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## Community Supervision And Violent Offenders: What The Research Tells Us And How To Improve Outcomes

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# COMMUNITY SUPERVISION AND VIOLENT OFFENDERS: WHAT THE RESEARCH TELLS US AND HOW TO IMPROVE OUTCOMES

EDWARD J. LATESSA\* & MYRINDA SCHWEITZER\*\*

*This Article explores the supervision of violent offenders in the community and reviews the research on effective (and ineffective) practices. Included is a discussion of the scope and diversity of violent offenses, a review of the research related to intermediate sanctions such as intensive supervision and electronic monitoring, as well as the application of the Risk, Need and Responsivity model to community supervision. Finally, the challenges of translating research into practice is discussed along with recommendations on how we can improve community supervision.*

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## I. INTRODUCTION

Supervising violent offenders in the community remains a challenge for correctional agencies, and over the years several strategies have been used to deal with this population. Recent reports from the Bureau of Justice Statistics, suggest that over four million people are under some form of community supervision each year.<sup>1</sup> Tables 1 and 2 show that of the four million individuals, approximately one million have a violent offense as their most serious offense.<sup>2</sup> Does having a violent offense mean the person is a violent offender? One of the challenges faced by community correctional agencies is defining the “violent” offender. For example, violent offenses include a wide range of offenses including murder, aggravated manslaughter, extortion, harassment, rape and sexual assault, kidnapping, robbery, and domestic violence. In addition, some offenders commit crimes that are not inherently violent, but result in harm or even death. One example is the drunk driver, whose actions may result in the loss of life. How these offenders are supervised, and the methods used to control and provide services vary as does the effects these various approaches have on recidivism.

In this Article, the current and emerging practices and related research surrounding the supervision of violent offenders in the community are explored. In Part II, a description of intermediate sanctions as a strategy to achieve the goals of community supervision is provided. In Part III, research related to intermediate sanctions including intensive supervision and electronic monitoring along with traditional community supervision are reviewed to set the stage for Part IV, a review of the Risk-Need-Responsivity model to community supervision. Parts V and VI identify the policy and practice changes that are needed throughout community supervision to better align with the Risk-Need-Responsivity model. Finally, Part VII encourages forward thinking about how we might achieve the goal of public protection and meet the dual needs for punishment *and* rehabilitation of justice-involved individuals.

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1. DANIELLE KAEBLE, U.S. DEP'T OF JUSTICE, PROBATION AND PAROLE IN THE UNITED STATES, 2016, at 1 (2018).

2. *See infra* Tables 1 & 2.

TABLE 1: PERCENT OF ADULTS ON PROBATION BY MOST SERIOUS VIOLENT OFFENSE AND YEAR (2013–2016)<sup>3</sup>

Most Serious Offense	2013	2014	2015	2016
Violent	19%	19%	20%	20%
Domestic Violence	4%	4%	4%	4%
Sex Offense	3%	3%	4%	4%
Other Violent Offense	12%	12%	13%	13%
Total Number of Probationers	3,910,600	3,864,100	3,789,800	3,725,600

TABLE 2: PERCENT OF ADULTS ON PAROLE BY MOST SERIOUS OFFENSE AND YEAR (2013–2016)<sup>4</sup>

Most Serious Offense	2013	2014	2015	2016
Violent	29%	31%	32%	30%
Sex Offense	10%	7%	8%	8%
Other Violent Offense	20%	24%	24%	22%
Total Number of Probationers	855,200	856,900	870,500	870,700

## II. INTERMEDIATE SANCTIONS

As noted above, supervising violent offenders in the community is the responsibility of community correctional agencies. The goals of community supervision aim to support individuals under supervision as well as the communities in which they operate. First, the primary goal of community supervision is to supervise individuals in a way that decreases criminal behavior and fosters public safety.<sup>5</sup> Second, community supervision aims to provide accountability, monitor compliance with court conditions, and broker and provide services to help those under supervision.<sup>6</sup> With more and more individuals being supervised in the community, many of whom are identified

3. See KAEBLE, *supra* note 1, at 17 tbl.4.

4. See *id.* at 24 tbl.8.

5. FAYE S. TAXMAN, ERIC S. SHEPARDSON, & JAMES M. BYRNE, U.S. DEP'T OF JUSTICE, TOOLS OF THE TRADE: A GUIDE TO INCORPORATING SCIENCE INTO PRACTICE 2 (2004).

6. *Id.* at 2, 10, 66.

as violent<sup>7</sup> community supervision agencies continue to struggle with these dual goals.

To meet these dual goals, community supervision agencies have relied on a range of strategies, including intermediate sanctions. Intermediate sanctions are defined as sentences that fall on the continuum between regular probation and incarceration, although they are often used with parolees as well. The purpose of intermediate sanctions is to provide a supervision or intervention strategy that promotes public safety through surveillance, treatment, and offender responsibility as well as accountability.<sup>8</sup> There are a wide range of intermediate sanctions including the deterrence-based strategies of electronic monitoring, intensive supervision, house arrest, boot camps, community service, and the more treatment-oriented strategies of day reporting centers, drug courts, work release programs, halfway houses, and community based correctional facilities.<sup>9</sup> All these programs share a common goal of diverting individuals from prison while also ensuring public safety.<sup>10</sup>

The challenge in community supervision lies in the ability to strike the proper balance between offenders' rehabilitation needs and community safety. Specifically, how does an agency decide how intensive supervision should be, what services should be provided, or who should be released from supervision and when? Research suggests that such decisions should be informed by the individual's likelihood to reoffend as determined by the results of a standardized and validated risk and need assessment tool.<sup>11</sup> However, the public, policymakers, and other stakeholders, often believe that supervision and treatment decisions should be based primarily on the seriousness of the offense rather than the probability of reoffending. For example, data from a recent study examined the effectiveness of intermediate sanctions on recidivism.<sup>12</sup>

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7. See Christopher T. Lowenkamp, Anthony W. Flores, Alexander M. Holsinger, Matthew D. Makarios, & Edward J. Latessa, *Intensive Supervision Programs: Does Program Philosophy and the Principles of Effective Intervention Matter?*, 38 J. CRIM. JUST. 368, 368 (2010).

8. See Betsy Fulton, Edward J. Latessa, Amy Stichman & Lawrence F. Travis, *Up to Speed: The State of ISP: Research and Policy Implications*, FED. PROB., Dec. 1997, at 65, 74.

9. EDWARD J. LATESSA & BRIAN LOVINS, *CORRECTIONS IN THE COMMUNITY* 35 (Routledge, 7th ed. 2019).

10. *Id.*

11. Edward J. Latessa & Brian Lovins, *The Role of Offender Risk Assessment: A Policy Maker Guide*, 5 VICTIMS & OFFENDERS 203, 203, 205–06 (2010).

12. See generally EDWARD LATESSA, JAMIE NEWSOME, IAN SILVER, CARRIE SULLIVAN, & CHRISTOPHER D'AMATO, UNIV. CINCINNATI CORR. INST., FINAL REPORT: EVALUATION OF OHIO'S COMMUNITY CORRECTIONS ACT PRISON DIVERSION PROGRAMS (2019), <https://www.uc.edu/content/dam/uc/ccjr/docs/reports/CCA%20Final%20Report.pdf> [<https://perma.cc/K7G9-GU2T>].

Several different types of alternative supervision strategies and programs including community-based correctional facilities, halfway houses, intensive supervision and other nonresidential supervision and treatment programs were included in the study.<sup>13</sup> These programs were designed for higher risk individuals who might otherwise be sentenced to prison or who were transitioning back into the community from prison.<sup>14</sup> Because of the seriousness of the crime, many low risk violent offenders were placed in these intensive interventions.<sup>15</sup> As the data indicate, the risk level, and therefore the probability to reoffend was similar for violent and non-violent offenders,<sup>16</sup> even though the evidence indicates that recidivism rates can increase when low risk offenders are placed in intensive interventions.<sup>17</sup> The results of this study, highlight the importance of not simply punishing justice-involved individuals. The criminal justice system should consider how intensive supervision should be, what services should be provided, or who should be released from supervision and when based on each individual's risk and needs as they relate to recidivism.

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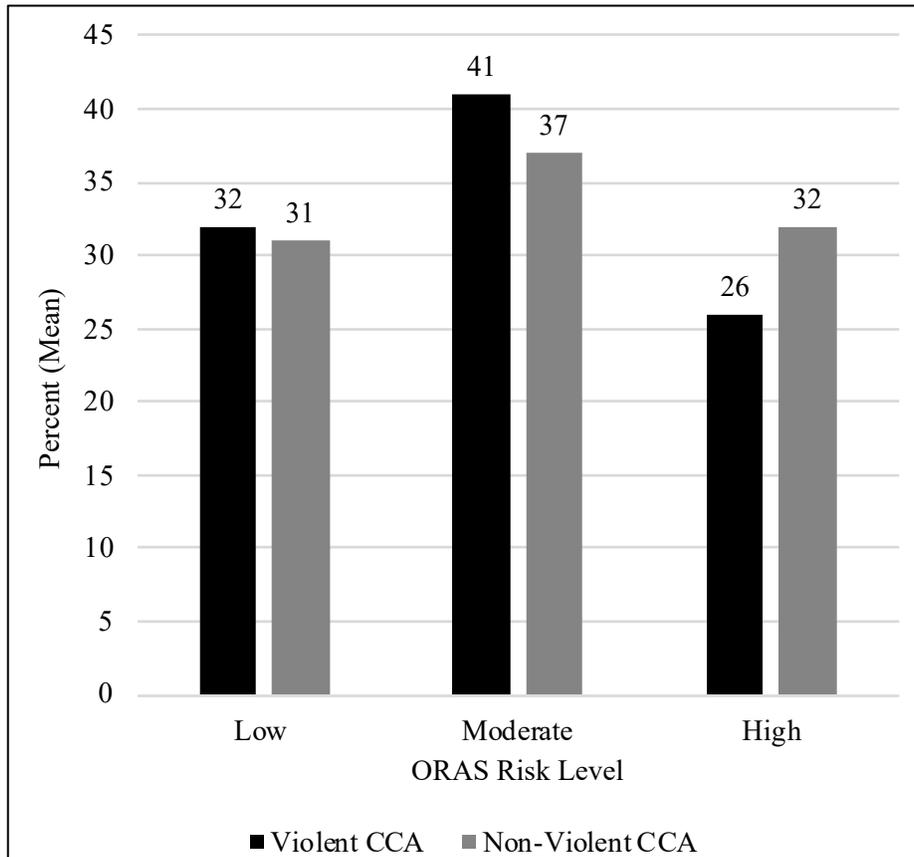
13. *Id.* at 12.

14. *Id.*

15. *Id.*; *see infra* Figure 1.

16. *See infra* Figure 1. These results are based on the Ohio Risk Assessment System (ORAS), which is designed to assess the risk to reoffend based on risk levels. Edward J. Latessa, Richard Lemke, Matthew Makarios, Paula Smith, & Christopher T. Lowenkamp, *The Creation and Validation of the Ohio Risk Assessment System (ORAS)*, FED. PROB., June 2010, at 16, 16.

17. *See* CHRISTOPHER T. LOWENKAMP & EDWARD J. LATESSA, U.S. DEP'T OF JUSTICE, TOPICS IN COMMUNITY CORRECTIONS: UNDERSTANDING THE RISK PRINCIPLE: HOW AND WHY CORRECTIONAL INTERVENTIONS CAN HARM LOW-RISK OFFENDERS 5 (2004).

FIGURE 1: RISK LEVELS OF VIOLENT VS. NON-VIOLENT OFFENDERS<sup>18</sup>

### III. RESEARCH ON THE EFFECTIVENESS OF INTERMEDIATE SANCTIONS

While there has been a great deal of reliance over the years on intermediate sanctions to supervise offenders in the community, very little research has focused on the effectiveness of intermediate sanctions with violent offenders, with the possible exception of sex offenders. The following is a brief overview of the research from studies that included violent offenders as well as those that looked at violent recidivism. As mentioned previously, there are a wide range of intermediate sanction programs, but most have one attribute in common—the offender is under some form of community supervision by a probation or parole officer.

18. See LATESSA, NEWSOME, SILVER, SULLIVAN, & D'AMATO, *supra* note 12, at 23–24, 71–72, 167.

The most widely used alternative intermediate sanction involves some form of intensive supervision program (ISP).<sup>19</sup> This sanction is sometimes combined with electronic monitoring (EM) or other interventions, and usually includes the requirement of more office and field contacts, frequent drug testing, and more stringent enforcement of conditions. In some instances, it can also include the requirement that the offender attend treatment programs.<sup>20</sup>

#### A. *Research on Intensive Supervision*

There is a significant body of research on the effectiveness of intensive supervision that dates back to the early 1960s, when the first generation of ISPs were based on the assumption that reduced caseload would lead to more contacts and services, which in turn would result in lower recidivism rates.<sup>21</sup> While contacts and services appeared to increase, reductions in recidivism did not.<sup>22</sup> The second generation of ISPs started in the 1980s and were grounded in the belief that prison populations could be reduced by diverting higher risk offenders from prison to ISP. The assumption was that by providing close surveillance and control, ISP would deter offenders from future criminal behavior.<sup>23</sup> This model of ISP was much less concerned with providing treatment and services and more focused on a control and surveillance-oriented approach. This form of ISP was consistent with the “get tough” approach of the 1980s and 90s, the failure of which is well documented.<sup>24</sup> Finally, a third generation of ISPs was promoted by the American Probation and Parole Association, which called for a prototypical model that advocated a balanced approach to supervision, where increased supervision would be combined with

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19. Lowenkamp, Flores, Holsinger, Makarios, & Latessa, *supra* note 7, at 369.

20. See Paul Gendreau, Claire Goggin, Francis T. Cullen, & Donald A. Andrews, *The Effects of Community Sanctions and Incarceration on Recidivism*, F. ON CORRECTIONS RES., May 2000, at 10, 10 (2000).

21. M.G. NEITHERCUTT & D.M. GOTTFREDSON, NAT'L CTR. JUVENILE JUSTICE, CASELOAD SIZE VARIATION AND DIFFERENCE IN PROBATION/PAROLE PERFORMANCE 1 (1975); Robert M. Carter & Leslie T. Wilkins, *Caseloads: Some Conceptual Models*, in PROBATION, PAROLE AND COMMUNITY CORRECTIONS 391, 392 (Robert M. Carter & Leslie T. Wilkins eds., John Wiley & Sons 2d ed. 1976); J. BANKS, A.I. PORTER, R.L. RARDIN, T.R. SILVER, & V.E. UNGER, U.S. DEP'T OF JUSTICE, SUMMARY: PHASE I EVALUATION OF INTENSIVE SPECIAL PROBATION PROJECTS 13 (1977).

22. BANKS, PORTER, RARDIN, SILVER, & UNGER, *supra* note 21, at 13.

23. See Todd R. Clear & Patricia L. Hardyman, *The New Intensive Supervision Movement*, 36 CRIME & DELINQ. 42, 43 (1990); JOAN PETERSILIA & SUSAN TURNER, U.S. DEP'T OF JUSTICE, EVALUATING INTENSIVE SUPERVISION PROBATION PROBATION/PAROLE: RESULTS OF A NATIONWIDE EXPERIMENT 2 (1993).

24. See Francis T. Cullen, *Make Rehabilitation Corrections' Guiding Paradigm*, 6 CRIMINOLOGY & PUB. POL'Y 717, 719 (2007).

more treatment and services.<sup>25</sup> Although many agencies purport to support this model, there is some evidence that many still adhere to a deterrence-based approach.<sup>26</sup> A summary of findings from this research has concluded:

- ISPs increase technical violations.
- ISPs have failed to reduce prison crowding.
- Most studies show no significant differences between recidivism rates for ISP and comparison groups.
- There appears to be a relationship between greater participation in treatment and lower recidivism rates.<sup>27</sup>

Essentially, an ISP without treatment does not appear to work with most offenders and there is not much reason to believe that it would work with violent offenders.

### B. *Research on Electronic Monitoring*

Electronic monitoring, which includes GPS tracking, is another popular intermediate sanction that emerged in the 1980s as technology advanced. While EM can be used as a stand-alone sanction, it is often combined with some form of intensive supervision and is increasingly used for sex and domestic violence offenders. Regardless of how it is used or with whom, the question remains as to whether it is effective in reducing recidivism.

In a meta-analysis that examined the effect of intermediate sanctions on recidivism, Gendreau, Goggin, Cullen, and Andrews found that those under EM had a slightly higher recidivism rate than those who were not under EM.<sup>28</sup> Similarly, Rezema and Mayo-Wilson found similar results and concluded the “applications of EM as a tool for reducing crime are not supported by existing data.”<sup>29</sup> The authors did find that one program may have reduced recidivism for sex offenders; however, they speculated that the effect could be attributed to more extensive and higher quality treatment, rather than EM.<sup>30</sup>

Related to the potentially positive effects when treatment is combined with EM, there is some evidence that when treatment is added to ISP effects are also more positive.<sup>31</sup> Similar findings have been found for electronic monitoring

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25. Fulton, Latessa, Stichman, & Travis, *supra* note 8, at 65–66.

26. See LATESSA & LOVINS, *supra* note 9, at 34–35.

27. Fulton, Latessa, Stichman, & Travis, *supra* note 8, at 71–72.

28. Gendreau, Goggin, Cullen & Andrews, *supra* note 20, at 11.

29. Marc Renzema & Evan Mayo-Wilson, *Can Electronic Monitoring Reduce Crime for Moderate to High-Risk Offenders?*, 1 J. EXPERIMENTAL CRIMINOLOGY 215, 215 (2005).

30. *Id.* at 228.

31. PAIGE WANNER, WASH. ST. INST. FOR PUB. POL’Y, INVENTORY OF EVIDENCE-BASED, RESEARCH-BASED, AND PROMISING PROGRAMS FOR ADULT CORRECTIONS 13 (2018),

when combined with programs to address risk factors and criminogenic needs. For example, Gendreau, Goggin, Cullen and Andrews found a 10% reduction in recidivism for studies that included a small amount of treatment.<sup>32</sup> Bonta, Wallace-Capretta, and Rooney found in one study that a combination of EM and court orders increased compliance with treatment, with 87% of the experimental group completing a cognitive behavioral program compared to 52.9% for the control group.<sup>33</sup> Despite higher completion rates however, EM did not result in lower recidivism rates.<sup>34</sup> In an evaluation of an intensive rehabilitation supervision program that included EM, Bonta and his colleagues found in another study that treatment was effective for high risk offenders but not low risk.<sup>35</sup>

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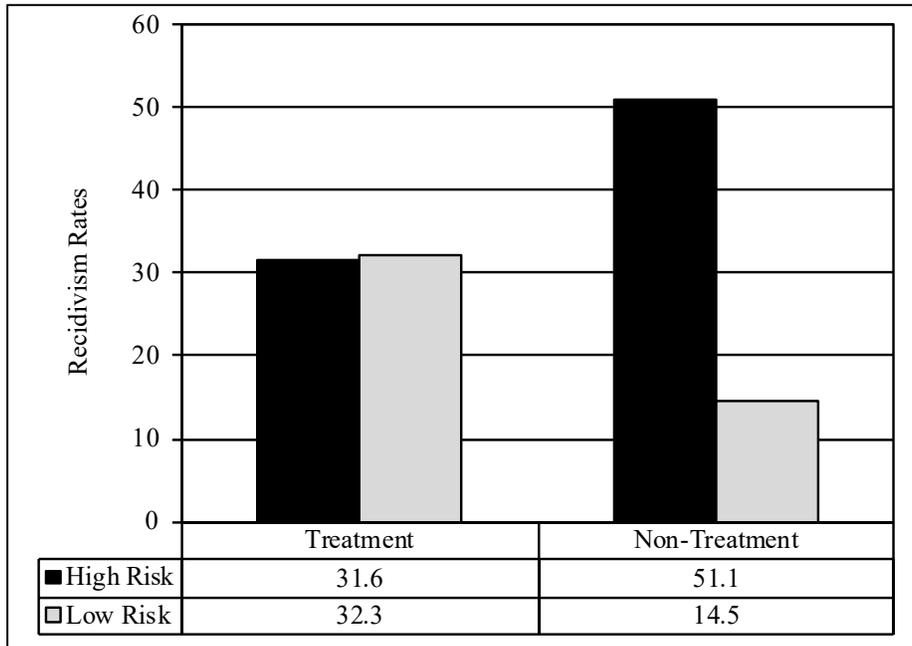
[http://www.wsipp.wa.gov/ReportFile/1681/Wsipp\\_Inventory-of-Evidence-Based-Research-Based-and-Promising-Programs-for-Adult-Corrections\\_Report.pdf](http://www.wsipp.wa.gov/ReportFile/1681/Wsipp_Inventory-of-Evidence-Based-Research-Based-and-Promising-Programs-for-Adult-Corrections_Report.pdf) [<https://perma.cc/VD7E-P29A>].

32. See Gendreau, Goggin, Cullen, & Andrews, *supra* note 20, at 12.

33. James Bonta, Suzanne Wallace-Capretta, & Jennifer Rooney, *A Quasi-Experimental Evaluation of an Intensive Rehabilitation Supervision Program*, 27 CRIM. JUST. & BEHAV. 312, 323 (2000) [hereinafter Bonta, Wallace-Capretta, & Rooney, *Quasi-Experimental Evaluation*].

34. *Id.* at 326.

35. See James Bonta, Suzanne Wallace-Capretta, & Jennifer Rooney, *Can Electronic Monitoring Make a Difference? An Evaluation of Three Canadian Programs*, 46 CRIME & DELINQ. 61, 72 (2000) [hereinafter Bonta, Wallace-Capretta, & Rooney, *Can Electronic Monitoring Make a Difference?*].

FIGURE 2: RESEARCH ON INTENSIVE SUPERVISION WITH TREATMENT<sup>36</sup>

As shown in Figure 2, these results indicated that intensive supervision programs can have a positive effect on recidivism provided (1) the program includes treatment and (2) it is reserved for higher risk offenders. Overall, Bonta, Wallace-Capretta, and Rooney concluded that EM demonstrated very little effect on recidivism; however, they also stated that it can provide correctional officials and judges an option for allowing higher risk offenders, who might otherwise be incarcerated, to remain in the community.<sup>37</sup>

Although this is a brief review of the research on two popular intermediate sanctions, it is consistent with research in general in this area; that is, at best “punishing smarter” programs such as ISP and EM have no effect on recidivism, and at worst lead to slight increases unless treatment and services are provided.<sup>38</sup> These findings are also consistent with research on traditional community supervision, which is briefly summarized below.

36. Bonta, Wallace-Capretta, & Rooney, *Quasi-Experimental Evaluation*, *supra* note 33, at 324.

37. Bonta, Wallace-Capretta, & Rooney, *Can Electronic Monitoring Make a Difference?*, *supra* note 35, at 62, 73.

38. PETERSILIA & TURNER, *supra* note 23, at 5; Fulton, Latessa, Stichman, & Travis, *supra* note 8, at 71; Gendreau, Goggin, Cullen, & Andrews, *supra* note 20, at 10–13.

### C. Research on Community Supervision

Probation is the most widely used correctional sanction, and when we combine parole with probation, over 68% of all offenders under correctional control are in the community.<sup>39</sup> So, what does the research tell us about traditional community supervision? Bonta and his colleagues provided some answers with preliminary results from a meta-analysis of the effects of community supervision on recidivism.<sup>40</sup> Examining fifteen studies, they found that decreases in recidivism were extremely small, and findings for violent offenders were even worse.<sup>41</sup> They concluded that “[o]n the whole, community supervision does not appear to work very well.”<sup>42</sup> To further explore this issue, they examined traditional probation and parole officer interactions with offenders and concluded that there are several reasons community supervision is often not effective:

- They are too brief to have an impact.
- Conversations focus almost exclusively on monitoring compliance with conditions (and therefore emphasize external controls on behavior rather than developing an internal rationale for pro-social behavior).
- The relationship is often more confrontational and authoritarian in nature than helpful.
- What is targeted for change is not always based on assessment.
- The more areas discussed, the less effective the contact.<sup>43</sup>

Figures 3(a) and 3(b) illustrate these points by showing the effects of time spent on compliance and criminogenic needs on recidivism. As seen in this figure, the more time spent on compliance the higher the failure rates. Conversely, as time spent discussing criminogenic needs increased, recidivism rates decreased. Recognizing the value in these results, scholars proposed that community supervision agencies adopt the Risk, Need, Responsivity Model, a model derived from the principles of effective intervention.<sup>44</sup>

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39. See KAEBLE, *supra* note 1; DANIELLE KAEBLE & MARY COWHIG, U.S. DEP’T OF JUSTICE, CORRECTIONAL POPULATIONS IN THE UNITED STATES, 2016, at 2 (2018).

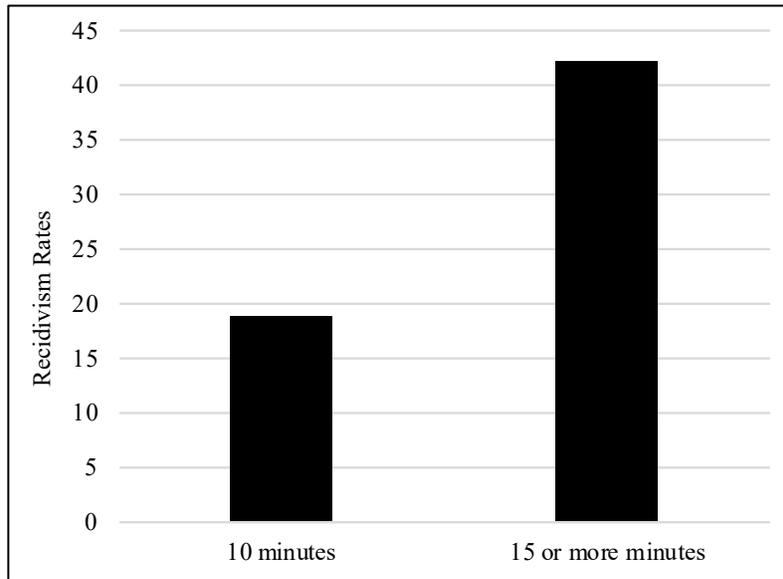
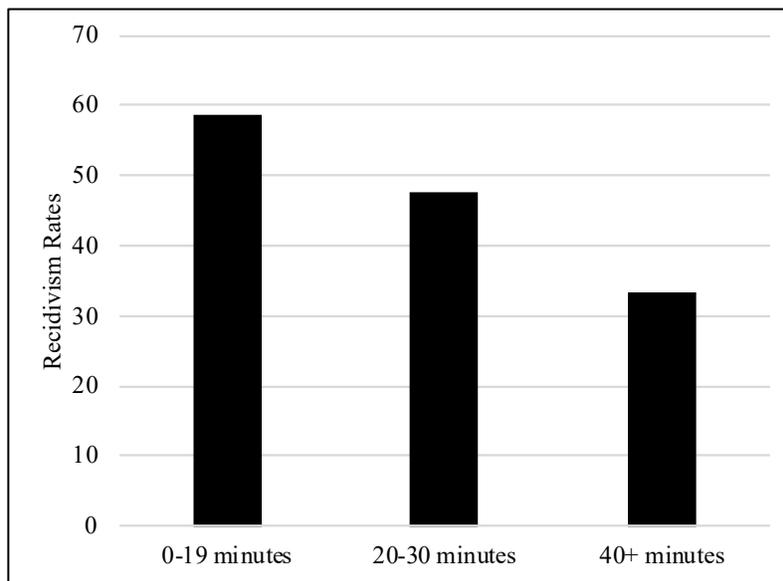
40. See generally James Bonta, Tanya Rugge, Terri-Lynne Scott, Guy Bourgon & Annie K. Yessine, *Exploring the Black Box of Community Supervision*, 47 J. OFFENDER REHABILITATION 248 (2008).

41. *Id.* at 251.

42. *Id.*

43. See *id.* at 265–67.

44. See, e.g., D.A. ANDREWS & JAMES BONTA, THE PSYCHOLOGY OF CRIMINAL CONDUCT 513–14 (Anderson Publ’g 5th ed. 2010).

FIGURE 3(A): TIME SPENT ON COMPLIANCE<sup>45</sup>FIGURE 3(B): TIME SPENT ON CRIMINOGENIC NEEDS<sup>46</sup>

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45. Bonta, Rugge, Scott, Bourgon, & Yessine, *supra* note 40, at 265.

46. *Id.* at 264.

## IV. THE RISK, NEED AND RESPONSIVITY MODEL

Nearly thirty years of research has indicated that the most effective programs are based on some principles of effective intervention, commonly referred to as the RNR model (Risk, Need and Responsivity). In this context, risk refers to the risk or probability of reoffending. The risk principle focuses on “who” should be the focus of intensive programming and services.<sup>47</sup> The essence of the risk principle is that we should reserve our more intensive programs for higher risk offenders, and that intensive interventions can increase recidivism for lower risk individuals.<sup>48</sup> There are several reasons why intensive programs can have a negative effect on low risk people.<sup>49</sup> First, an exposure or contamination effect can occur when low risk offenders are mixed in with higher risk offenders.<sup>50</sup> Second, placing low risk individuals in intensive programs takes them away from the things that make them low risk to begin with (e.g., their jobs, school, pro-social family members, and friends).<sup>51</sup> Third, increased surveillance and supervision conditions can lead to more technical violations and subsequent revocations.<sup>52</sup> It is important to note that seriousness (i.e., type of offense), is not the same as risk to reoffend, and since seriousness of the crime often trumps risk, we often see those convicted of a violent offense given intensive supervision (including EM), regardless of their risk level.

The second principle, the need principle, helps us identify “what” to target for behavioral change—that is, dynamic risk factors (i.e. criminogenic needs) that are highly correlated with criminal conduct.<sup>53</sup> The need principle states that programs should assess and target crime-producing needs, such as anti-social attitudes, anti-social peer associations, substance abuse, impulsivity, lack of problem-solving skills, and self-control, just to name a few.<sup>54</sup> Thus, programs should ensure that most interventions are focused on these factors.

The third principle, responsivity, helps us determine “how” to deliver treatment by using behavioral interventions in a way that matches offenders’ personalities, abilities, and motivation levels, while ensuring programs and services are delivered with fidelity.<sup>55</sup> Examples of behavioral programs would

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47. See LOWENKAMP & LATESSA, *supra* note 17, at 3.

48. *Id.*

49. *Id.* at 7.

50. *Id.*

51. *Id.*

52. See *id.* at 6–7.

53. See Latessa & Lovins, *supra* note 11, at 208.

54. *Id.*

55. *Id.* at 210.

include those that follow a structured social learning approach where new skills and behaviors are modeled, practiced, and consistently reinforced.<sup>56</sup> Social learning is one of the strongest theories we have to explain how we act and behave. Social learning refers to several processes through which individuals acquire attitudes, behavior, or knowledge from the persons around them.<sup>57</sup> Of course, the problem with social learning is that individuals do not just learn good behavior from others; they also learn bad behavior, which is why it is referred to as *structured* social learning, where staff are formally taught how to both model new behaviors and provide instrumental conditioning.<sup>58</sup>

Within a structured social learning model, the most effective approach is providing cognitive behavioral treatment (CBT). Cognitive behavioral treatment can be used to target attitudes, values and beliefs, anti-social peers, employment, substance abuse, anger, impulsivity, and problem-solving skills, as well as other criminogenic needs.<sup>59</sup> If done properly, CBT not only helps participants restructure their thinking, but it is also a vehicle for teaching new skills. The principles of CBT are that thinking affects behavior; anti-social, distorted, unproductive irrational thinking can lead to antisocial and unproductive behavior; thinking can be influenced; and we can change how we feel and behave by changing what we think.<sup>60</sup> The advantages of using a CBT approach is that it can be done in any setting and in groups or one-on-one sessions; existing staff can be trained; it is relatively affordable to deliver; and there are a wide range of curricula available, including several that are free to use.<sup>61</sup> There is also a great deal of research that demonstrates that cognitive behavioral programs can reduce recidivism. For example, according to the National Institute of Justice, “[c]ognitive behavioral therapy has been found to be effective with juvenile and adult offenders; substance abusing and violent offenders; and probationers, prisoners, and parolees. It is effective in various

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56. See MICHAEL D. SPIEGLER & DAVID C. GUEVREMONT, CONTEMPORARY BEHAVIOR THERAPY 7–8 (Wadsworth Cengage Learning 5th ed. 2010).

57. See Craig Dowden & D.A. Andrews, *The Importance of Staff Practice in Delivering Effective Correctional Treatment: A Meta-Analytic Review of Core Correctional Practice*, 48 INT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 203, 204 (2004) [hereinafter, Dowden & Andrews, *Importance of Staff Practice*].

58. See Latessa & Lovins, *supra* note 11, at 207.

59. Patrick Clark, *Preventing Future Crime with Cognitive Behavioral Therapy*, NAT’L INST. JUST. J., Apr. 2010, at 22, 23.

60. *Id.*

61. See HARVEY MILKMAN & KENNETH WANBERG, U.S. DEP’T OF JUSTICE, COGNITIVE-BEHAVIORAL TREATMENT: A REVIEW AND DISCUSSION FOR CORRECTIONS PROFESSIONALS 15–33, 60 (2007).

criminal justice settings, both in institutions and in the community, and addresses a host of problems associated with criminal behavior.”<sup>62</sup>

A. *Research on RNR and Community Supervision*

As corrections agencies began to implement the RNR model, researchers seized opportunities to examine its effectiveness. In a meta-analysis, Dowden and Andrews examined the effectiveness of the RNR model by examining studies of correctional treatment and only included those studies that used violent recidivism as an outcome.<sup>63</sup> Overall, the effects were modest with a recidivism rate of 46.5% for the treatment group and 53.5% for the control group; however, when the programs adhered to the RNR model the results were more pronounced, as shown in Figure 4.<sup>64</sup> Targeting higher risk offenders, focusing on criminogenic needs and using a behavioral approach grounded in social learning and CBT produced much stronger effects on violent recidivism.<sup>65</sup> This study also examined the effects of “what” was targeted for change and its effect on recidivism, as demonstrated in Figure 5.<sup>66</sup> Non-criminogenic needs such as fear or vague emotional problems produced negative (increased recidivism) effects, whereas focusing on criminogenic factors such as anger and anti-social attitudes had a larger and significant effect on reducing violent recidivism.

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62. Clark, *supra* note 59, at 22.

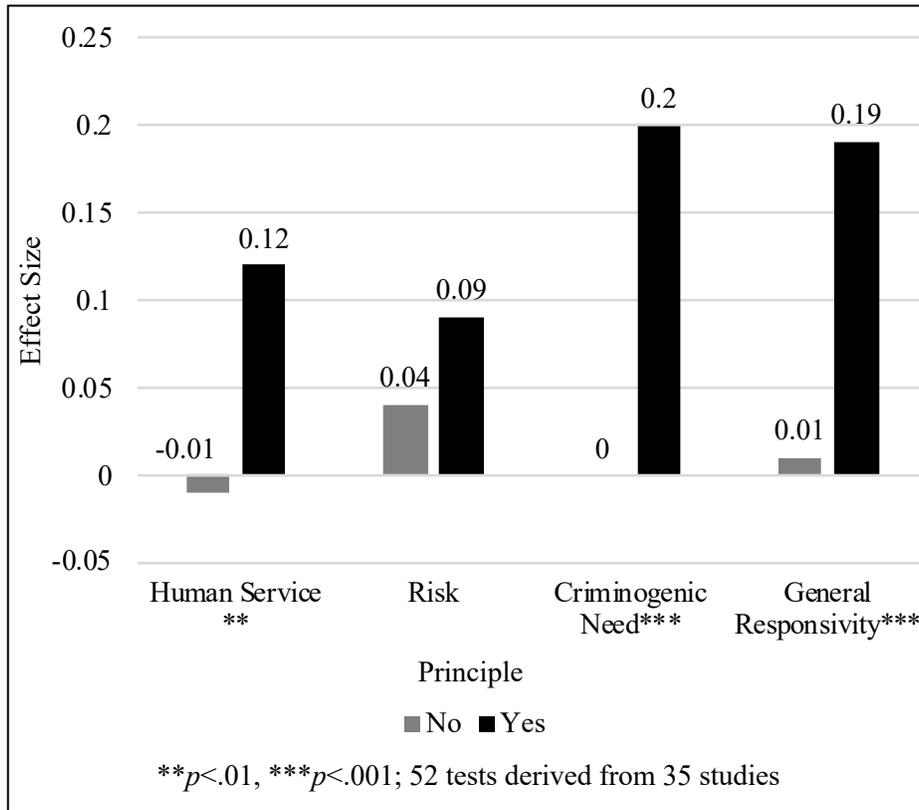
63. See Craig Dowden & D.A. Andrews, *Effective Correctional Treatment and Violent Reoffending: A Meta-Analysis*, 42 CANADIAN J. CRIMINOLOGY 449, 449 (2000) [hereinafter Dowden & Andrews, *Correctional Treatment and Violent Reoffending*].

64. *Id.* at 456; see *infra* Figure 4.

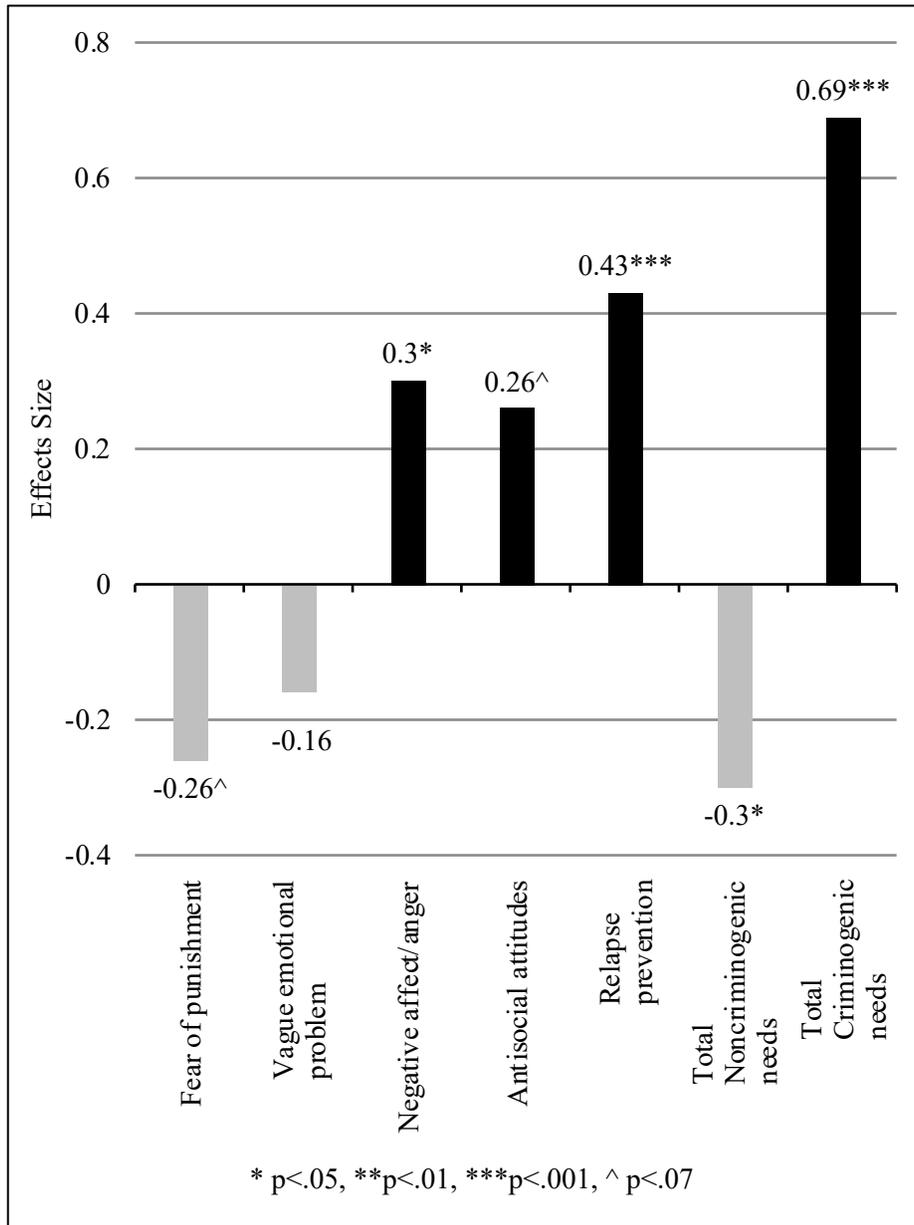
65. See Dowden & Andrews, *Correctional Treatment and Violent Reoffending*, *supra* note 63, at 455.

66. *Id.* at 458; see *infra* Figure 5.

FIGURE 4: ADHERENCE TO RNR PRINCIPLES AND VIOLENT RECIDIVISM<sup>67</sup>



67. *Id.* at 457.

FIGURE 5: CRIMINOGENIC AND NON-CRIMINOGENIC NEEDS<sup>68</sup>68. *Id.* at 458.

In a study of intermediate sanctions in Ohio, fifty-five different types of intermediate sanctions were studied, including ISP (N = 42), day reporting (N = 6), EM (N = 2), work release (N = 2), and substance abuse programs (N = 3).<sup>69</sup> A total of over 13,000 offenders, including violent offenders, were part of this study.<sup>70</sup> Results indicated that the type of intermediate sanction did not make a difference; however, there were four significant factors related to outcome:

1. The proportion of higher risk offenders in the program (at least 75% of offenders in the program were moderate or high risk).
2. The level of supervision for higher risk offenders (high risk offenders averaged longer periods of supervision than low risk).
3. More treatment was provided for higher risk offenders (at least 50% more time spent in treatment).
4. More referrals for services were provided for higher risk offenders (at least three referrals for every one received by low risk).<sup>71</sup>

Figure 6 shows the changes in recidivism by the four significant program factors. When combined as shown in Figure 7, programs that did not meet any of these four factors had a 13% *increase* in recidivism rates, whereas those that met three factors *reduced* recidivism on average 15%. Unfortunately, none of the programs in the study met all four of the conditions.

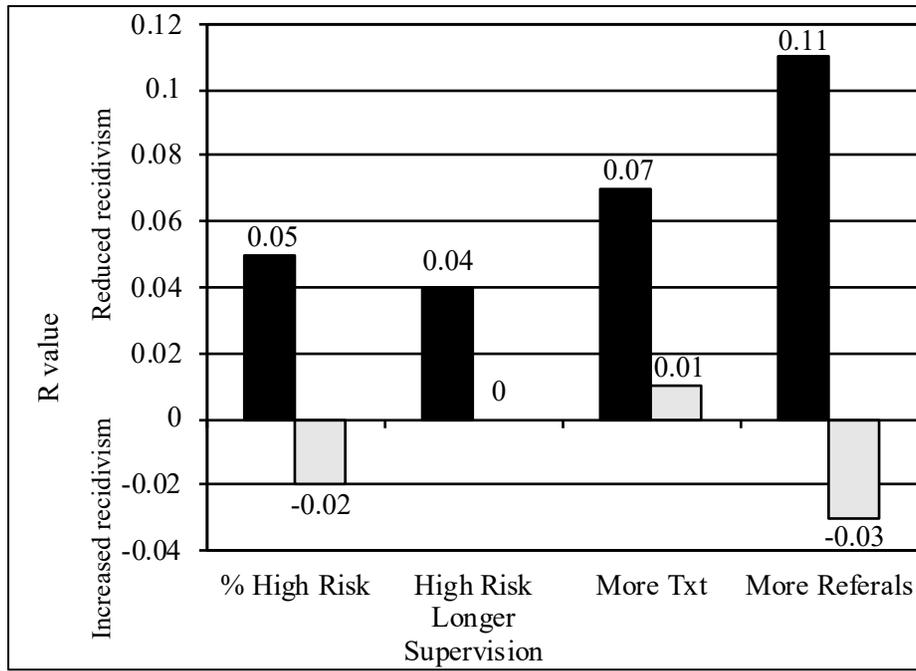
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69. Christopher T. Lowenkamp, Jennifer Pealer, Paula Smith, & Edward J. Latessa, *Adhering to the Risk and Need Principles: Does It Matter for Supervision-Based Programs?*, FED. PROB., Dec. 2006, at 3, 4.

70. *Id.* at 5.

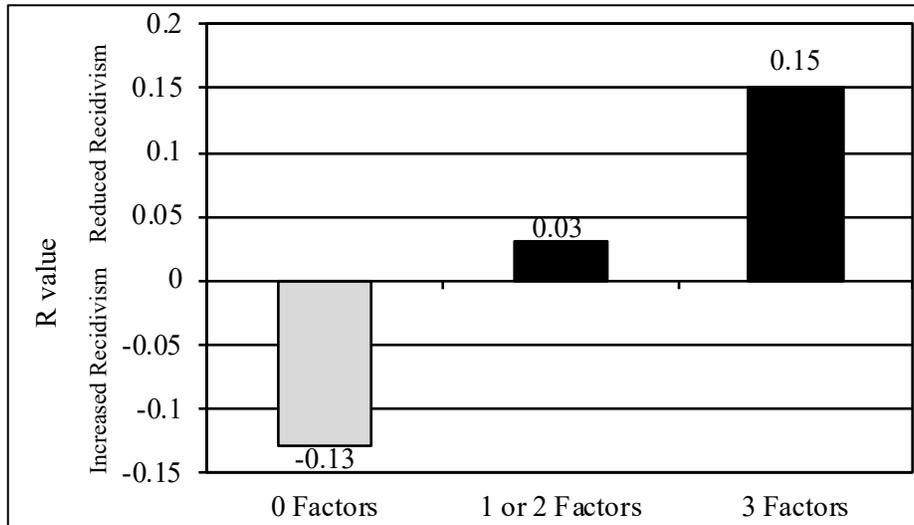
71. *Id.* at 6.

FIGURE 6: CHANGES IN RECIDIVISM BY FOUR PROGRAM FACTORS<sup>72</sup>



72. *Id.*

FIGURE 7: CHANGE IN RECIDIVISM BY FOUR POINT SCORE FOR INTERMEDIATE SANCTIONS PROGRAMS<sup>73</sup>



Lowenkamp, Flores, Holsinger, Makarios, and Latessa also examined the effect of program philosophy on recidivism and found that programs with a human service orientation were more effective than deterrence programs.<sup>74</sup> They also found that those programs that were consistent with the RNR model were most effective, and even deterrence-oriented programs were less harmful when they adhered to RNR.<sup>75</sup>

#### V. TRANSLATING RESEARCH INTO POLICY AND PRACTICE

The studies above are only a snapshot of the available research on intermediate sanctions and the RNR model. Fairly consistent findings indicate correctional interventions that operate primarily on a punishment/deterrence model without some form of human intervention or services are unlikely to be effective in reducing recidivism.<sup>76</sup> Related, consistent findings also indicate that human service programs that target higher risk offenders, and criminogenic needs, and that use individualized interventions grounded in cognitive-

73. *Id.* at 7.

74. Lowenkamp, Flores, Holsinger, Makarios, & Latessa, *supra* note 7, at 374.

75. *Id.*

76. ANDREWS & BONTA, *supra* note 44, at 508; Paula Smith, Paul Gendreau, & Kristin Swartz, *Validating the Principles of Effective Intervention: A Systematic Review of the Contributions of Meta-Analysis in the Field of Corrections*, 4 VICTIMS & OFFENDERS 148, 153.

behavioral and social learning theories are more effective than programs that do not.<sup>77</sup> Indeed, the correctional treatment literature now contains more than 100 meta-analyses and reviews that consistently demonstrate “what works” to reduce recidivism and the importance of adhering to the RNR framework.<sup>78</sup> With this focus on using strategies that are proven effective in reducing recidivism, policy and practice changes are needed throughout community supervision. This section will highlight some of those changes.

A reliance on evidence-based practices, including the RNR model, to influence the long-term behavior of offenders and protect the public has challenged the previous status quo of community supervision.<sup>79</sup> As noted above, there are benefits to agencies shifting from policies that support intensive supervision and other intermediate sanctions to those that support behavior change and quality interpersonal relationships. As agencies begin to make this shift, it is important that they engage in evidence-based decision making to set policies and procedures. To do this involves several steps:

1. Assess policies and practices, and conduct a risk and need assessment of the offenders served.
2. Consult the research and design supervision strategies, services and programs based on the evidence.
3. Implement evidence-based programming and ensure that the programs are implemented with fidelity.
4. Professionalize and build skills of staff through training, coaching and feedback.
5. Evaluate the effectiveness of the strategies and approaches by collecting and analyzing data.

At its core, evidence-based decision-making requires a community supervision agency to use data to guide decisions across all aspects of the agency. For example, an agency should rely on data to assess the offenders they serve, including their risk of reoffending and criminogenic needs. This will facilitate the development of policies that can help set eligibility criteria and support the implementation of programs that are aligned with offender top risk and need profiles. Related, policies should specify the importance of programs selected for implementation to have relevant research that demonstrates their effectiveness with the population served. In this way, a community supervision agency should not reinvent the wheel. There is ample

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77. Smith, Gendreau, & Swartz, *supra* note 76, at 153–55.

78. See James McGuire, ‘What Works’ to Reduce Re-offending: 18 Years On, in WHAT WORKS IN OFFENDER REHABILITATION: AN EVIDENCE-BASED APPROACH TO ASSESSMENT AND TREATMENT 20, 22 (Leam A. Craig, Louise Dixon, & Theresa A. Gannon eds., 2013).

79. See Jill Viglione, *The Risk-Need-Responsivity Model: How Do Probation Officers Implement the Principles of Effective Intervention?*, 46 CRIM. JUST. & BEHAV. 655, 656 (2019).

evidence to guide the selection of specific programming and interventions that once adopted should then be made available to staff. Staff should be trained on how to properly use these tools, and training policies should outline initial and on-going training requirements and protocols. Furthermore, the agency should adopt policies that provide staff with regular coaching to enhance their skills and encourage a professional identity. Finally, the agency should develop policies that provide for the evaluation of staff, individuals served, and overall effectiveness. Here, at a minimum, an agency should have a policy to evaluate its ability to reduce the recidivism of those served as well as its ability to meaningfully change the behavior of those served (e.g., decreases in positive urine screens or increases in job attainment). Agencies may also consider validating their risk tool on their own population and ensuring its reliability. Included in these policies should also be protocols to evaluate staff proficiency with key tools and interventions. As processes and practices are measured, the data collected should be used to measure agency, staff, and offender progress. Doing so encourages accountability across the board and promotes an environment of success.

## VI. PRACTICE RECOMMENDATIONS

As agencies adopt evidence-based decision-making, policies will begin to shape who is served and what needs are targeted, as well as what interventions are used to increase public safety and decrease recidivism. Here, the practical application of the RNR model takes priority. Therefore, in order to ground the daily practice of community supervision in the RNR model, several recommendations are provided in this section around the assessment of offenders, community supervision practices, the delivery of services for specific groups, and the importance of regular practices that monitor the internal and external delivery of services. Finally, core practices that tie these recommendations together and encourage forward thinking are shared.

### *A. Improve Assessment*

Community supervision agencies should assess offenders with a validated risk and need assessment tool. For individuals under supervision for a violent charge, this means officers should assess their risk for both violent and general recidivism. Once assessed, officers should use the results of the assessment to identify those higher risk offenders most appropriate for services and supervision and minimize services for those identified as low risk to reoffend.

### B. *Improve Supervision Practices*

For those identified as appropriate for services and supervision, the results of the assessment tool(s) should also help determine what problem areas are targeted for change. In this way, for each offender on an officer's caseload, the officer should prioritize the criminogenic needs that the validated risk/needs assessment indicated are contributing to the likelihood that the offender will engage in future criminal behavior. As noted above, there are several dynamic risk factors linked to recidivism; however, an individual under supervision may only present with some of these factors (e.g., antisocial attitudes, antisocial peers, and substance use). In this case, the officer should only target for change those factors that are relevant to the individual by referring the individual to programs and services as well as focusing contact sessions on one of the risk factors.

Once the criminogenic needs are prioritized, officers should apply techniques that are known to impact behavior change and do so in a way that meets the individual characteristics of the offender. As noted above, cognitive-behavioral approaches grounded in social learning theory have been found to be the most effective with correctional populations.<sup>80</sup> Therefore, officers should use CBT interventions during contact sessions to target criminogenic needs. Officers should also refer offenders to providers in the community that use CBT to focus on needs that cannot be fully met during contact sessions. Further, officers should attempt to address any barriers that may prevent the offender from complying with treatment or supervision. For example, an officer may work with an offender to increase motivation to change before referring the offender to a treatment program.

### C. *Improve the Delivery of Services for Specific Groups*

Research suggests that even violent offenders benefit from cognitive-behavioral interventions.<sup>81</sup> The same is true of sexual offenders.<sup>82</sup> To successfully reduce the risk to reoffend for specific populations, interventions should target the thinking behind the behavior, provide practice opportunities for new thinking and new behaviors, and reinforce the use of newly developed attitudes, thoughts, and behaviors. Much like an individual contact session, group interventions should use CBT approaches grounded in social learning

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80. Clark, *supra* note 59, at 22–23; see also SPIEGLER & GUEVREMONT, *supra* note 56, at 7–8.

81. See Dowden & Andrews, *Importance of Staff Practice*, *supra* note 57, at 211–12.

82. See R. Karl Hanson, Guy Bourgon, Leslie Helmus, & Shannon Hodgson, *The Principles of Effective Correctional Treatment Also Apply to Sexual Offenders: A Meta-Analysis*, 36 CRIM. JUST. & BEHAV. 865, 881–84 (2009).

theory. Heavy emphasis should be placed on skill building activities to assist with cognitive, social, emotional, and coping skill development.

#### D. Monitor Internal and External Service Delivery

Translating research into practice is an ongoing challenge for community supervision agencies and officers.<sup>83</sup> While many agencies have been able to implement bits and pieces of the RNR model, few are able to consistently adhere to the principles.<sup>84</sup> Therefore, it is important for agencies to monitor both the internal and external delivery of services. For example, agencies should measure incremental changes in offender behavior through drug tests, treatment attendance, adherence to court conditions, and reassessment of risk and need tool(s). Agencies should also measure staff performance through group and contact session observation, inter-rater reliability methods, file reviews, client satisfaction surveys, and other feedback mechanisms.

#### E. Core Correctional Practices

As community supervision agencies begin to translate the RNR model into practice, research suggests that training officers in core correctional practices can influence offender outcomes. Core Correctional Practices (CCP) are a combination of techniques that corrections professionals can use to more effectively interact with people and manage behavior.<sup>85</sup> These practices include anti-criminal modeling, effective reinforcement and disapproval, use of authority, and quality interpersonal relationships.<sup>86</sup> CCP skills to support individual change include cognitive restructuring, problem-solving techniques, and structured skill building.<sup>87</sup> Prior research has shown these strategies support the implementation of correctional interventions and play a critical role in creating a learning environment for individual change.<sup>88</sup> Moreover, these

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83. Paul Gendreau, Claire Goggin, & Paula Smith, *Cumulating Knowledge: How Meta-Analysis Can Serve the Needs of Correctional Clinicians and Policy-Makers*, in COMPENDIUM 2000 ON EFFECTIVE CORRECTIONAL PROGRAMMING 202, 202 (Laurence L. Motiuk & Ralph C. Serin eds., 2001); see generally Paul Gendreau, *We Must Do a Better Job of Cumulating Knowledge*, 43 CANADIAN PSYCH. 205 (2002); TAXMAN, SHEPARDSON, & BYRNE, *supra* note 5, at 11.

84. LORE JOPLIN, BRAD BOGUE, NANCY CAMPBELL, MARK CAREY, ELYSE CLAWSON, DOT FAUST, KATE FLORIO, BILLY WASSON, & WILLIAM WOODWARD, USING AN INTEGRATED MODEL TO IMPLEMENT EVIDENCE-BASED PRACTICES IN CORRECTIONS 3 (2004), [https://www.njjn.org/uploads/digital-library/resource\\_759.pdf](https://www.njjn.org/uploads/digital-library/resource_759.pdf) [<https://perma.cc/AS3X-AX79>].

85. See Dowden & Andrews, *Importance of Staff Practice*, *supra* note 57, at 204.

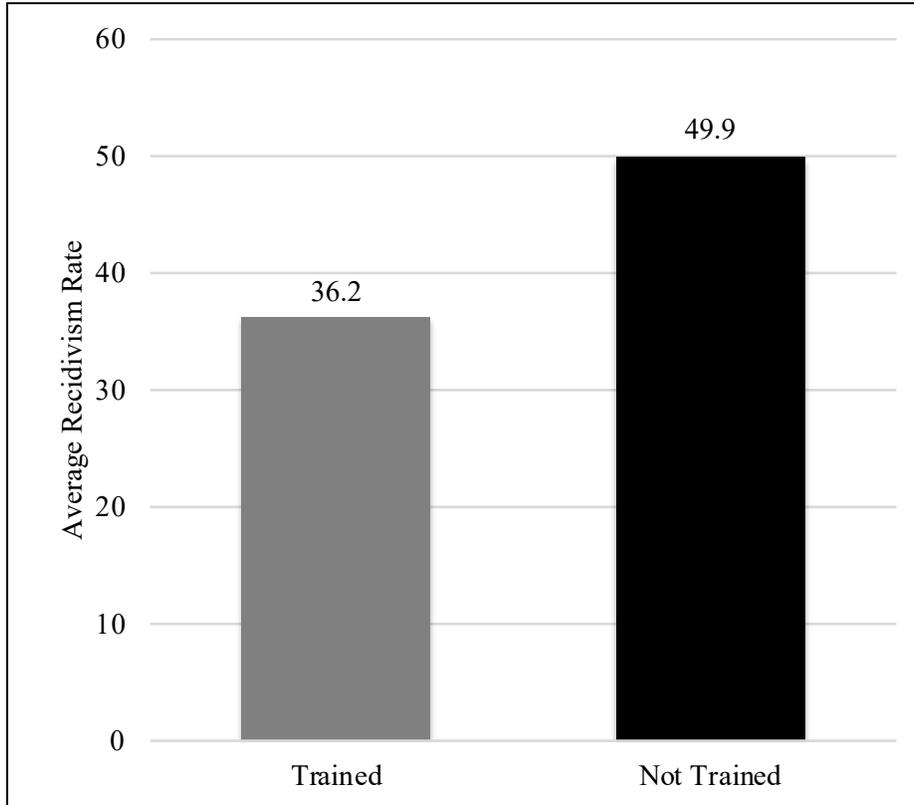
86. *Id.* at 205.

87. *Id.* at 205–06.

88. *Id.*; Nick Chadwick, Angela DeWolf & Ralph Serin, *Effectively Training Community Supervision Officers: A Meta-Analytic Review of the Impact on Offender Outcome*, 42 CRIM. JUST. &

techniques are consistent with the principles of risk, need, and responsivity, and when implemented properly, equip professionals with tools to be effective agents of long-term behavior change.<sup>89</sup> Figure 8 shows the results from a meta-analysis that examined the effects of using CCPs. As seen, trained officers were more effective in reducing recidivism than those that were not.<sup>90</sup>

FIGURE 8: META-ANALYSIS: POS TRAINED IN CORE CORRECTIONAL PRACTICES & EFFECTS ON RECIDIVISM<sup>91</sup>



BEHAV. 977, 979 (2015); Stephen M. Haas & Douglas H. Spence, *Use of Core Correctional Practice and Inmate Preparedness for Release*, 61 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 1455, 1471–73 (2017).

89. Dowden & Andrews, *Importance of Staff Practice*, *supra* note 57, at 210.

90. Chadwick, DeWolf, & Serin, *supra* note 88, at 985–86.

91. *Id.* at 985.

Incorporating CCP into supervision and treatment requires probation and parole officers to move from a control-oriented approach to one that is designed to facilitate behavioral change by *teaching* offenders' new ways to behave, rather than simply relying on external controls. Considering the above practice implications, scholars have recently challenged officers to consider themselves a coach, rather than a referee.<sup>92</sup> Lovins, Cullen, Latessa, and Jonson suggest that being a coach requires a different approach to community supervision where the officer aims to help the person under supervision not only adhere to the rules of supervision but also change their behavior to stay out of trouble.<sup>93</sup> With this approach, officers are trained to help individuals under supervision develop new skills to anticipate and manage high risk situations successfully. This requires officers to develop and refine the skills described above.<sup>94</sup> Lovins, Cullen, Latessa, and Jonson suggest that “[s]uch an identity is important because it organizes our action, motivates our choices, and provides meaning to our lives.”<sup>95</sup> We see this in the world of sports where the identity as a coach carries with it status, expertise, obligation, purpose, and accountability. Similarly, having officers build an identity as a coach has the potential to open new ways of envisioning their role and how they can be effective.

## VII. SUMMARY

Despite the research supporting the value of incorporating RNR into community supervision, even for violent offenders, there are still advocates for more punitive policies such as increased use of incarceration or simply increasing control and monitoring if the offender is supervised in the community. Those advocating such strategies of crime control do so based on the often-interrelated goals of punishment: retribution, deterrence, and incapacitation. These advocates are challenged by others who argue that we must address the underlying causes of crime and criminal behavior and provide programs and services to address the needs of the offender, especially for those returning to the community. So, can we achieve the goal of public protection and meet the dual needs for punishment *and* rehabilitation?

Punishment is an inherent part of the correctional system and is often justified simply because a person has broken the law. This is especially true for those who commit a violent offense. Society demands that certain offenders

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92. See Brian K. Lovins, Francis T. Cullen, Edward F. Latessa, & Cheryl Lero Jonson, *Probation Officer as a Coach: Building a New Professional Identity*, FED. PROB., June 2018, at 13, 13.

93. *Id.* at 14.

94. *Id.* at 15.

95. *Id.* at 13.

be punished and expect our elected officials to see that offenders be held accountable. The problem is the belief that somehow punishment alone will deter offenders from continuing to break the law in the future. The underlying assumption of deterrence is that the offenders are aware of the sanction, they perceive it as unpleasant, they weigh the cost and benefits of their criminal conduct, and they assess the risk and, in turn, make a rational choice to break the law (or not). The problem is that most street-level criminals act impulsively; have a short-term perspective; are often disorganized and have failed in school, jobs, and relationships; have distorted thinking; hang around with others like themselves; use drugs and alcohol; and are not rational actors. In short, deterrence theory collapses. Incapacitation, which attempts to limit offenders' ability to commit another crime (usually by locking them up), can have some effect, but as many have found out, simply locking up offenders and "throwing away the key" has proven to be a very expensive approach to crime control. This strategy is also limited, since the vast majority of offenders return to society. Without treatment, many will return unchanged at best and, at worst, with many more problems and intensified needs for services. Even if one supports incapacitation, one must ask, "What should be done with offenders while incarcerated?" This leads us to rehabilitation. With this approach, the offender chooses to refrain from committing new crimes rather than being unable to do so. So, what works in changing offender behavior?

Most researchers who study correctional interventions have concluded that without some form of human intervention or services, there is unlikely to be much effect on recidivism from punishment alone.<sup>96</sup> If you do not believe that, just look at the number of offenders who have been incarcerated in our jails repeatedly. While the origin of the quote is unknown, it is commonly said that, "the sign of insanity is doing something over and over again and expecting a different outcome." Unfortunately, not all correctional treatment programs are equally effective; however, considerable research has demonstrated that well-designed programs that meet certain conditions can appreciably reduce recidivism rates for offenders. Effective programs have many characteristics, and space does not allow elaboration; however, two are particularly noteworthy. First, it is important to target crime-producing needs that are highly correlated with criminal conduct. The most effective programs are centered on the *present* circumstances and risk factors that are contributing to the offender's behavior. Antisocial attitudes, values, beliefs, and peer associations; lack of anger control; substance abuse; lack of problem-solving skills; and poor self-control are some of the more important targets for change

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96. See, e.g., ANDREWS & BONTA, *supra* note 44, at 508; Smith, Gendreau & Swartz, *supra* note 76, at 153.

for offenders. Second, effective programs are *action* oriented rather than talk oriented. In other words, offenders do something about their difficulties rather than just talk about them. These types of programs teach offenders new prosocial skills to replace the antisocial ones (e.g., use of violence). Interventions based on these approaches are very structured and emphasize the importance of modeling and behavioral rehearsal techniques that engender self-efficacy, challenge cognitive distortions, and assist offenders in developing new prosocial skills. So, should we hold offenders accountable for their behavior? Absolutely. Nevertheless, punishment and treatment need not be incompatible and doing one without the other is not likely to achieve long-term public safety.