drug-involved individuals and collect and analyze performance data on an ongoing basis. They review, share, and discuss their data collaboratively, regardless of whether the results are stellar or undesirable. They may consider performance data in terms of cost effectiveness to make strategic and data-driven decisions about resource allocation.

Overall, the crucial element for responsive criminal justice systems is that they are learning systems. They will modify policy and practice according to what their data reveals works and does not work.

Risk, Needs, and Evidence-Based Responses

WHAT IS CRIMINOGENIC RISK?

Criminogenic risks refer to characteristics of individuals associated with greater likelihood to reoffend in the future and similarly associated with a lower likelihood to succeed in rehabilitative interventions.[35] Risk here does not refer to risk for violence or dangerousness. While it may be important for other reasons for the responsive criminal justice system to screen for *risk of dangerousness*, it should not be used to guide decisions about whether to invest in rehabilitation of justice-involved individuals. Instead, criminogenic risk should guide these decisions. In fact, research reveals that the higher the criminogenic risk, the more intensive the services should be.[36]

Among drug-involved individuals in particular, a number of criminogenic risks emerge as particularly reliable: younger age, male gender, early onset of substance abuse or delinquency, prior felony convictions, previous unsuccessful attempts at treatment or rehabilitation, a co-existing diagnosis of antisocial personality disorder, and a preponderance of antisocial peers or affiliations.[37] These high-risk drug-involved individuals require intensive supervision, targeted evidence-based treatment, and swift and graduated sanctions to desist from ongoing substance abuse and crime.[38]

WHAT IS CRIMINOGENIC NEED?

Criminogenic risks can be used to categorize defendants into high, medium, and low risk of reoffending. They include static factors such as past criminal history and dynamic factors, such as association with anti-social peers. The dynamic, criminogenic risks are also called criminogenic needs. They are particularly crucial to the criminal justice system outcomes because they are changeable and treatable, so they can guide an intervention plan.

Criminogenic risks are all the risk factors associated with likelihood of reoffending. Criminogenic needs are the subset of those risk factors which are dynamic or "treatable." Justice systems in collaboration with other service providers can indeed help drug-involved individuals to seek out new peers who exhibit more prosocial, law-abiding behaviors. In fact, when they do address the most significant of these criminogenic needs, they substantially decrease the likelihood of future reoffending.[39]

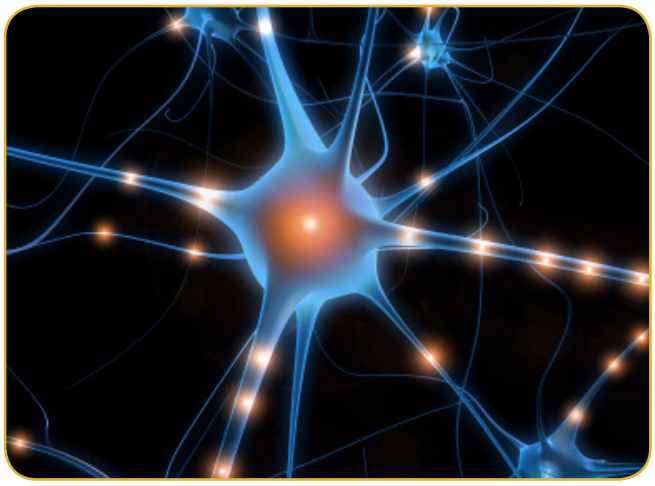
WHAT CRIMINOGENIC RISKS ARE MOST ASSOCIATED WITH REOFFENDING?

Criminogenic risks can include many different factors in a person's life. However, a small number of these factors have been found to be most strongly associated with increased likelihood to reoffend. A person who exhibits these factors is not necessarily going to reoffend, but statistically, people like him or her have been shown to be more likely to reoffend. These risk factors are not predictors, but they can be used to make informed decisions about where to allocate limited resources and reduce future crime.

On the next page is a list of the eight major criminogenic needs.[40] Again, these are criminogenic risks that are dynamic; they can be treated or change.

Criminogenic Need	Response
The Top Four (Highly Predictive)	
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 peers
Anti-social personality or temperament	Build problem solving, self-management, anger management, and coping skills
Poor family and/or marital relationships	Reduce conflict, build positive relationships and communication, enhance monitoring/supervision
The Lower Four (Very Predictive)	
Poor educational achievement	Enhance performance rewards and satisfaction in education
Unemployment or under-employment	Provide employment-seeking and keeping skills
Substance abuse	Reduce usage, reduce the supports for abuse behavior, enhance alternatives to abuse
Poor use of leisure/ recreational time	Enhance involvement and satisfaction in pro-social activities

Even though there may be other important issues a person is facing, those needs are often not criminogenic or at least do not rise to the level of the needs mentioned above. Addressing factors outside the eight mentioned above may be important for other reasons, but if the goal is to reduce future crime, focusing on the top eight criminogenic needs is the best course.[41] Focusing on criminogenic needs translates into lower probability of recidivism, both during supervision in the community and after re-entry from incarceration.



The focus on criminogenic needs does not necessarily mean there isn't benefit to addressing other issues or needs in the life of a criminal justice involved individual. To the contrary, those other issues are very important to address, *to the degree they impede or hinder successful behavioral change and outcomes*.[43] Even though mental illness is not a major criminogenic need, it often co-occurs with substance use disorder.[44] Major depression, bipolar disorder, psychotic disorders, organic brain syndromes, and post-traumatic stress disorder (PTSD) are among the most common mental health problems that co-occur with a substance use disorder. Therefore, programs need to address mental illness in order to make progress with an individual struggling with substance use.[45]

WHAT IS THE DIFFERENCE BETWEEN SCREENING AND ASSESSMENT?

Screening is a process for evaluating someone for the possible presence of a particular problem.

Assessment is a process for defining the nature of a problem and developing specific treatment recommendations for addressing the problem.

What screening is …	What assessment is…
• A way to determine if future assessment is warranted • A way to flag whether or not a general problem area may exist	• A process to diagnose a specific problem • A process to determine the severity of a problem
• An instrument that is limited in focus, simple in format, quick to administer, and usually able to be administered by nonprofessional staff	• A diagnostic tool that typically requires trained professionals to administer and interpret it • A tool to understand an individual's readiness for change, problem areas, diagnosis(es), disabilities, and strengths

In criminal justice settings and when referring to individuals with substance use disorder, "screening" and "assessment" are often equated with "eligibility" and "suitability," respectively. Treatment and criminal justice professionals may screen for the need for further assessment or for eligibility by determining who *may* need substance abuse treatment. While treatment providers may provide these thorough assessments, independent evaluators may also assess individuals. Some suggest this practice as a way to mitigate any incentive to over-identify individuals in need of treatment. "Appropriate" referrals for treatment may not equate to "eligible" for treatment in some jurisdictions. The prevailing question here is: Does this individual meet the system's criteria for receiving treatment services?

Of those identified as eligible for treatment, treatment providers may further assess individuals for suitability for placement in one of several different levels of treatment services, based on psychosocial findings, readiness to change, and other factors including risk to the victim and community. Here, the questions are: Can this individual benefit from treatment or respond to this intervention? Is the individual suitable for the type of program services that are available?[47]

Screening and assessment should not be singular, isolated events in criminal justice systems. On the contrary, they should be conducted at each major transition point in the system (e.g., booking to jail, placement on probation). Having said that, duplication of information gathering should be avoided by ensuring that relevant information flows seamlessly from previous stages in the system. However, as discussed earlier, repeating screenings and assessments is critical because conditions in individuals' lives change over time, as do their motivation and willingness to enter treatment. Multiple assessments may also uncover an individual's reason to quit substance use and identify strengths that can be built on during treatment.[48] Similarly, if major transition points are very close together (weeks instead of months), practitioners should take steps to reduce duplication by engaging in full-scale re-assessments, rather updating the most recent assessment.

HOW DOES ONE SCREEN AND ASSESS FOR CRIMINOGENIC RISK AND NEEDS?

Generally speaking, screening and assessment tools should be research-based, actuarial instruments validated for the population and use they are intended. Screening tools should not be used to make diagnoses and judgments about criminogenic risk for reoffending should not be made using tools that are intended to capture risk of future violence.

Actuarial instruments or methods are what insurance companies use to calculate rates based on risk. These methods are based on statistical analysis of past trends to formulate

probability estimates for, in the case of the responsive criminal justice system, criminogenic risk or the risk of reoffending in the future. Researchers Lowenkamp and Latessa offer a useful illustration: "… life insurance is cheaper for a nonsmoker in his 40s than for a smoker of the same age. The reason insurance costs more for the smoker is that smokers have a risk factor that is significantly correlated with health problems. Similarly, an offender who uses drugs has a higher chance of reoffending than someone who does not use drugs."

Actuarial methods are in contrast to clinical methods, which involve gathering information and using the professional experience and judgment of the individual administering the screening or assessment to make a determination about risk. Research has consistently shown that actuarial methods are more accurate than clinical methods in making predictions.[49]

Actuarial instruments can play both a screening and an assessment function. Screening instruments are used to sort people into risk categories (e.g., low, moderate, and high). They are quick and easy tools, often consisting primarily of static criminogenic risks, such as prior criminal history. In the criminal justice system, screening and assessment tools may be used not only to sort people by risk but to guide decisions about pretrial detention/release to measure probabilities of failure to appear and rearrest during release.

Assessment tools are far more comprehensive and also evaluate criminogenic needs. Again, they may require specially trained personnel to administer them and are far more time-intensive and extensive. However, some tools are now done by computer and several tools are currently being developed that may not require special training to administer and, in at least one case, may be self-administered. These tools are designed to help guide intervention and treatment plans and can be useful in ongoing reassessment to determine how risks and needs have changed over time.[50]

In addition, there are also specialized tools that responsive criminal justice systems use to assess specific conditions, such as substance use disorder or mental illness, or to identify special populations, such as sex offenders. These tools are typically administered on an as-needed basis, far less frequently than the screenings and assessments discussed above. For example, a pretrial services agency may use a screening instrument to exclude low-risk individuals from intensive services and assessment. Higher risk individuals, however, may undergo a thorough needs assessment during or after the adjudication process. Some of these high-risk individuals may also require specialized assessments for substance use disorders or mental illness. This method of iterative targeting and assessment has been suggested as a way to increase efficiency in criminal justice systems.[51]

With any of these tools, criminal justice systems must be concerned with the reliability and predictive validity of the instruments. Reliability refers to the consistency of the screening or assessment tool. The tool should result in the same decisions being made about the same kind of individuals irrespective of who is administering the tool. Predictive validity refers to the ability of a tool to accurately predict what it claims to predict. Typically, validity is measured by the correlation between a score on the tool and the incidence of the outcome (e.g., new conviction). As the correlation goes higher, then the predictive validity of the tool also rises.

Screening and assessment may involve separate instruments, one to identify risks for classification of individuals and another to identify needs for the purposes of service planning. In recent years, some tools have been developed that can play both functions. The designers of these tools claim that the integration leads to a more seamless and efficient intervention planning process.

Below is a partial list of some of the research-based tools available to criminal justice systems. In addition to these tools, there are a number of specialized assessments which assess specific risks, including likelihood to commit violent crimes, dangerousness, or risk of domestic violence. Specific discussion of screening and assessment in the area of substance use disorder will be discussed later in this section.

- **Hawaii Proxy Risk Assessment**
- **Virginia Pretrial Risk Assement Tool**[52]
- **and Ohio Risk Assessment System (ORAS)**[53]
- **Level of Service/Case Management Inventory (LSI-R) and Level of Service/Case Management Inventory (LS/CMI)**[54]
- **Correctional Offender Management Profiling for Alternative Sanctions (COMPAS)**[55]
- **Offender Screening Tool (OST)** [56]
- **Wisconsin Risk/Needs Scales (WRN) and Correction Management Classification (CMC) tools**[57]

HOW DOES GROUPING PEOPLE BY CRIMINOGENIC RISK AND NEED MAKE A DIFFERENCE IN OUTCOMES?

Over the past two decades, research has consistently found that targeting correctional resources on the highest risk individuals translates into significant reductions in recidivism. Providing intensive supervision and services to high-risk individuals and minimal to no intervention for low risk individuals can reduce recidivism by as much as 30 to 50 percent over conventional practices. Why does targeting high-risk individuals make such a difference? Higher risk individuals have a greater need for prosocial skills and thinking and consequently, are more apt to demonstrate significant improvements through related interventions. In terms of public safety, the return on investment is far greater with these individuals. In fact, research has found that intensive supervision and treatment for lower-risk individuals may not only produce little to no positive effect, but may produce negative outcomes.[58]

Lowenkamp and Latessa again illustrate this point by considering a familiar example outside of the criminal justice system:

> When we place low-risk offenders in the more intense correctional interventions, we are probably exposing them to higher-risk offenders, and we know that who your associates are is an important risk factor. Practically speaking, placing high- and low-risk offenders together is never a good idea. If you had a son or daughter who got into some trouble, would you want him or her placed in a group with high-risk kids?
>
> When we take lower-risk offenders, who by definition are fairly prosocial (if they weren't, they wouldn't be low-risk), and place them in a highly structured, restrictive program, we actually disrupt the factors that make them low-risk. For example, if I were to be placed in a correctional treatment program for six months, I would lose my job, I would experience family disruption, and my prosocial attitudes and prosocial contacts would be cut off and replaced with antisocial thoughts and antisocial peers. I don't think my neighbors would have a 'welcome home from the correctional program' party for me when I got out. In other words, my risk would be increased, not reduced.[59]

The impact found in the numerous meta-analyses over recent decades is consistent with these statements. In the case of substance use disorder, existing evidence suggests that similar lessons apply. Low severity substance users (who are not dependent on drugs) may find that intensive treatment with high severity substance users (who are addicted) interferes with their obligations and success in school and at work. Furthermore, the association with high severity substance users may "normalize the drug-using lifestyle."[61]

From screening to assessment to intervention, targeting individuals with higher criminogenic risk and appropriately delivering services based on severity of substance use leads to better outcomes.[62]

WHAT IS SUBSTANCE ABUSE?

WHAT IS SUBSTANCE DEPENDENCE OR ADDICTION?

Substance abuse and substance dependence have for years been considered two different conditions, with dependence or addiction being more severe than abuse. The distinction between the two conditions has been reflected in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV) published by the American Psychiatric Association (APA). The DSM is used by clinicians, researchers, health organizations, insurance companies, and policymakers worldwide as a common language and standard criteria for the classification of mental disorders.

However, the distinction has been confusing even to some experts. Among the problems uncovered with the two diagnoses was that some individuals presented with symptoms of dependence without presenting abuse symptoms, which struck many as counterintuitive given the presumed hierarchical relationship between the two disorders. The APA has over the past few years reviewed the research and conducted its own analyses to understand more fully the nature of these disorders in preparation for the fifth edition of the DSM (DSM-V).

First, a review of the data from studies representing more than 100,000 individuals affirmed that the DSM-IV diagnostic criteria for substance dependence were highly reliable and valid, but those for substance abuse were less reliable and more variable. Further analysis of the characteristics of individuals presenting with abuse and those with dependence revealed that keeping the conditions distinct and separate was not well supported by the data.[63]

In response, the APA in DSM-V has combined abuse and dependence into a single condition, Substance Use Disorder. The disorder contains 11 potential diagnostic criteria, with severity gauged on the number of criteria met. An individual who meets two criteria would merit a diagnosis of a disorder; a patient who met four or more would be considered to have a severe form of the disorder.[64]

Substance Use Disorder is now defined as "a maladaptive pattern of substance use leading to clinically significant impairment or distress" and is indicated by the presence/occurrence of two or more of the 11 diagnostic criteria within a 12-month period.[65] The 11 criteria are as follows:

DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, FIFTH EDITION (DSM-V)

SUBSTANCE USE DISORDER DIAGNOSTIC CRITERIA [66]

1. recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home (e.g., repeated absences or poor work performance related to substance use; substance-related absences, suspensions, or expulsions from school; neglect of children or household)

2. recurrent substance use in situations in which it is physically hazardous (e.g., driving an automobile or operating a machine when impaired by substance use)

3. continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance (e.g., arguments with spouse about consequences of intoxication, physical fights)

4. tolerance, as defined by either of the following:

a. a need for markedly increased amounts of the substance to achieve intoxication or desired effect

b. markedly diminished effect with continued use of the same amount of the substance (Note: Tolerance is not counted for those taking medications under medical supervision such as analgesics, antidepressants, ant-anxiety medications or beta-blockers.)

5. withdrawal, as manifested by either of the following:

a. the characteristic withdrawal syndrome for the substance (refer to Criteria A and B of the criteria sets for Withdrawal from the specific substances)

b. the same (or a closely related) substance is taken to relieve or avoid withdrawal symptoms (Note: Withdrawal is not counted for those taking medications under medical supervision such as analgesics, antidepressants, anti-anxiety medications or beta-blockers.)

6. the substance is often taken in larger amounts or over a longer period than was intended

7. there is a persistent desire or unsuccessful efforts to cut down or control substance use

8. a great deal of time is spent in activities necessary to obtain the substance, use the substance, or recover from its effects

9. important social, occupational, or recreational activities are given up or reduced because of substance use

10. the substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance

11. craving or a strong desire or urge to use a specific substance.

The definition of Substance User Disorder as a uni-dimensional condition is anticipated to be more helpful to clinicians and treatment providers by affording them a more fluid classification system of relative severity of this condition.[67] In the same way as different levels of criminogenic risk suggest different intensities and kinds of intervention, so too do the varying levels of severity of substance use. Again, just as with criminogenic risk, intensive treatment for low-grade substance use disorder may, in fact, be contraindicated, or harmful to these individuals.

HOW DOES ONE SCREEN AND ASSESS FOR SUBSTANCE USE DISORDER?

The same information about screening and assessment instruments hold true whether looking at criminogenic risks and needs or specifically at substance use disorder. However, tools used in the context of substance use disorder will highlight different issues and focus on different areas. More specifically, these screening and assessment tools will address the following:

- observable signs and symptoms of alcohol or drug use;
- signs of acute drug or alcohol intoxication and withdrawal effects;
- drug tolerance effects;
- negative consequences associated with substance abuse;
- self-reported history of substance abuse;
- age and pattern of first substance abuse;
- family history of substance abuse, including current patterns of abuse by family members who have contact with the individual;
- recent patterns of use, drug(s) of choice;
- motivation for using substances; and
- prior involvement in treatment, both in criminal justice and non-criminal justice settings.

Substance use disorder screening and assessment tools, and other tools as necessary, should additionally address detoxification needs, readiness for treatment, physical health conditions, co-occurring mental health disorders, and history of trauma. Criminogenic risk may also be addressed when assessing within the criminal justice system.[68]

The Center for Substance Abuse Treatment in its *Treatment Improvement Protocol (TIP) 44* discusses and recommends specific screening tools for criminal justice systems to consider, when working with defendants and offenders who may have a substance use disorder. Those tools and some suggestions about how to use them are discussed at length in *TIP 44*, but they are summarized in the table to the right.[69]

Recommended Substance Abuse Screening Instruments[70]

Instrument	Purpose	Description
Alcohol Dependence Scale (ADS)	A 25-item instrument developed to screen for alcohol dependence symptoms; performs adequately in community and institutional settings	The ADS can be coupled with the ASI-Drug Use section to provide an effective screen for alcohol and drug use problems among offenders.
Simple Screening Instrument for Substance Abuse (SSI-SA)	A 16-item screening instrument that examines symptoms of both alcohol and drug dependence For more information, refer to TIP 11 and TIP 42, published by the Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration (SAMHSA).	For more information on the ADS, contact the Center for Addiction and Mental Health (formerly the Addiction Research Foundation).
TCU Drug Screen (TCUDS)	A 15-item substance abuse diagnostic screen. The TCU Drug Screen is completed by the offender and serves to quickly identify individuals who report heavy drug use or dependency (based on the DSM-IV-TR and the National Institute of Mental Health Diagnostic Interview Schedule) and who, therefore, might be eligible for treatment.	An expert panel developed the SSI-SA as a tool for outreach workers. The SSI-SA, which can be administered without training, includes items related to alcohol and drug use, preoccupation and loss of control, adverse consequences of use, problem recognition, and tolerance and withdrawal effects.

For more information regarding the TCUDS and other related instruments, go to www.ibr.tcu.edu.

TIP 44 also provides an extensive discussion of substance abuse assessment instruments available for use in the criminal justice system. For more information about available instruments, you may also refer to *TIP 7, Screening and Assessment for Alcohol and Other Drug Abuse among Adults in the Criminal Justice System and TIP 38, Integrating Substance Abuse Treatment and Vocational Services*.[71]

HOW DOES GROUPING PEOPLE BY SEVERITY OF SUBSTANCE USE DISORDER MAKE A DIFFERENCE IN OUTCOMES?

Individuals with substance use disorder who are involved in the criminal justice system exhibit a range of levels of severity as well as any number of other complicating and co-occurring disorders. In response, the criminal justice system must be armed with a range of interventions which are matched to the needs of these individuals.

While the distinction between abuse and dependence may be less clear today than previously believed, past research that characterizes individuals by each "disorder" is still helpful in understanding the incidence of relative severity in the criminal justice population. Recent studies have found that half of drug-involved individuals are substance abusers but are not dependent.[72] For these individuals, who presumably exhibit low to moderate substance abuse disorder under the revised DSM guidelines, intensive, residential treatment has been associated with poorer outcomes and higher recidivism.[73]

Similar results have been found with other criminal justice interventions. The average effect of drug court, for example, is nearly twice the magnitude for high-risk individuals than for low-risk individuals.[74] Low-risk drug court participants performed as well or better when they were not required to appear frequently before a judge, a key feature of the drug court model.[75] In these cases, participants were supervised by clinical case managers who reported regularly to a judge.

Among other effective strategies for treating substance abuse disorder are cognitive-behavioral counseling, pharmacological treatments, and therapeutic communities. Cognitive-behavioral treatment has been found to reduce crime and substance abuse by approximately 20 to 30 percent.[76] Pharmacological regimens have also been found to reduce illicit drug use and future crime.[77] Lastly, drug-involved individuals completing a full continuum of therapeutic communities have been found to reduce substance use and future crime by 30 to 50 percent. This is known as the Continuum of Care Model. This approach is a residential program that separates participants from drugs and their drug-using peers. While in treatment, participants confront maladaptive personality traits, while program staff sanction inappropriate behaviors, reward positive behaviors, and provide mentorship. Research has strongly indicated that these services be provided along a full continuum of reentry, with in-prison treatment extending through transitional programming in the community and ultimately ongoing, outpatient care.[78]

Conclusion

Moving from Aspirational to Operational

These principles for an effective response to drug-involved individuals are intended to be aspirational. In the best case, (1) each of these principles would be in place across the case processing continuum; (2) there would be ample resources and treatment slots available; and (3) processes would be in place to objectively determine the appropriate form of accountability—punishment, behavioral control and modification, or treatment. "Aspirational" however does not mean unattainable. The reality for most jurisdictions is that realizing these principles will need to be an incremental process. For all jurisdictions, this process will need to be responsive to the specific and unique needs of the local justice system. Yet justice systems cannot afford to fall short of meeting the needs of drug-involved individuals, if they are to use their limited resources most effectively to protect the public safety.

Two fundamental elements emerge from these principles that frame the first steps toward the system change necessary to build effective and responsive criminal justice systems. First, implementing a mechanism for "sorting" individuals based on the severity of their substance use problem and on the likelihood that they will engage in future criminal behavior is critical. Practitioners can then make informed decisions about the appropriateness of different sanctions, treatment options, and the criminal justice response. Second, focusing limited treatment and intervention resources on those who are at greatest risk for continued substance use and related criminal behavior reduces both the financial and workload burdens of the local criminal justice system.

Seeking to be more helpful than the owl to the grasshopper, this monograph is complemented by a decision-making tool that translates these principles into defined strategies and sanctions that can be used effectively, based on the available research, to address the substance disorder and reduce the likelihood of continued criminal behavior. Criminal justice stakeholders throughout the criminal justice continuum will find it a helpful translation of aspirational principles to operational practices. The impact of this monograph and, more important, the success of any criminal justice system hinges on moving from "what works" to "making it work."

Principles of an Effective Criminal Justice Response to the Challenges and Needs of Drug-Involved Individuals

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Endnotes

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[4] See National Institute of Justice, ADAM: 2003 Annual Report on Adult and Juvenile Arrestees (U.S. Department of Justice, 2003), https://www.ncjrs.gov/nij/adam/ADAM2003.pdf.
[5] Steven Belenko, et al., Economic Benefits of Drug Treatment: A Critical Review of the Evidence for Policy Makers (Treatment Research Institute, 2005), http://www.tresearch.org/resources/specials/2005Feb_EconomicBenefits.pdf.
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[7] Roger K. Warren, Evidence-Based Practice To Reduce Recidivism: Implications For State Judiciaries (Crime & Justice Institute, National Institute of Corrections and National Center for State Courts, 2008).
[8] *Id.*
[9] *Id*.
[10] Another good source of information on dealing with individuals with substance abuse issues in the criminal justice system is the Principles of Drug Abuse Treatment for Criminal Justice Populations which was published by the National Institute of Drug Abuse in 2006. It is available at http://www.drugabuse.gov/PDF/PODAT_CJ/PODAT_CJ.pdf.
[11] *Id*.
[12] Center for Substance Abuse Treatment. Substance Abuse Treatment for Adults in the Criminal Justice System Treatment Improvement Protocol (TIP) Series, No 44 (Substance Abuse and Mental Health Services Administration, 2005) 16, 41, http://www.ncbi.nlm.nih.gov/books/NBK64137/ [hereinafter CSAT, TIP 44].
[13] These are all treatment and behavior modification strategies that are proven, successful practices. Cognitive behavioral therapy is a psychotherapeutic approach, based on the premise that changing maladaptive thinking leads to change in affect and in behavior. Therapeutic communities take a participative, group-based approach to long-term mental illness or severe substance use disorder. These communities include both group psychotherapy as well as practical activities. Assertive Community Treatment uses a comprehensive combination of crisis intervention, supportive therapy, substance use counseling, skills training, medication monitoring, housing support, vocational rehabilitation, specialized dual diagnosis groups, family psycho-educational groups, and family outreach activities. Integrated Dual Diagnosis Treatment uses a collaborative, multi-disciplinary approach to coordinate every aspect of recovery. This method is also based on the premise that clients benefit most from incremental successes in recovery.

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[20] See CSAT TIP 44, *supra* note 12, at 21, 189-190.

[21] D. S. Festinger, et al., *supra* note 15; Douglas B. Marlowe, et al., *supra* note 15.

[22] Douglas B. Marlowe, *Evidence-Based Sentencing for Drug Offenders: An Analysis of Prognostic Risks and Criminogenic Needs*. 1 CHAP. J. CRIM. JUST. 167 (2009) (citing Christopher T. Lowenkamp et al., *The Risk Principle in Action: What Have We Learned From 13,676 Offenders and 97 Correctional Programs?,* 52 Crime & Delinquency 77 (2006)); Paul Gendreau, et al., *A Meta-analysis of the Predictors of Adult Offender Recidivism: What Works!* 31 *Criminology* 401-433 (1996). There is a growing literature on the importance of cultural adaptations of evidence-based practices. However, the literature about how to adapt existing practices to be culturally-responsive is only now emerging. Those interested in frameworks for making these adaptations should refer to the work of Manuel Barrera Jr. (Arizona State University and Oregon Research Institute), Felipe G. Castro (University of Texas at El Paso), Lisa A. Strycker (Oregon Research Institute), and Deborah J. Toobert (Oregon Research Institute). In "Cultural Adaptations of Behavioral Health Interventions: A Progress Report," published in January 2012 in The Journal of Consulting and Clinical Psychology, the authors present a multi-phase process for making necessary adaptations to evidence-based programs to be responsive to the needs of communities of color. Their article also presents an overview of previous attempts to build such frameworks.

[23] CSAT TIP 44, *supra* note 12, at 127-164; R. L. Hubbard, et al., *Overview of 5-year Followup Outcomes in the Drug Abuse Treatment Outcome Studies (DATOS)* 25 J. Substance Abuse Treatment 125-134 (2003).

[24] CSAT, TIP 44, *supra* note 12, at 224.

[25] *Id*.

[26] Paul Gendreau and C. Goggin, Principles of Effective Correctional Programming with Offenders (Center for Criminal Justice Studies and Department of Psychology, 1995).

[27] CSAT, TIP 44, *supra* note 12, Chapters 7-10.

[28] Paul Gendreau, *What Works in Community Corrections: Promising Approaches in Reducing Criminal Behavior,* 6 J. Community Corrections 5–12 (1995).

[29] CSAT, TIP 44, *supra* note 12, at 169; Center for Substance Abuse Treatment. Continuity of Offender Treatment for Substance Use Disorders From Institution to Community Treatment Improvement Protocol (TIP) Series, No. 30 (Substance Abuse and Mental Health Services Administration, 1993), http://www.ncbi.nlm.nih.gov/books/NBK82999/ (hereinafter CSAT, TIP 30).

[30] CSAT, TIP 44, *supra* note 12, at 224. CSAT, TIP 30, *supra* note 29.

[31] *Id*.

[32] The committees have many different names including committee, commission, working group, council, etc., but generally have a similar purpose which is to provide a forum for communication and to improve coordination and efficiency. See A. Wickman, et al., Improving Criminal Justice System Planning and Operations: Challenges for Local Governments and Criminal Justice Coordinating Councils (US Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, 2012).

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[36] Christopher T. Lowenkamp et al., *The Risk Principle in Action: What Have We Learned From 13,676 Offenders and 97 Correctional Programs?,* 52 Crime & Delinquency 77 (2006)); Christopher T. Lowenkamp & Edward Latessa, *Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders, in* Topics in Commnity Corrections (National Institute of Corrections, 1994).

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[38] Douglas B. Marlowe, *supra* note 22.

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[53] The ORAS is non-proprietary. However, those interested in using the ORAS must complete a standard training program before implementing the tool. This training program and other contracted technical assistance and research services (e.g., automating the tool, validation research services, advanced training) are offered by the instrument developers. To obtain the ORAS and an estimate for the costs of technical assistance and research services, contact the Center of Criminal Justice Research (www.uc.edu). Additional information can be found at http://law.utoledo.edu/students/lawreview/PDF/Trout_ORAS-Overview.pdf.

[54] All Level of Service assessment tools are proprietary. To purchase the LSI-R, LS/CMI, or LS/RNR or inquire about assessment training services in your area, visit Multi-Health Systems, Inc. (www.mhs.com).
[55] The COMPAS is a proprietary system. To inquire about the COMPAS or to obtain user manuals and internal research documentation on the tool, contact Northpointe (www.northpointeinc.com).
[56] The OST is non-proprietary. To obtain the OST, user manuals, and original construction and validation research on the tool, contact the Arizona Supreme Court, Administrative Office of the Courts, Adult Probation Services Division (www.azcourts.gov).
[57] The WRN and CMC are non-proprietary tools. To obtain the WRN, visit J-SAT (www.j-sat.com). The CMC is available through the National Institute of Corrections (http://nicic.gov/pubs/pre/000532.pdf).
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