

**"Empowering Change"**



**2<sup>nd</sup> Annual STAR Reentry Court Training**  
**May 3, 2016**



U. S. PRETRIAL SERVICES AND PROBATION OFFICE  
Northern District of Ohio Reentry Court Training  
"Empowering Change"

Tuesday, May 3, 2016

## Agenda

**9:00 am- 9:15 am**

**Welcome**

Chief Judge Solomon Oliver, Jr.  
Assistant Deputy Chief United States Probation Officer Robin Grimes

**9:15 am- 11:15 am**

**Douglas B. Marlowe, J.D., Ph.D.**

This presentation will review risk-and-needs profiles, describe concrete clinical and supervisory adaptations that are required to effectively treat and manage various participants. Participants will learn scientific principles of evidence-based treatment, supervision and behavior modification, and how to modify services to achieve optimal results.

**11:15 am- 11:30 am**

**Break**

**11:30 am- 12:00 pm**

**Duane Deskins, Prosecutor, Cuyahoga County**  
**Brandon E. Chrostowski, Founder President-CEO**  
**Edwin's Leadership & Restaurant Institute (Working Lunch- provided)**  
EDWIN'S Leadership & Restaurant Institute is a unique approach to giving formerly-incarcerated adults a foundation in the hospitality industry while providing a support network necessary for a successful reentry.

**12:00 pm- 1:30 pm**

**BOP Reentry Simulation, Lisa Landrigan, Reentry Affairs Coordinator, USMCFP Springfield**  
**Leanna Payton, Reentry Affairs Coordinator, USP Terre Haute**  
Participants will simulate a month in the life of someone who has been released from prison, and the challenges faced by many ex-offenders as they try to complete their court-ordered obligations as well as maintain their day-to-day life.

**1:30 pm- 1:45 pm**

**Break**

**1:45 pm - 3:15 pm**

**Reentry Court Presentations**

- Toledo Reentry Court
- Cleveland Reentry Court
- Youngstown Reentry Court
- Akron Reentry Court

**3:15 pm- 4:00 pm**

**Christina Ruffino, Education Specialist, FJC**

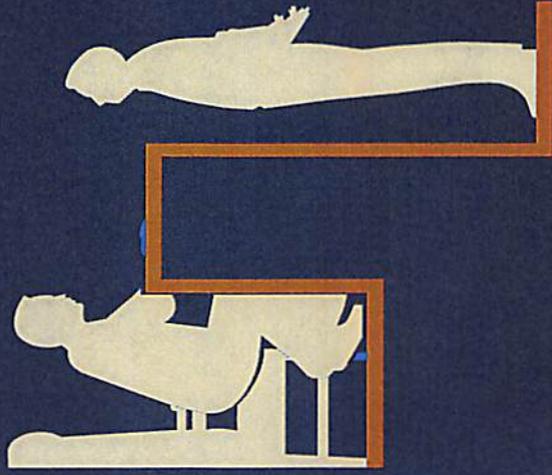
Wrap-up session and discussion on the FJC's research on Reentry Court.

**Douglas B. Marlowe, J.D., Ph.D.** is the Chief of Science, Law & Policy for the National Association of Drug Court Professionals. Previously, he was a senior scientist at the Treatment Research Institute and an adjunct associate professor of psychiatry at the University of Pennsylvania School of Medicine. A lawyer and clinical psychologist, Dr. Marlowe has received numerous research grants to study coercion in substance abuse treatment, the effects of Drug Courts and other programs for substance abusing individuals involved in the criminal justice system, and behavioral treatments for substance abusers and criminal offenders. He is a Fellow of the American Psychological Association (APA) and has received proficiency certification in the treatment of psychoactive substance use disorders from the APA College of Professional Psychology. Dr. Marlowe has published over 150 articles, books, and book chapters on the topics of crime and substance abuse. He is the Editor-in-Chief of the *Drug Court Review* and is on the editorial board of the journal, *Criminal Justice & Behavior*.

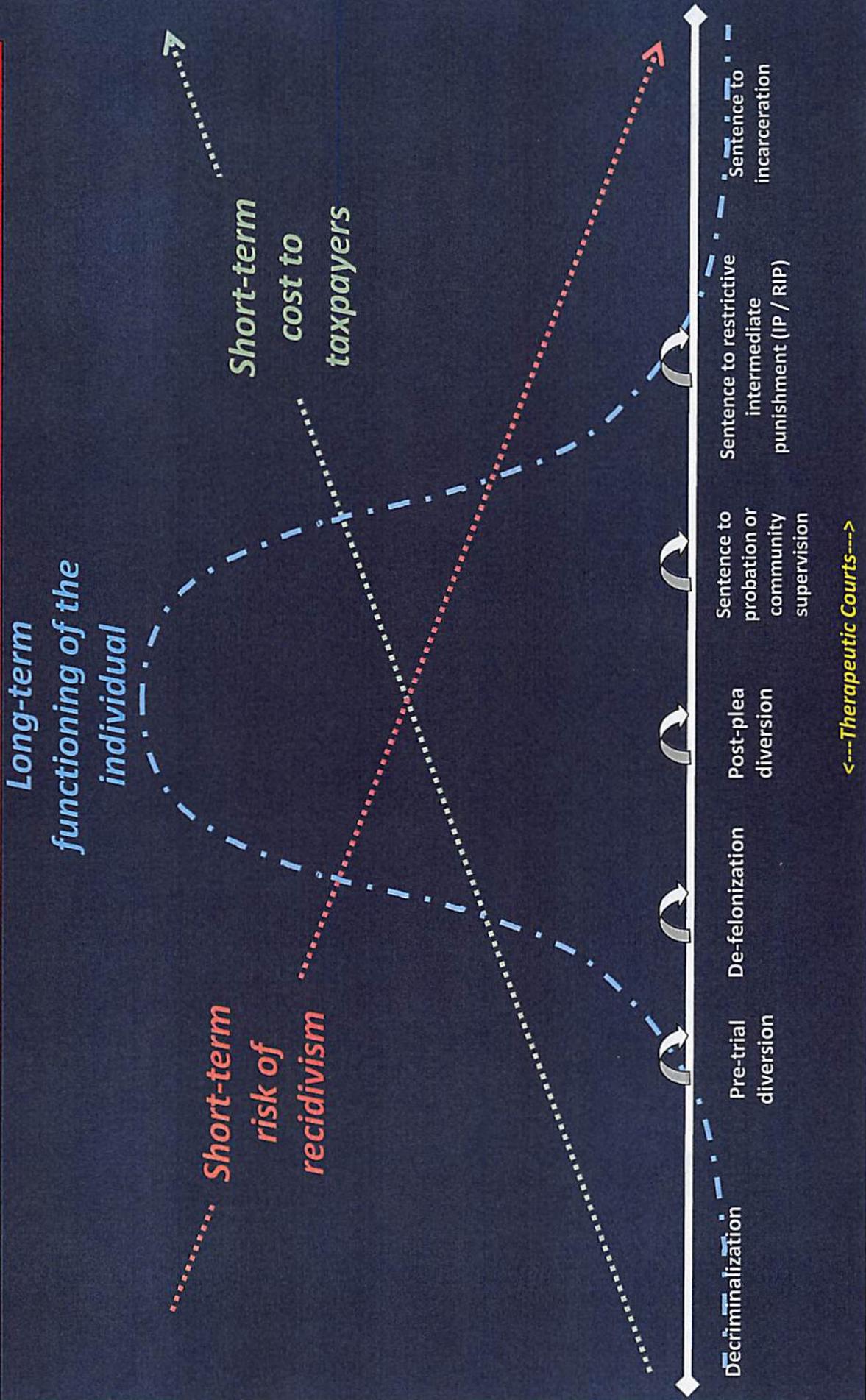
# Targeting Dispositions by Risk, Need, Responsibility

DOUGLAS B. MARLOWE, JD, PHD

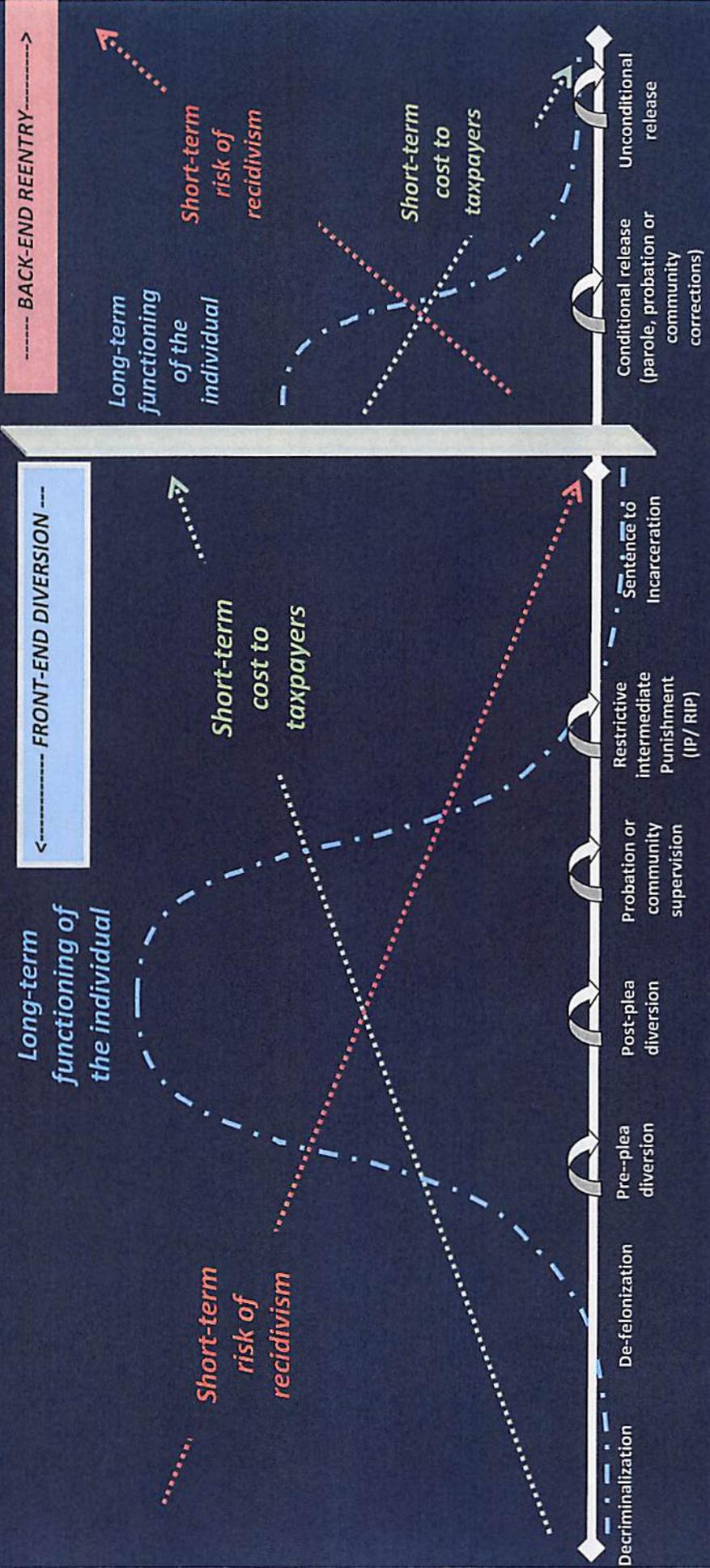
NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS



# Dispositional Continuum



# Dispositional Continuum



# Risk Principle

- Not necessarily a risk for violence or dangerousness
- Difficult prognosis or lesser amenability to treatment
- The higher the risk level, the more intensive the supervision and accountability should be, and vice versa
- Mixing risk levels is contraindicated!

# Prognostic Risks

- Current age < 25 years
- Delinquent onset < 16 years
- Substance abuse onset < 14 years
- Prior rehabilitation failures
- History of violence
- Antisocial Personality Disorder
- Psychopathy
- Familial history of crime or addiction
- Criminal or substance abuse associations



# Need Principle

- Clinical syndromes or impairments (diagnosis)
- Cause crime (“criminogenic”) or interfere with rehabilitation (“responsivity”)
- Addiction is criminogenic, and Axis I mental illness interferes with response to rehabilitation
- The higher the need level, the more intensive the treatment or rehabilitation services should be, and vice versa
- **Mixing need levels is contraindicated!**

# Risk & Needs Matrix

High  
Needs

High Risk

Low Risk

<ul style="list-style-type: none"><li>• Supervision</li><li>• Treatment</li><li>• Pro-social habilitation</li><li>• Adaptive habilitation</li></ul>	<ul style="list-style-type: none"><li>• Treatment</li><li>• (Pro-social habilitation)</li><li>• Adaptive habilitation</li></ul>
<ul style="list-style-type: none"><li>• Accountability</li><li>• Pro-social habilitation</li><li>• (Adaptive habilitation)</li></ul>	<ul style="list-style-type: none"><li>• Secondary prevention</li><li>• Diversion</li></ul>

Low  
Needs

# Shaping Behavior

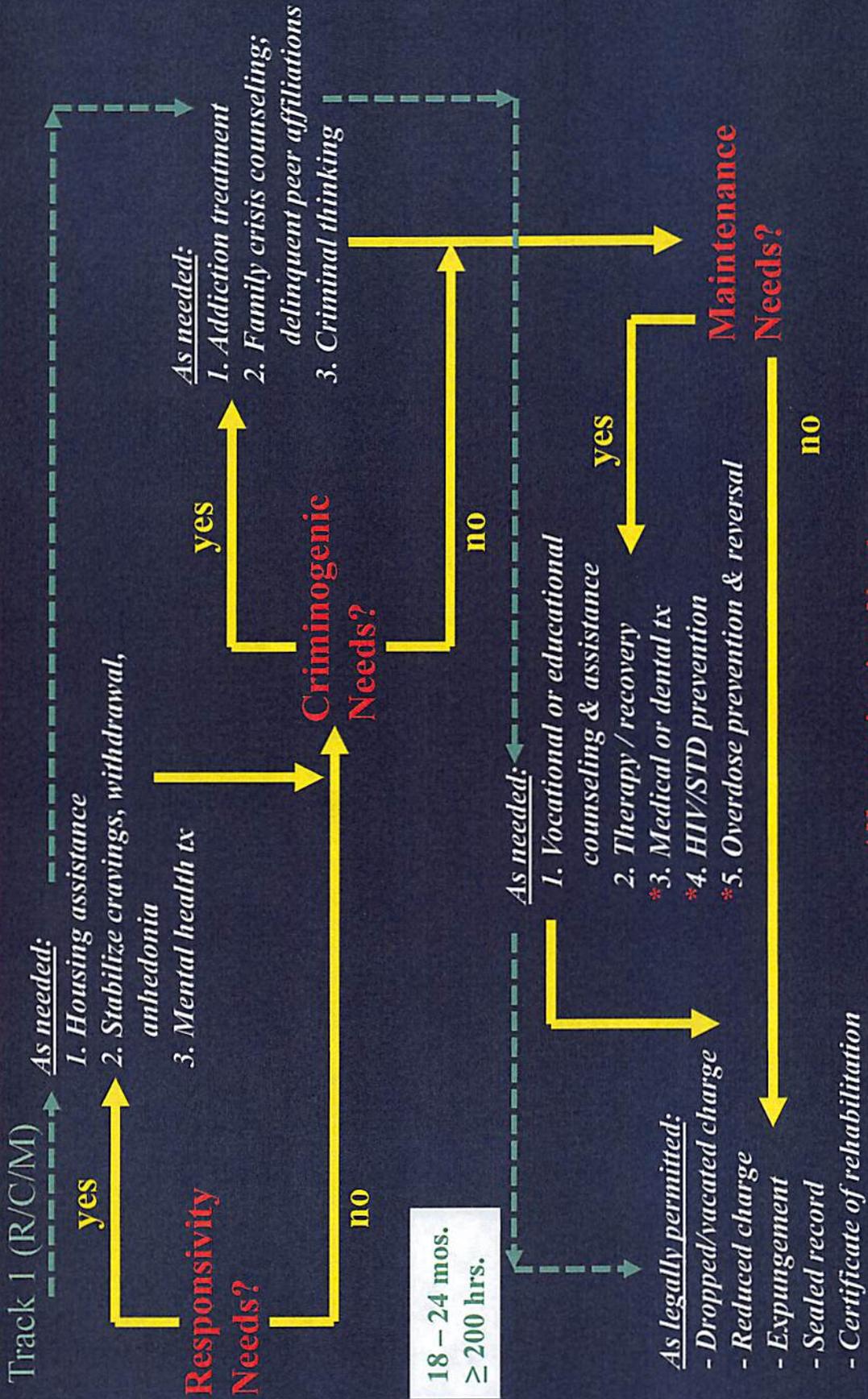
- **Don't expect too much**
  - Learned helplessness or ratio burden
- **Don't expect too little**
  - Habituation (“boiling the frog”)
- **Proximal vs. distal goals**
- **Phase specificity**
  - What was once distal becomes proximal



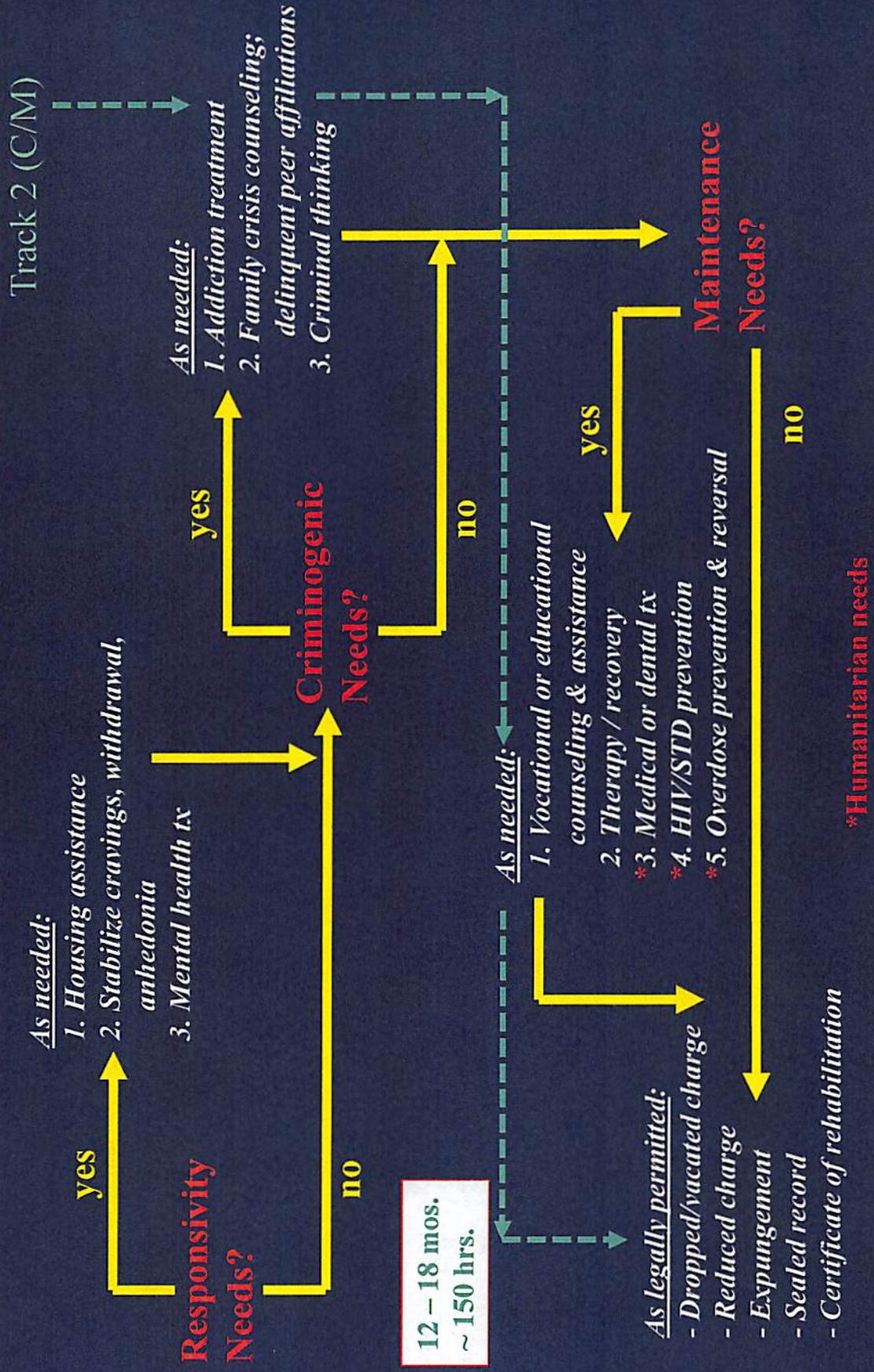
# Specific Responsibility

- **Order and timing of intervention is crucial:**
  1. **Responsivity needs: interfere with rehabilitation**
  2. **Criminogenic needs: cause or exacerbate crime**
  3. **Maintenance needs: degrade rehabilitation gains**
  4. **Humanitarian needs: cause distress**

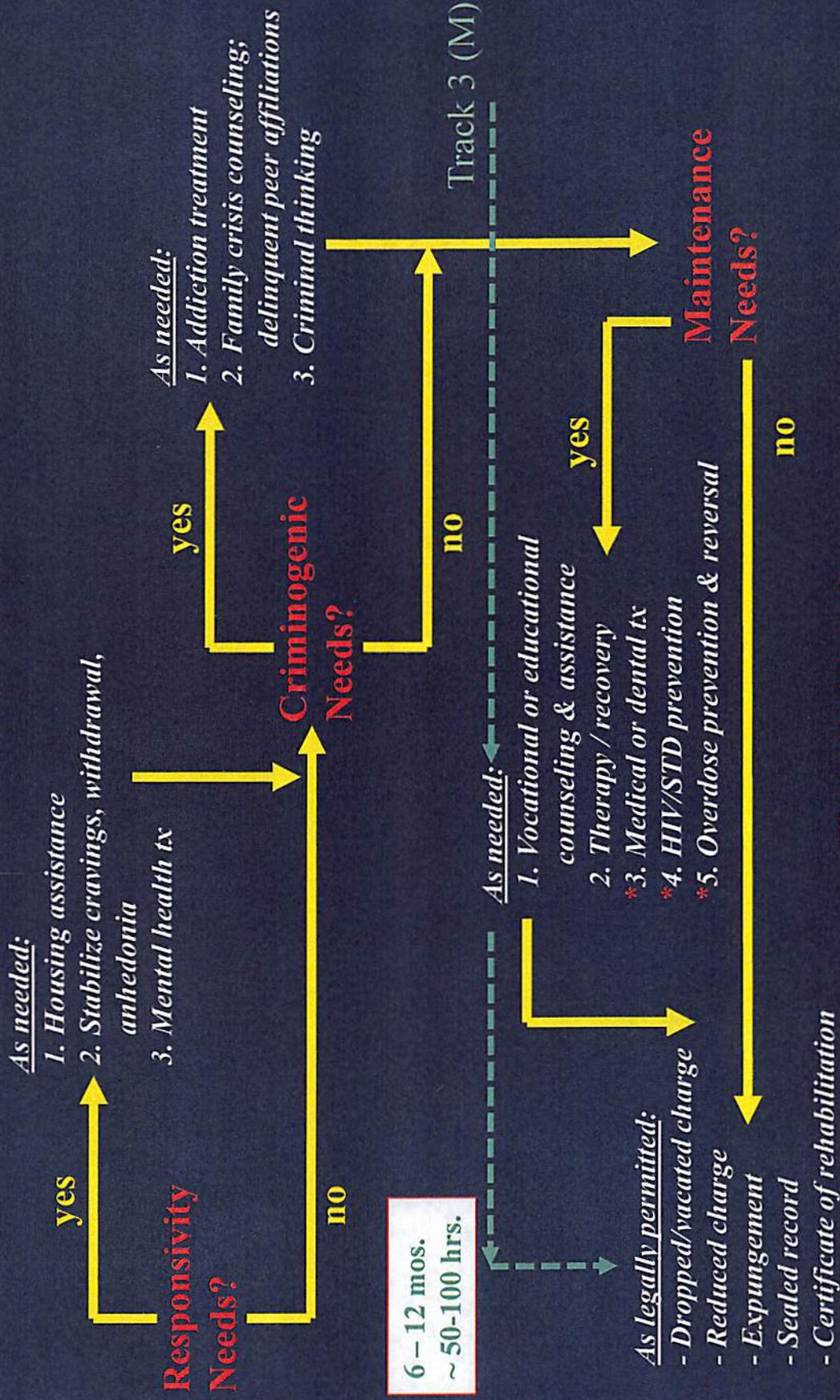
# Specific Responsivity



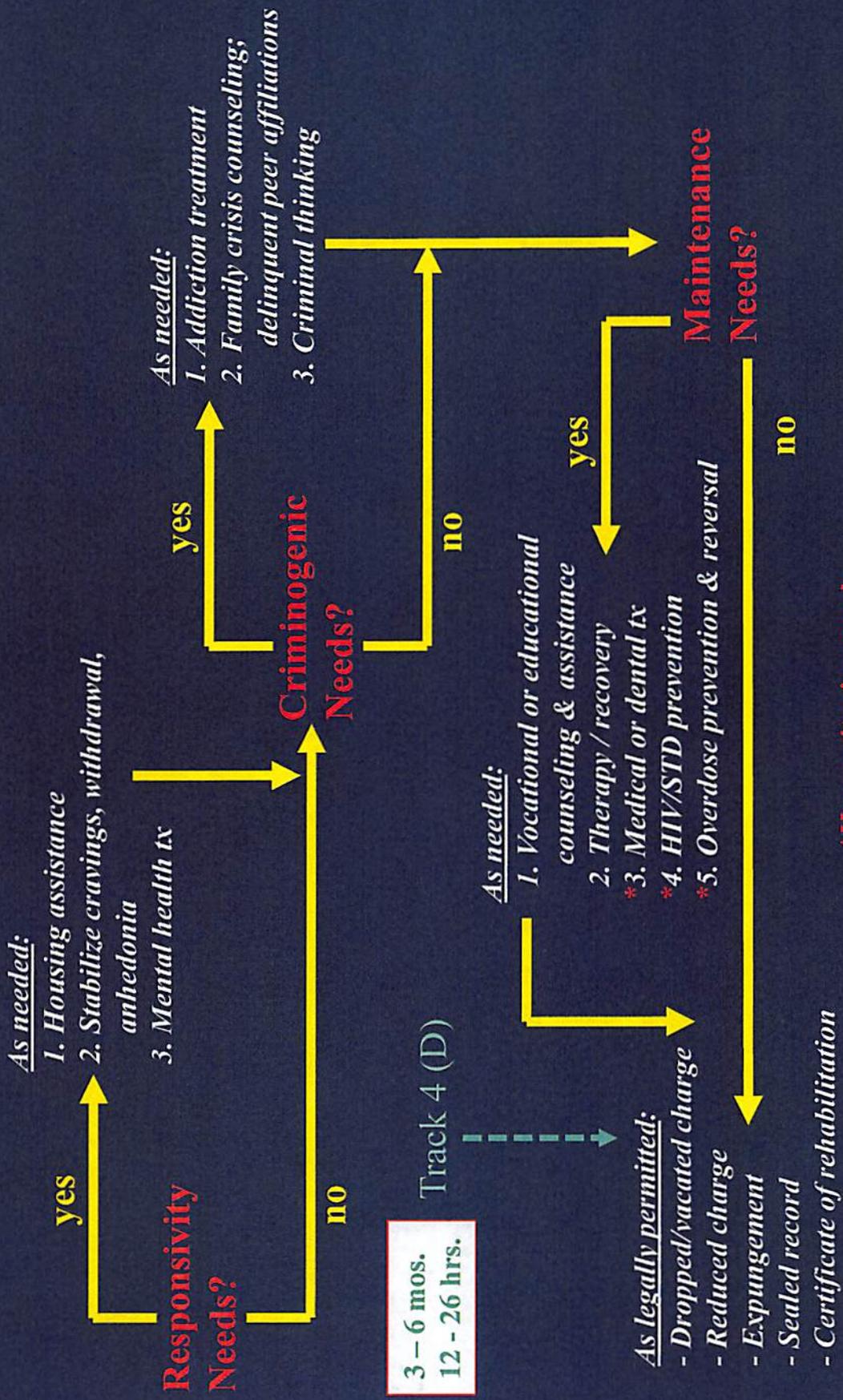
# Specific Responsivity



# Specific Responsibility



# Specific Responsivity



# **Treat or Punish?**

**Substance Dependence or Addiction**

# **Treat or Punish?**

## **Substance Dependence or Addiction**

- 1. Triggered binge response**
- 2. Cravings or compulsions**
- 3. Withdrawal symptoms**

# Treat or Punish?

## Substance Dependence or Addiction

1. Triggered binge response
2. Cravings or compulsions
3. Withdrawal symptoms

Abstinence is a distal goal

# Treat or Punish?

## Substance Dependence or Addiction

1. Triggered binge response
2. Cravings or compulsions
3. Withdrawal symptoms

Abstinence is a distal goal

## Substance Abuse

# Treat or Punish?

## Substance Dependence or Addiction

1. Triggered binge response
2. Cravings or compulsions
3. Withdrawal symptoms

Abstinence is a distal goal

## Substance Abuse

Abstinence is a proximal goal



# Treat or Punish?

## Substance Dependence or Addiction

1. Triggered binge response
2. Cravings or compulsions
3. Withdrawal symptoms

Abstinence is a distal goal

## Substance Abuse

Abstinence is a proximal goal

## Responsivity needs

- Dual diagnosis
- Serious functional impairments

# Treat or Punish?

## Substance Dependence or Addiction

1. Triggered binge response
2. Cravings or compulsions
3. Withdrawal symptoms

Abstinence is a distal goal

## Substance Abuse

Abstinence is a proximal goal

## Responsivity needs

- Dual diagnosis
- Serious functional impairments

Regimen compliance is proximal

# Disposition Plans

High  
Needs

High Risk

- ✓ Track 1 (R/C/M) or 2 (C/M)
- ✓ Bi-weekly status reviews
- ✓ Drug & alcohol testing
- ✓ Abstinence is distal
- ✓ Positive reinforcement

- ✓ Track 1 (R/C/M) or 2 (C/M)
- ✓ Noncompliance reviews
- ✓ Drug & alcohol testing
- ✓ Abstinence is distal
- ✓ Positive reinforcement

Low  
Needs

- ✓ Track 2 (C/M) or 3 (M)
- ✓ Bi-weekly status reviews
- ✓ Drug & alcohol testing
- ✓ Abstinence is proximal
- ✓ Negative reinforcement

- ✓ Track 3 (M) or 4 (D)
- ✓ Noncompliance reviews
- ✓ Psycho-education
- ✓ Abstinence is proximal
- ✓ Negative reinforcement

Low Risk

# Pre-Disposition Assessment

- Use immunity, especially at pre-adjudication stage
- Require assessment of risk and need after adjudication but prior to disposition (e.g., as part of a PSI)
- Valid, reliable & culturally unbiased instruments
- Substance abuse vs. dependence diagnosis guides treatment conditions and response to technical violations involving new drug use
- **AUTOMATE THE IF/THEN DECISIONS**

# Guided Discretion

- Require professionals to consider risk and need (excluding certain offenses)
- Require professionals to consider effectiveness and cost-effectiveness (excluding certain offenses)
- Publish data on recidivism and costs of alternative dispositions
- Include dispositional rationale on the record
- Restrictive basis for appeal (abuse of discretion)
- Publish data on dispositional decisions

# Evidence-Based Sentencing for Drug Offenders: An Analysis of Prognostic Risks and Criminogenic Needs

Douglas B. Marlowe\*

## INTRODUCTION

Substance abusers are disproportionately represented in the criminal justice system. Approximately eighty percent of offenders in the U.S. meet a broad definition of substance involvement<sup>1</sup> and between one-half and two-thirds satisfy official diagnostic criteria for substance abuse or dependence.<sup>2</sup> In a national sample of U.S. booking facilities, positive urine drug screens were obtained from approximately sixty-five percent of the arrestees in most jurisdictions.<sup>3</sup> The positive urine results were not merely

---

\* Chief of Science, Policy & Law, National Association of Drug Court Professionals; Senior Scientist, Treatment Research Institute; Adjunct Associate Professor of Psychiatry, University of Pennsylvania School of Medicine. J.D., Villanova University School of Law; Ph.D., Hahnemann University.

<sup>1</sup> See NAT'L. CTR. ADDICTION & SUBSTANCE ABUSE, BEHIND BARS: SUBSTANCE ABUSE AND AMERICA'S PRISON POPULATION 28 tbl.1 (1998) (finding approximately 80% of prison and jail inmates were convicted of a drug or alcohol-related offense, were intoxicated at the time of their offense, reported committing the offense to support a drug habit, or have a significant history of substance abuse); CHRISTOPHER J. MUMOLA & THOMAS P. BONCZAR, BUREAU JUST. ASSISTANCE, SUBSTANCE ABUSE AND TREATMENT OF ADULTS ON PROBATION 1996 at 7 (1998) (finding two thirds of probationers are drug or alcohol involved); TIMOTHY A. HUGHES ET AL., BUREAU JUST. STATISTICS, TRENDS IN STATE PAROLE, 1990-2000 8 tbl.10 (2001) (finding 83.9% of parolees are drug or alcohol involved).

<sup>2</sup> See Seena Fazel et al., *Substance Abuse and Dependence in Prisoners: A Systematic Review*, 101 ADDICTION 181, 183 & 186 (2006) (concluding from multiple studies that 17.7% to 30% of male prisoners met diagnostic criteria for alcohol abuse or dependence and 10% to 48% met criteria for drug abuse or dependence; for female prisoners, rates were 10% to 23.9% for alcohol abuse or dependence and 30.3% to 60.4% for drug abuse or dependence); JENNIFER C. KARBERG & DORIS J. JAMES, BUREAU JUSTICE STATISTICS, SUBSTANCE DEPENDENCE, ABUSE, AND TREATMENT OF JAIL INMATES, 2002 1 tbl.1 (2005) (finding 45% of jail inmates met diagnostic criteria for drug or alcohol dependence, 23% met criteria for drug or alcohol abuse, and 68% met criteria for either abuse or dependence); Linda A. Teplin, *Psychiatric and Substance Abuse Disorders Among Male Urban Jail Detainees*, 84 AMER. J. PUB. HEALTH 290 (1994) (finding 61.3% of male urban jail detainees met criteria for current substance abuse or dependence); Linda A. Teplin et al., *Prevalence of Psychiatric Disorders Among Incarcerated Women*, 53 ARCHIVES GEN. PSYCHIATRY 505, 508 (1996) (finding 68.6% of female inmates met criteria for drug abuse or dependence and 32.3% met criteria for alcohol abuse or dependence). For a discussion of the diagnostic criteria for substance abuse and dependence, see *infra* notes 78-79 and accompanying text.

<sup>3</sup> See NAT'L INST. JUST., ANNUAL REPORT: 2000 ARRESTEE DRUG ABUSE MONITORING

A major goal, therefore, of effective correctional programming, is to ensure that drug offenders comply with their treatment and supervisory conditions.<sup>12</sup> A range of sentencing dispositions has been created to identify drug problems among offenders, refer them to treatment, and hold them accountable for showing up and paying attention to the clinical interventions.<sup>13</sup> The challenge is to select from among this array of options the best disposition for each offender that will optimize outcomes at the least cost to taxpayers and with the least threat to public safety.

This article begins by describing the sentencing options that are available in most states for drug-involved offenders, and the benefits and burdens associated with each. A model of evidence-based sentencing is presented that attempts to match drug offenders to dispositions that optimally balance impacts on cost, public safety, and the welfare of the offender. Implementing this model in practice requires an assessment of each offender's risk of dangerousness, prognosis for success in standard treatment, and clinical needs. A typology is presented of four sub-groups of

---

*Symptoms, Personality, and Motivation*, 31 ADDICTIVE BEHAV. 320, 320-21 (2006) (concluding approximately 50% of drug abuse clients drop out of treatment within first month); Michael J. Stark, *Dropping Out of Substance Abuse Treatment: A Clinically Oriented Review*, 12 CLIN. PSYCHOL. REV. 93, 94 (1992) (noting majority of investigators reported over 50% attrition within first month of drug abuse treatment and 52% to 75% attrition from alcoholism treatment); Yih-Ing Hser et al., *Effects of Program and Patient Characteristics on Retention of Drug Treatment Patients*, 24 EVAL. & PROG. PLANNING 331, 336-37 (2001) (finding in study of over 26,000 clients that approximately 82% in residential drug abuse treatment and 73% in outpatient treatment failed to complete treatment); Michael Wierzbicki & Gene Pekarik, *A Meta-Analysis of Psychotherapy Dropout*, 24 PROF. PSYCHOL. RES. & PRACT. 190, 192 (1993) (finding mean dropout rate in psychotherapy of 46.86%).

<sup>11</sup> Three months of outpatient substance abuse treatment appears to be the minimum threshold for detecting dose-response effects from the interventions. See D. Dwayne Simpson et al., *Treatment Retention and Follow-up Outcomes in the Drug Abuse Treatment Outcome Study (DATOS)*, 11 PSYCHOL. ADDICTIVE BEHAV. 294, 299 & 304 (1997) (finding in national study of outpatient substance abuse treatment programs that 90 days was necessary for improved outcomes).

<sup>12</sup> Traditional "wisdom" held that addicts could not be coerced to get well. See, e.g., Richard S. Schottenfeld, *Involuntary Treatment of Substance Abuse Disorders—Impediments to Success*, 52 PSYCHIATRY 164, 168-171 (1989) (suggesting coercion undermines therapeutic relationship). This notion turns out to be false. Dozens of studies have found that individuals who entered substance abuse treatment under the threat of a legal sanction performed at least as well, and often appreciably better, than those entering voluntarily. See, e.g., John F. Kelly et al., *Substance Use Disorder Patients Who Are Mandated to Treatment: Characteristics, Treatment Process, and 1- and 5-Year Outcomes*, 28 J. SUBSTANCE ABUSE TREATMENT 213, 221 (2005) (finding offenders in mandated substance treatment had better outcomes than non-mandated clients 5 years after entry); Brian E. Perron & Charlotte L. Bright, *The Influence of Legal Coercion on Dropout From Substance Abuse Treatment: Results From a National Survey*, 92 DRUG & ALCOHOL DEPENDENCE 123, 128 (2008) (finding legally mandated clients had longer retention in drug abuse treatment than non-mandated clients).

<sup>13</sup> For a discussion of these sentencing options, see *infra* notes 15-48 and accompanying text.

completing applicable treatment requirements.<sup>15</sup> Upon satisfaction of the conditions, the charges are dropped, and the record may be expunged.<sup>16</sup>

Unfortunately, inadequate compliance with treatment is a major problem in diversion and probation programs. As noted previously, substantial proportions of drug offenders fail to enter substance abuse treatment or drop out prematurely before making therapeutic gains.<sup>17</sup> As a result, these low-intensity dispositions tend to be most effective for less severe offenders who are already predisposed to comply with their conditions and desist from re-offending.<sup>18</sup> Poor compliance among the remainder of drug offenders has necessitated the development of more stringent diversion programs that administer meaningful consequences for failure to follow through with treatment conditions.

## B. Probation Without Verdict

Most jurisdictions have statutory provisions offering certain drug offenders an opportunity for diversion “with teeth.” This model may go by various names but has been generically referred to as probation without verdict.<sup>19</sup> The offender is typically required to plead guilty or no contest (*nolo contendere*) to the charge(s) and the plea is held in abeyance while the offender completes a term of probation with conditions for treatment and supervision.<sup>20</sup> Satisfaction of the conditions leads to the plea being vacated and perhaps to the opportunity for record expungement.<sup>21</sup> Importantly, because the offender has already pled guilty to the charge(s), failure to complete treatment can lead to immediate sentencing and disposition.<sup>22</sup> This arrangement offers additional coercive leverage to keep offenders engaged in treatment and compliant with their supervisory conditions.

---

<sup>15</sup> See, e.g., CAL. PENAL CODE § 1000 *et seq.* (Deering 2008) (authorizing pre-guilty diversion for offenders charged with enumerated non-violent offenses who do not have serious offense history); 35 PA. CODE § 780-118 (2008) (providing for pre-trial disposition in lieu of trial for drug dependent or drug abusing offenders charged with nonviolent crimes); PA. R. CRIM. P. Chap. 3 Parts A and B (providing for pre-trial treatment disposition in lieu of adjudication for minor offenses).

<sup>16</sup> Record expungement ordinarily entitles the individual to respond truthfully on an employment application or similar document that the arrest or conviction did not occur for legal purposes. See, e.g., David S. Festinger *et al.*, *Expungement of Arrest Records in Drug Court: Do Clients Know What They're Missing?*, 5 DRUG CT. REV. 1, 5-7 (2005) (reviewing legal and practical benefits to drug offenders of obtaining record expungement).

<sup>17</sup> See *supra* notes 8-11 and accompanying text.

<sup>18</sup> For a discussion of the optimal target population for pre-trial diversion and administrative probation programs, see *infra* note 152 and accompany text.

<sup>19</sup> See, e.g., 35 PA. CODE § 780-117 (2008) (authorizing probation without verdict for certain nonviolent drug-dependent offenders).

<sup>20</sup> *Id.*

<sup>21</sup> See *id.* § 780-117 (3).

<sup>22</sup> See *id.* § 780-117 (2).

in drug court. Pre-adjudication drug courts often include a diversion component similar to probation without verdict, in which graduates can have the charge(s) dropped and the record expunged.<sup>29</sup> Post-adjudication drug courts enable graduates to avoid a sentence of incarceration, shorten the term of probation, or consolidate multiple probation sentences.

Substantial research indicates that drug courts significantly reduce crime and drug abuse,<sup>30</sup> and the effects have been shown to last several years.<sup>31</sup> Unfortunately, drug courts serve only about one half of the currently eligible population and only about 5% of all offenders with substance abuse problems.<sup>32</sup> Evidence suggests drug courts elicit the greatest effects for high-risk and high-needs drug offenders characterized by relatively more severe criminal and substance abuse backgrounds.<sup>33</sup> It is important, therefore, to make drug courts more widely available to seriously drug-dependent and criminally involved offenders who can be safely managed in the community. This should include increasing the number and capacity of existing drug courts, as well as widening the eligibility criteria to admit certain offenders charged with non-drug crimes if those crimes were primarily fu-

---

<sup>29</sup> See, e.g., Festinger et al., *supra* note 16, at 5 (describing record expungement in pre-adjudication drug courts).

<sup>30</sup> See David B. Wilson et al., *A Systematic Review of Drug Court Effects on Recidivism*, 2 J. EXPER. CRIMINOLOGY 459, 479 (2006) (concluding drug courts reduce crime an average of 14% to 26%); JEFF LATIMER ET AL., *A META-ANALYTIC EXAMINATION OF DRUG TREATMENT COURTS: DO THEY REDUCE RECIDIVISM?* 9 (CANADA DEPT. JUSTICE, 2006) (concluding drug courts reduce crime an average of 14%); DEBORAH KOETZLE SHAFFER, *RECONSIDERING DRUG COURT EFFECTIVENESS: A META-ANALYTIC REVIEW* 3 (Dept. Crim. Just., Univ. Nevada, 2006) (concluding drug courts reduce crime an average of 9%); Christopher T. Lowenkamp et al., *Are Drug Courts Effective: A Meta-Analytic Review*, J. COMMUNITY CORRECTIONS, FALL 2005 at 5, 8 (concluding drug courts reduce crime an average of 7.5%); U.S. GOV'T ACCOUNTABILITY OFF., *ADULT DRUG COURTS: EVIDENCE INDICATES RECIDIVISM REDUCTIONS AND MIXED RESULTS FOR OTHER OUTCOMES* (2005) (concluding drug courts reduce crime); Steven Belenko, *Drug Courts, in TREATMENT OF DRUG OFFENDERS: POLICIES AND ISSUES* 309-10 (Carl G. Leukefeld et al. eds., 2002) (concluding drug courts reduce crime and drug abuse); Douglas B. Marlowe et al., *A Sober Assessment of Drug Courts*, 16 FED. SENT'G REP. 153, 153-54 (2003).

<sup>31</sup> See Denise C. Gottfredson et al., *Effectiveness of Drug Treatment Courts: Evidence From a Randomized Trial*, 2 CRIMINOLOGY & PUB. POL'Y 171, 189 (2003) (finding reduction in crime lasting 2 years); Denise C. Gottfredson et al., *The Baltimore Drug Treatment Court: 3-Year Self-Report Outcome Study*, 29 EVAL. REV. 42, 60 (2005) (finding reduction in crime and substance abuse lasting 3 years); MICHAEL FINIGAN ET AL., *THE IMPACT OF A MATURE DRUG COURT OVER 10 YEARS OF OPERATION: RECIDIVISM AND COSTS II* (NPC Research, 2007) (finding reduction in crime lasting 14 years).

<sup>32</sup> See AVINASH S. BHATI ET AL., *TO TREAT OR NOT TO TREAT: EVIDENCE ON THE PROSPECTS OF EXPANDING TREATMENT TO DRUG-INVOLVED OFFENDERS* 56-58, 66 (Urban Institute 2008) (estimating more than twice as many arrestees eligible for drug courts as available slots, and drug courts treat small fraction of 1.47 million arrestees at risk for drug abuse or dependence each year).

<sup>33</sup> For further discussion of the optimal target population for drug courts, see *infra* notes 116-118 and accompanying text.

risdictions<sup>41</sup> for many drug-related offenses, including possession, possession with the intent to distribute (PWID), sales, and manufacturing. The recommended range for the term of incarceration is typically predicated on offense-based factors, including the amount and type of drug that was involved, the offender's prior offense history, and whether the crime involved distribution or manufacturing as opposed to simple possession.<sup>42</sup> There may also be opportunities for a downward departure or upward departure outside of the recommended range, based upon enumerated offender-based mitigating circumstances or offense-based aggravating circumstances.<sup>43</sup>

Incarceration has demonstrable *incapacitation* effects, in that inmates are prevented from committing further criminal acts in the community while they are detained.<sup>44</sup> However, it has minimal *specific deterrence* effects – meaning it does not reduce inmates' engagement in crime or drug abuse after their release. The average effect of incarceration on crime following release from prison is approximately zero.<sup>45</sup> Equally discouraging, 70%

---

for drug-related crimes); 18 PA. CODE § 7508 (2008) (same for drug trafficking offenses).

<sup>41</sup> See, e.g., 204 PA. CODE §§ 303.1 *et seq.* (authorizing state sentencing guidelines).

<sup>42</sup> See, e.g., Steven L. Chanenson, *The Next Era of Sentencing Reform*, 54 EMORY L. J. 377, 399 (2005) (describing sentencing process for drug crimes as inflexible and revolving almost exclusively around offense-based factors); see generally NAT'L. CTR. FOR STATE COURTS, STATE SENTENCING GUIDELINES: PROFILES AND CONTINUUM (2008) (comparing sentencing guidelines in several states).

<sup>43</sup> See Chanenson, *supra* note 42, at 397 (describing departures from presumptive sentencing range as key to flexibility in sentencing guidelines); see also NAT'L CTR. FOR STATE COURTS, ASSESSING CONSISTENCY AND FAIRNESS IN SENTENCING 8 (2003) (noting upward and downward departures are reviewable on appeal in some jurisdictions but not others). Mitigating factors for a downward departure might include demonstrable efforts at drug treatment, acceptance of responsibility, or remorse for the crime. See, e.g., *United States v. Sally*, 116 F.3d 76, 81 (1997) (permitting downward departure if efforts at rehabilitation indicated real, positive behavioral change in excess of that ordinarily present). Aggravating factors might include the involvement of a deadly weapon or drug dealing near a school zone. See, e.g., 204 PA. CODE §§ 303.10(a) & (b) (2009) (providing for sentence enhancements).

<sup>44</sup> See PEW PUB. SAFETY PERFORMANCE PROJECT, PUBLIC SAFETY, PUBLIC SPENDING: FORECASTING AMERICA'S PRISON POPULATION 2007-11, 20-22 (2007) [hereafter PEW SAFETY] (concluding approximately 25% of reduction in crime since 1990s was attributable to prison sentences); DON STEMEN, RECONSIDERING INCARCERATION: NEW DIRECTIONS FOR REDUCING CRIME 2 (Vera Inst. Just., 2007); see generally William Spelman, *What Recent Studies Do (and Don't) Tell Us About Imprisonment and Crime*, 27 CRIME & JUSTICE 419 (2000) (reviewing research on the topic).

<sup>45</sup> See Gendreau et al., *Community Sanctions*, *supra* note 38, at 12 (concluding average effect of prison on recidivism is 0.00 compared to community-based sanctions). Within 3 years of release from prison, nearly two thirds of inmates are arrested for a new crime, one half are convicted, and one half are re-incarcerated for a new crime or technical violation. See PATRICK A. LANGAN & DAVID J. LEVIN, BUREAU JUSTICE STATISTICS, RECIDIVISM OF PRISONERS RELEASED IN 1994 1 (2002). Among inmates charged with drug crimes, 82% recidivate within 4 years. See Cassia Spohn & David Holleran, *The Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders*, 40 CRIMINOLOGY 329, 348 (2002). Among all inmates who have serious drug problems, 62% recidivate within 4 years. *Id.*

fact, evidence suggests there may be *iatrogenic effects* from programs at both extremes, in which drug use and crime actually worsen as a function of greater exposure to the interventions.<sup>51</sup>

The difficult task facing policymakers and practitioners is to select from among this continuum of options, the most effective and cost-efficient dispositions for use with the large population of drug-involved offenders coming before the courts and into the criminal justice system each year. Unfortunately, what this has often meant historically is the over-application of any one disposition for a large segment of the drug-offender population.

For example, the *War on Drugs* of the 1980s imposed mandatory minimum sentences and longer prison terms for various types of drug crimes, including many drug possession offenses.<sup>52</sup> This strategy appears to have contributed to a plateau or possible reduction in then-rising crime and violence rates<sup>53</sup> and this impact cannot be ignored from a public-safety perspective. Unfortunately, the War on Drugs paid insufficient attention to countervailing considerations of cost<sup>54</sup> and the psychosocial impact of incarceration on individuals, their families, and their communities.<sup>55</sup> The result was skyrocketing correctional budgets, population caps imposed on some state prisons by the federal courts in

improve offender outcomes considerably better than those at either extreme); Marlowe, *supra* note 14.

<sup>51</sup> Iatrogenic effects, or negative side effects, are common in the criminal justice system, especially for programs that are unduly lenient or punitive. See Joan McCord, *Cures That Harm: Unanticipated Outcomes of Crime Prevention Programs*, 587 ANNALS AM. ACAD. POL. & SOC. SCI. 16, 17 (2003) (noting interventions in criminal justice system have been associated with increased drug use, increased crime, decreased ability to cope with life, and premature death); Douglas B. Marlowe, *When "What Works" Never Did: Dodging the "Scarlet M" in Correctional Rehabilitation*, 5 CRIMINOLOGY & PUB. POL'Y. 339, 342-44 (2006) (considering why iatrogenic effects might have been caused by lenient treatment-oriented parole program); Anthony Petrosino et al., *Well-Meaning Programs Can Have Harmful Effects! Lessons From Experiments of Programs Such as Scared Straight*, 46 CRIME & DELINQ. 354, 371 (2000) (concluding Scared Straight programs not only failed to reach their objectives, but may have backfired and done more harm than good).

<sup>52</sup> Former President Ronald Reagan declared the formal War on Drugs in National Security Decision Directive No. 221 (Apr. 8, 1988). Federal and state laws enacted pursuant to this Directive, including the Anti-Drug Abuse Act of 1988, H.R. Res. 5210, 100<sup>th</sup> Cong. (1988), increased prison penalties and established mandatory minimum sentences for various drug offenses, including some drug-possession offenses. See, e.g., DAVID BOYUM & PETER REUTER, AN ANALYTIC ASSESSMENT OF U.S. DRUG POLICY 7-9 (2005) (reviewing Anti-Drug Abuse Act and similar laws passed during Reagan administration); STEVEN R. BELENKO, DRUGS AND DRUG POLICY IN AMERICA 315-321 (2000) (same).

<sup>53</sup> For a discussion of the impact of incarceration from the War on Drugs on crime and violence rates, see *supra* note 44 and accompanying text.

<sup>54</sup> For a discussion of the high costs of incarceration, see *supra* note 48 and accompanying text.

<sup>55</sup> See generally John Hagan & Ronit Dinovitzer, *Collateral Consequences of Imprisonment for Children, Communities, and Prisoners*, in PRISONS (Michael Tonry & Joan Petersilia eds., 1999) (noting imprisonment significantly reduces employment and income, prevents potential wage earners from contributing to their communities, and may detract from children's development).

the least objectionable risk of recidivism, the greatest likelihood of improving the welfare of the offender, and can do so at the least cost to taxpayers.

It is recognized, of course, that other considerations must and do influence sentencing decisions. For example, judges impose sentences, in part, to vindicate victims' rights, express the community's outrage at egregious conduct, or deter other people from committing similar offenses in the future. Although unquestionably legitimate, these factors are not included in the calculus of evidence-based sentencing because they do not lend themselves readily to empirical validation. There is no practical way, for example, to measure the influence of a sentence on community values, and efforts to gauge general deterrence have been largely unsuccessful.<sup>63</sup> When, however, it is decided that value-laden factors such as these should trump empirical considerations of effectiveness, safety and cost, this should be explicitly stated in the sentencing order. A rationale should be articulated for imposing a more severe or less severe sentence than the evidence suggests would be necessary to improve outcomes.

### III. ASSESSMENT OF RISKS AND NEEDS

Selecting evidence-based dispositions for drug offenders requires attention to three basic factors: (1) risk of dangerousness, (2) prognostic risks and (3) criminogenic needs.<sup>64</sup> Armed with knowledge about where an offender stands on these three dimensions, it is possible to predict the type of disposition that is most likely to be effective and cost-efficient for that individual.<sup>65</sup>

---

<sup>63</sup> See TONRY, *supra* note 47, at 136-43 (concluding general deterrent effects of incarceration are unproven).

<sup>64</sup> See generally D. A. ANDREWS & JAMES BONTA, *THE PSYCHOLOGY OF CRIMINAL CONDUCT* (1998) (describing Risk, Needs, Responsivity [RNR] Theory and rationale for targeting interventions to risks and needs of offenders); J. Stephen Wormith et al., *The Rehabilitation and Reintegration of Offenders: The Current Landscape and Some Future Directions for Correctional Psychology*, 34 *CRIM. JUST. & BEHAV.* 879, 881 (2007) (concluding effects of correctional treatment are greatest when programs adhere to principles of risk, needs and responsivity); Faye S. Taxman & Douglas B. Marlowe, *Risk, Needs, Responsivity: In Action or Inaction?*, 52 *CRIME & DELINQ.* 3 (2006) (introducing special journal issue on recent research on RNR for offenders).

<sup>65</sup> It is beyond the scope of this article to review specific assessment instruments for measuring these dimensions. Several review articles and monographs address the topic. See generally D. A. Andrews et al., *The Recent Past and Near Future of Risk and/or Need Assessment*, 52 *CRIME & DELINQ.* 7 (2006) (reviewing several "generations" of risk and needs assessment instruments for offenders); DAVID W. SPRINGER ET AL., *SUBSTANCE ABUSE TREATMENT FOR CRIMINAL OFFENDERS: AN EVIDENCE-BASED GUIDE FOR PRACTITIONERS* 17-40 (2003) (reviewing screening, assessment and diagnostic instruments for substance abusing offenders); JAMES A. INCIARDI, *CTR. FOR SUBSTANCE ABUSE TREATMENT, SCREENING AND ASSESSMENT FOR ALCOHOL AND OTHER DRUG ABUSE AMONG ADULTS IN THE CRIMINAL JUSTICE SYSTEM* (U.S. Dept. Health & Human Svc., 1994) (same); Glenn D. Walters, *Risk-Appraisal Versus Self-Report in the Prediction of Criminal Justice Outcomes: A Meta-Analysis*, 33 *CRIM. JUST. & BEHAV.* 279 (2006) (examining pre-

ness, but rather to a risk of failing to respond to standard interventions, and thus for continuing to engage in the same level of drug abuse and crime as in the past. This distinction is crucial because some corrections departments or probation agencies may screen high-risk offenders out of more intensive programs because they perceive them as being a threat to others or somehow less worthy of the services. On the contrary, research reveals the higher the prognostic risk, the more intensive the services should be.<sup>71</sup>

Among drug offenders, the most reliable and robust prognostic risk factors include a younger age, male gender, early onset of substance abuse or delinquency, prior felony convictions, previously unsuccessful attempts at treatment or rehabilitation, a co-existing diagnosis of antisocial personality disorder (APD), and a preponderance of antisocial peers or affiliations.<sup>72</sup> Typically, individuals with these high-risk factors must be closely supervised and held accountable for their actions in order to succeed in treatment and desist from substance abuse and crime.

### C. Criminogenic Needs

Criminogenic needs refer to clinical disorders or functional impairments that, if ameliorated, substantially reduce the likelihood of continued engagement in crime.<sup>73</sup> Although offenders typically present with a myriad of needs,<sup>74</sup> not all of them are criminogenic. Some needs, such as low self-esteem, may be the result of living a non-productive lifestyle rather than the cause of it.<sup>75</sup>

Perhaps the most criminogenic of the needs factors is sub-

---

<sup>71</sup> See generally Christopher T. Lowenkamp et al., *The Risk Principle in Action: What Have We Learned From 13,676 Offenders and 97 Correctional Programs?*, 52 CRIME & DELINQ. 77 (2006) (finding better outcomes in correctional programs when services were targeted to high-risk offenders).

<sup>72</sup> See generally Paul Gendreau et al., *A Meta-Analysis of the Predictors of Adult Offender Recidivism: What Works?*, 34 CRIMINOLOGY 575 (1996); Douglas B. Marlowe et al., *Amenability to Treatment of Drug Offenders*, 67 FED. PROBATION 40 (2003); Timothy W. Kinlock et al., *Prediction of the Criminal Activity of Incarcerated Drug-Abusing Offenders*, Fall J. DRUG ISSUES 897 (2003); Matthew L. Hiller et al., *Risk Factors That Predict Dropout From Corrections-Based Treatment for Drug Abuse*, 79 PRISON J. 411 (1999); Roger K. Peters et al., *Predictors of Retention and Arrest in Drug Court*, 2 NAT'L DRUG Ct. INST. REV. 33 (1999); Devon D. Brewer et al., *A Meta-Analysis of Predictors of Continued Drug Use During and After Treatment for Opiate Addiction*, 93 ADDICTION 73 (1998).

<sup>73</sup> See, e.g., WARREN, *supra* note 49, at 23-24 (noting criminogenic needs indicate what symptoms should be targeted for intervention).

<sup>74</sup> See generally Steven Belenko, *Assessing Released Inmates for Substance-Abuse-Related Service Needs*, 52 CRIME & DELINQ. 94 (2006) (reviewing clinical disorders and functional impairments commonly found among drug offenders).

<sup>75</sup> See, e.g., WARREN, *supra* note 49, at 24 (noting prominent examples of non-criminogenic needs include low self-esteem, lack of physical conditioning, and anxiety).

living skills.<sup>81</sup> For example, they may not know how to dress properly for work, take care of a home, use public transportation, or arrive at appointments on time. Failing to address these serious deficiencies in adaptive functioning leaves the individual vulnerable to continued failures and continued involvement in antisocial activities.<sup>82</sup> On the other hand, effectively addressing these deficiencies is associated with improved functioning and the avoidance of crime.<sup>83</sup>

#### IV. MATCHING DISPOSITIONS BY RISKS AND NEEDS

Risk of dangerousness is primarily relevant to the “in or out decision” in terms of whether an offender can be safely managed in the community. As was noted earlier, even if a decision is reached to incarcerate an offender for some period of time, it remains important to tailor the back end of the sentence so as to allow for continued supervision and treatment after release. Therefore, the following considerations should apply with equal force to the post-release conditions.

Prognostic risks and criminogenic needs indicate what treatment and supervisory conditions should be included in the sentencing order. Conceptually, these two factors may be crossed in a 2-by-2 matrix, yielding four quadrants that have direct implications for selecting optimal correctional dispositions and behavioral care plans for drug offenders (see Figure 2).

The essential point to bear in mind is that interventions which are well suited to offenders in one quadrant may be a waste of resources or even contraindicated for those in another quadrant. Therefore, routinely imposing a particular disposition on a large proportion of drug offenders may serve one group of those offenders well, but is likely to be off the mark or damaging for three other subtypes of offenders. This could explain why one-size-fits-all sentencing policies, such as the War on Drugs and Proposition 36, have generally been so ineffective.<sup>84</sup>

---

<sup>81</sup> See, e.g., Belenko, *supra* note 74, at 96-99 (reviewing common functional impairments among drug offenders).

<sup>82</sup> *Id.* at 96-98 (noting social and behavioral factors predict recidivism and persistent criminal behavior).

<sup>83</sup> *Id.* at 100-102 (concluding successful initiatives reduce crime by addressing functional deficiencies).

<sup>84</sup> For a discussion of the limited effects of the War on Drugs and Proposition 36, see *supra* notes 52-62 and accompanying text.

alone, would be remotely sufficient to help this individual. There is no effective way to punish away his addiction or to treat away his chronically antisocial lifestyle. He will require a combination of intensive supervision, substantial consequences for misbehavior, and intensive treatment to address his compulsive addiction. Any one of these interventions alone will fail.

### 1. Status Calendar

Research indicates that HR/HN drug offenders should be supervised on a status calendar.<sup>85</sup> This means they should be required to appear regularly before a criminal justice professional (typically a judge or probation officer) who has the power and authority to administer meaningful consequences for their performance in treatment and on community supervision.<sup>86</sup> Because of their high level of dysfunction and incorrigibility, they should be kept on a short tether with little wriggle room for committing new infractions or failing to meet their obligations.<sup>87</sup> Figuratively speaking, if they are given enough rope, they will surely hang themselves.

### 2. Intensive Treatment

HR/HN individuals also require intensive substance abuse treatment and relevant adjunctive services.<sup>88</sup> As was noted earlier, addiction reflects a form of brain damage<sup>89</sup> and can not, therefore, be expected to respond to the mere threat of punishment. Addicts are notorious for continuing to abuse drugs or alcohol despite experiencing severe and persistent negative conse-

---

<sup>85</sup> See generally Douglas B. Marlowe et al., *Adapting Judicial Supervision to the Risk Level of Drug Offenders: Discharge and Six-Month Outcomes From a Prospective Matching Study*, 88 *DRUG & ALCOHOL DEPENDENCE* 4 (2007) (finding high-risk drug offenders performed better in drug court when required to attend frequent, bi-weekly status hearings) [hereafter *Adapting Supervision*]; Douglas B. Marlowe et al., *Matching Judicial Supervision to Clients' Risk Status in Drug Court*, 52 *CRIME & DELINQ.* 52 (2006) (same) [hereafter *Matching Supervision*]; David S. Festinger et al., *Status Hearings in Drug Court: When More is Less and Less is More*, 151 *DRUG & ALCOHOL DEPENDENCE* 151 (2002) (same).

<sup>86</sup> See generally Douglas B. Marlowe, *Judicial Supervision of Drug-Abusing Offenders*, SARC Suppl. 3 *J. PSYCHOACTIVE DRUGS* 323 (2006) (reviewing research on effects of court monitoring for high-risk offenders).

<sup>87</sup> See generally Melissa Bull, *A Comparative Review of Best Practice Guidelines for the Diversion of Drug Related Offenders*, 16 *INT'L J. DRUG POL'Y*, 223, 226 tbl.1 (2005) (finding judicial review and compliance monitoring to be required elements of several best-practice guidelines for drug offenders).

<sup>88</sup> See, e.g., Meredith H. Thanner & Faye S. Taxman, *Responsivity: The Value of Providing Intensive Services to High-Risk Offenders*, 24 *J. SUBSTANCE ABUSE TREATMENT* 137, 142-4 (2003) (finding high-risk offenders had greater improvements in drug use, employment and re-arrests than lower-risk offenders when assigned to intensive drug treatment case management); Faye S. Taxman & Meredith Thanner, *Risk, Needs, Responsivity (RNR): It All Depends*, 52 *CRIME & DELINQ.* 28, 36-42 (2006) (same).

<sup>89</sup> See *supra* notes 76-77 and accompanying text.

cause it can raise the offender's tolerance to withstand punishment. This could account for the "been there, done that" attitude that many offenders exhibit in response to threats of punishment.<sup>95</sup> Over time, they have become inured to inconsequential threats of punishment. This can lead them to push the limits to the point of no return—for example, to the point of incarceration, overdose, or drug-related death.

On the other hand, if an offender receives high-magnitude sanctions for failing to meet difficult demands that are beyond his or her capabilities, this can lead to a host of negative reactions, including depression, hostility, and a disruption of the therapeutic relationship.<sup>96</sup> It can also lead to what is called a *ceiling effect*, in which further escalation of punishment is impracticable.<sup>97</sup> Once an offender has been incarcerated, for example, the authorities have used up their armamentarium of sanctions; and, what's worse, the offender *knows* they have exhausted their options. At this point, future efforts to improve that individual's behavior will be extremely challenging.

It is essential to recognize that for individuals who are dependent on drugs or alcohol, abstinence should be considered a *distal* goal.<sup>98</sup> Substance use is compulsive for these individuals and they should be expected to require time and effort to achieve abstinence. Imposing high-magnitude sanctions for drug use early in treatment would be likely to lead to a ceiling effect and early failure from the program. This could have the paradoxical result of making the most seriously addicted individuals ill-fated for success in corrections-based treatment.

For addicted offenders, high-magnitude sanctions should, instead, be reserved for failing to comply with basic supervision requirements, such as failing to show up for counseling sessions, failing to appear at status hearings, or submitting tampered urine specimens.<sup>99</sup> Thus, for example, a HR/HN offender might

---

<sup>95</sup> See, e.g., Joan Petersilia & Elizabeth P. Deschenes, *What Punishes? Inmates Rank the Severity of Prison vs. Intermediate Sanctions*, 58 FED. PROBATION 3, 3-6 (1994) (noting serious sanctions, including prison, are no longer viewed as stigmatizing or daunting for some offenders who are experienced with the criminal justice system).

<sup>96</sup> See Marlowe & Kirby, *supra* note 94, at 15-16 (describing negative side effects of excessive punishment for difficult behaviors); see generally Crighton Newsom et al., *The Side Effects of Punishment*, in THE EFFECTS OF PUNISHMENT ON HUMAN BEHAVIOR (Saul Axelrod & Jack Apsche eds., Academic Press 1983) (reviewing side effects of punishment).

<sup>97</sup> See Marlowe & Kirby, *supra* note 94, at 9 (describing ceiling effects in treatment of drug offenders).

<sup>98</sup> See Marlowe, *Strategies*, *supra* note 93, at 329-30 (concluding abstinence is distal goal for addicts and proximal goal for substance abusers); Marlowe, *Sanctions*, *supra* note 93, at 112 (same).

<sup>99</sup> Infractions that threaten public safety, such as new crimes or impaired driving, are necessarily conceptualized as proximal because they cannot be permitted to recur. Offenders who fail to refrain from these behaviors might be considered poor candidates

engaged in other pro-social activities that are inconsistent with drug abuse and crime.<sup>103</sup>

This requires criminal justice professionals not only to punish crime and drug use, but also to reward productive activities that are incompatible with crime and drug abuse.<sup>104</sup> Unfortunately, this practice runs counter to many professionals' inclinations. HR/HN offenders are characteristically irresponsible and provocative, making them, perhaps, the least desirable population to whom to offer rewards. One's natural inclination is to want to weed these individuals out of positive reinforcement programs and marshal scarce rewards for the less severe and less antagonistic offenders. However, this inclination is inconsistent with effective treatment. HR/HN offenders tend to be least responsive to punishment and most responsive to rewards;<sup>105</sup> therefore, denying them access to rewards and focusing on punishment is precisely the wrong strategy. The best approach is to put feelings aside and offer them rewards for engaging in good behaviors that portend better long-term adjustment.<sup>106</sup>

---

<sup>103</sup> See *id.* at 23-24 (concluding "it is always wise to ensure that alternate behaviors are made available that can lead to similar amounts of reinforcement as the behavior that is being punished."). Pro-social behaviors are likely to be continuously reinforced with such rewards as praise, prestige and wages long after treatment and criminal justice supervision have ended. Moreover, returning to crime or drug abuse would be likely to lead to the loss of these new-found rewards; for example, being ostracized from peers or fired from a job. See, e.g., Marlowe, *Sanctions*, *supra* note 93, at 113 (discussing benefits of using rewards to maintain effects over long term).

<sup>104</sup> Numerous studies have reported that high-risk, antisocial drug abusers responded equally as well, if not better, to positive reinforcement than lower-risk individuals. See generally Douglas B. Marlowe et al., *An Effectiveness Trial of Contingency Management in a Felony Pre-Adjudication Drug Court*, *J. APPLIED BEHAV. ANALYSIS*, 41 *J. APPLIED BEHAV. ANALYSIS* 565 (2008) (finding better outcomes from positive reinforcement for high-risk drug offenders); Nena Messina et al., *Treatment Responsivity of Cocaine-Dependent Patients with Antisocial Personality Disorder to Cognitive-Behavioral and Contingency Management Interventions*, 71 *J. CONSULTING & CLINICAL PSYCHOL.* 320 (2003) (finding equivalent outcomes from positive reinforcement for antisocial drug abusers); Douglas B. Marlowe et al., *Impact of Comorbid Personality Disorders and Personality Disorder Symptoms on Outcomes of Behavioral Treatment for Cocaine Dependence*, 185 *J. NERVOUS & MENTAL DISEASE* 483 (1997) (same); Kenneth Silverman et al., *Broad Beneficial Effects of Cocaine Abstinence Reinforcement Among Methadone Patients*, 66 *J. CONSULTING & CLINICAL PSYCHOL.* 811 (1998) (same).

<sup>105</sup> See generally Nancy M. Petry, *Discounting of Delayed Rewards in Substance Abusers: Relationship to Antisocial Personality Disorder*, 162 *J. PSYCHOPHARMACOLOGY* 425 (2002) (finding antisocial drug abusers tend to be preoccupied with short-term, high-magnitude rewards); Diana Fishbein, *Neuropsychological Function, Drug Abuse, and Violence: A Conceptual Framework*, 27 *CRIM. JUST. & BEHAV.* 139 (2000) (suggesting relative imperviousness to sanctions and preoccupation with rewards among drug abusers and offenders might reflect damage or developmental immaturity to frontal lobe of brain).

<sup>106</sup> Concerns that offenders may use rewards for ill-advised acquisitions do not appear to be warranted. See John M. Roll et al., *A Comparison of Voucher Exchanges Between Criminal Justice Involved and Noninvolved Participants Enrolled in Voucher-Based Contingency Management Drug Abuse Treatment Programs*, 31 *AM. J. DRUG & ALCOHOL ABUSE* 393, 396-97 (2005) (finding drug offenders were most likely to use rewards to pay fines and fees); David S. Festinger et al., *Higher Magnitude Cash Payments Improve Re-*

rable evidence is amassing in favor of buprenorphine.<sup>113</sup> Recent studies prove these positive effects hold just as well for addicted criminal offenders.<sup>114</sup> The criminal justice system should make agonist medications readily available for opiate addicted offenders under appropriate medical supervision.

### 7. Suited Disposition

Of all the community-based dispositions for drug offenders (see Figure 1), drug courts come closest to offering the full range of evidence-based services that are typically required for HR/HN drug offenders.<sup>115</sup> These judicially monitored programs supervise drug offenders on a status calendar, require adherence to a mandatory regimen of substance abuse treatment and needed adjunctive services, administer sanctions and restrictive consequences for noncompliance, and provide positive reinforcement for productive achievements.<sup>116</sup> Although attitudes concerning the use of agonist medications may vary across drug court programs, the drug court field explicitly endorses the use of evidence-based medications, including methadone and buprenorphine.<sup>117</sup>

#### B. Low Risk / High Need (LR/HN) Offenders

An individual in the upper right quadrant is low on prognostic risks, but high on criminogenic needs. Such an individual suffers from drug or alcohol dependence, severe mental illness or poor adaptive skills, but does not have negative risk factors that would predict a poor response to standard treatment. An example might be a woman with a long history of heroin addiction who commits crimes solely to support her drug habit, such as petty thefts, prostitution and low-level dealing or bartering. But for

---

ing 30 years of research on effectiveness of methadone); Schottenfeld, *supra* note 108, at 295-96 (reviewing research on beneficial effects of methadone).

<sup>113</sup> See Strain & Lofwall, *supra* note 110, at 311-312 (reviewing research on beneficial effects of buprenorphine).

<sup>114</sup> See generally Timothy W. Kinlock et al., *A Study of Methadone Maintenance for Male Prisoners: 3-Month Postrelease Outcomes*, 35 CRIM. JUST. & BEHAV. 34 (2008) (reporting positive outcomes using methadone with prison inmates); Timothy W. Kinlock et al., *A Randomized Clinical Trial of Methadone Maintenance for Prisoners: Results at 1-Month Post-Release*, 91 DRUG & ALCOHOL DEPENDENCE 220 (2007) (same); Stephen Magura & Andrew Rosenblum, *The Effectiveness of In-Jail Methadone Maintenance*, 23 J. DRUG ISSUES 75 (1993) (same for jail inmates).

<sup>115</sup> See Lowenkamp et al., *supra* note 30, at 10 (finding doubling of effectiveness of drug courts for high-risk clients); Jonathan E. Fielding et al., *Los Angeles County Drug Court Programs: Initial Results*, 23 J. SUBSTANCE ABUSE TREATMENT 217, 223 (2002) (finding high and medium risk offenders received greatest benefits in drug court).

<sup>116</sup> For a discussion of drug courts, see *supra* notes 28-29 and accompanying text.

<sup>117</sup> See generally Karen Freeman-Wilson, *Methadone Maintenance and Other Pharmacotherapeutic Interventions in the Treatment of Opioid Dependence* (Nat'l Drug Ct. Inst. Practitioner Fact Sheet, 2002); Jeffrey Tauber, *Buprenorphine in the Treatment of Opioid Addiction* (Nat'l Drug Ct. Inst. Practitioner Fact Sheet, 1999).

hand, because these individuals are dependent on drugs or alcohol, abstinence should be considered a distal goal. For the first several weeks or months, treatment-oriented consequences rather than punitive sanctions should be imposed for positive drug tests.<sup>122</sup> For example, they might be required to attend more frequent counseling sessions or transferred to a more intensive modality of care, such as residential treatment or recovery housing, in response to evidence of continued substance abuse.

#### 4. Positive Reinforcement

As was discussed previously, addicted individuals are notorious for continuing to abuse drugs or alcohol in the face of persistent and severe negative repercussions.<sup>123</sup> They have typically reached a ceiling effect on or habituated to punishment, and the threat of sanctions no longer exerts substantial control over their behavior. This requires criminal justice professionals to reward productive activities that can compete effectively against crime and drug abuse.<sup>124</sup> In the absence of such rewarding activities, they may be expected to return rapidly to substance abuse and associated crime soon after they are released from supervision.

#### 5. Agonist Medications

Finally, agonist medications such as methadone and buprenorphine are also indicated for LR/HN offenders who are addicted to illicit opiates.<sup>125</sup> Medically supervised administration of these medications can control cravings and withdrawal symptoms, make it difficult for the offender to become intoxicated on opiates, and reduce serious health-risk behaviors, such as needle sharing and unprotected sex.<sup>126</sup> There is no empirical justification for denying these evidence-based treatments to individuals suffering from what is a chronic and potentially life-threatening illness.

#### 6. Suited Disposition

Evidence suggests LR/HN offenders can perform adequately in probation-without-verdict dispositions.<sup>127</sup> The emphasis in

---

<sup>122</sup> Marlowe, *Sanctions*, *supra* note 93, at 111 (distinguishing when it is appropriate to apply therapeutic consequences vs. punitive sanctions for drug offenders).

<sup>123</sup> *See supra* notes 89-90 and accompanying text.

<sup>124</sup> Because they are high needs, the same rationale applies as for HR/HN offenders. *See supra* notes 102-106 and accompanying text.

<sup>125</sup> Because they are high needs, the same rationale applies as for HR/HN offenders. *See supra* notes 107-114 and accompanying text.

<sup>126</sup> For a discussion of the positive benefits of agonist medications, *see supra* notes 111-114 and accompanying text.

<sup>127</sup> *See, e.g.*, Marlowe, *supra* note 86, at 330 (noting probation without verdict may be effective and cost-efficient for low-risk offenders). For a discussion of probation without

fore a criminal justice official with the power to administer meaningful consequences for violations or for failing to follow through on their obligations.

## 2. Pro-Social Rehabilitation

HR/LN individuals do not require standard clinical services. They do not have an addiction or mental illness in need of treatment. On the other hand, this does not mean they do not require any services. Offenders in this quadrant may be poorly socialized or may have antisocial attitudes or cognitions that require remediation.<sup>131</sup> Certain types of behavioral and cognitive-behavioral interventions have been shown to reduce recidivism in this population.<sup>132</sup> Effective programs generally focus on altering the offenders' distorted perceptions, encouraging them to think before they act and consider the consequences of their actions, and build a sense of empathy for others. In addition, vocational preparation, job training, and educational programming may be required for many of these individuals to prevent them from returning to criminal activity.<sup>133</sup>

## 3. Abstinence and Compliance are Proximal

For these offenders, abstinence is a proximal goal.<sup>134</sup> Drug and alcohol use are under their voluntary control and should not be permitted to continue. These individuals may accept low-level sanctions as a mere "cost of doing business" for being able to continue using drugs. Therefore, higher magnitude sanctions should be administered at the outset to rapidly squelch substance abuse. Importantly, several studies of what are called *coerced abstinence* programs have demonstrated that administering escalating sanctions, including brief intervals of jail detention, for drug-positive urine samples can significantly reduce crime and drug abuse in this group.<sup>135</sup> Higher-magnitude sanctions should also be admi-

---

<sup>131</sup> See, e.g., Kevin Knight et al., *An Assessment for Criminal Thinking*, 62 CRIME & DELINQ. 159, 162-63 (2006) (noting criminal thinking and antisocial attitudes are strong predictors of negative outcomes among offenders).

<sup>132</sup> See generally Mark W. Lipsey, *Cognitive-Behavioral Programs for Offenders*, 578 ANNALS AM. ACAD. POL. & SOC. SCI. 144 (2001) (reviewing effective cognitive-behavioral programs for offenders); David B. Wilson et al., *A Quantitative Review of Structured, Group-Oriented, Cognitive-Behavioral Programs for Offenders*, 32 CRIM. JUST. & BEHAV. 172 (2005) (same); AOS ET AL., *supra* note 39, at 14, tbl.2 (same).

<sup>133</sup> See AOS ET AL., *supra* note 39, at 14, tbl.2 (finding positive effects for work and educational programs for offenders).

<sup>134</sup> For a discussion of proximal vs. distal goals, see *supra* notes 92-97 and accompanying text.

<sup>135</sup> See generally Adele Harrell & John Roman, *Reducing Drug Use and Crime Among Offenders: The Impact of Graduated Sanctions*, 31 J. DRUG ISSUES 207 (2001); Angela Hawken & Mark Kleiman, *H.O.P.E. for Reform*, THE AMERICAN PROSPECT (2007), at [http://www.prospect.org/cs/articles?article=hope\\_for\\_reform](http://www.prospect.org/cs/articles?article=hope_for_reform) (retrieved August 9, 2008).

It provides a full blockade against opiates and a partial blockade against alcohol, yet does not get offenders intoxicated or cause addiction. Non-addicted offenders who are substance abusers or misusers could be safely blockaded on this drug, leaving minimal concerns that untreated symptoms of addiction are being neglected.<sup>141</sup>

#### 6. Suited Disposition

HR/LN offenders do not belong in treatment-oriented dispositions because they do not have an addiction, mental illness or other impairment requiring clinical services.<sup>142</sup> On the other hand, they do require close monitoring, substantial sanctions for continued substance abuse or other infractions, and psychosocial rehabilitation aimed at improving their educational and job skills and altering antisocial attitudes and attachments.

These services can typically be administered in standard community correctional programs, such as halfway houses, intensive supervised probation, and day-reporting centers. Serious consideration should be given, however, to buttressing the curricula in these programs with closer monitoring on a judicial status calendar, a coerced abstinence regimen that administers escalating sanctions for drug-positive urine specimens,<sup>143</sup> and antagonist medications when indicated and medically prescribed.

#### D. Low Risk / Low Need (LRLN) Offenders

Finally, offenders in the lower right quadrant are low on both prognostic risks and criminogenic needs. These individuals are typically naïve to both the criminal justice system and the substance abuse treatment system. They do not suffer from addiction or other impairments and do not have negative risk factors that would portend failure in standard interventions. It is typically unnecessary to expend substantial resources on this

---

naltrexone for criminal offenders); James Cornish et al., *Naltrexone Pharmacotherapy for Opioid Dependent Federal Probationers*, 14 J. SUBSTANCE ABUSE TREATMENT 529 (1997) (finding naltrexone reduced drug abuse and technical violations among federal probationers).

<sup>141</sup> See, e.g., DeMatteo et al., *supra* note 118, at 128 (suggesting naltrexone might work best for non-addicted, drug-involved offenders). Another medication, called disulfiram or antabuse, causes an uncomfortable physical reaction in individuals who imbibe alcohol. See, e.g., A. Thomas McLellan, *Evolution in Addiction Treatment Concepts and Methods*, in AM. PSYCHIATRIC PUBL'G, TEXTBOOK OF SUBSTANCE ABUSE TREATMENT 93, 97-98 (Marc Galanter & Herbert D. Kleber eds., 2008) (describing disulfiram). Like naltrexone, compliance with disulfiram tends to be poor for alcoholics but might be better for alcohol abusers who do not suffer from cravings or withdrawal symptoms.

<sup>142</sup> See generally DeMatteo et al., *supra* note 118 (discussing why drug courts are not suited for non-addicted offenders).

<sup>143</sup> For a discussion of coerced abstinence regimens, see *supra* note 135 and accompanying text.

an individual format or in separately stratified groups, so as to keep these individuals away from the offenders in the other quadrants.<sup>148</sup> Mixing offenders with different risk-levels together in groups can lead to iatrogenic effects, in which the low-risk individuals begin to engage in higher levels of substance abuse and crime.<sup>149</sup>

### 3. Abstinence is Proximal

For these individuals, abstinence is the proximal goal.<sup>150</sup> Drug and alcohol use are under their voluntary control and should not be permitted to continue. Given that substance abuse is the primary, if not sole, presenting problem for these individuals, it would be appropriate to focus the case plan primarily on squelching this particular behavior.

Because LR/LN offenders typically pose minimal risks to public safety, it is rarely necessary to impose restrictive conditions on them in response to noncompliance. Paradoxically, however, a threat of serious sanctions, including detention, may be most effective for this particular group of offenders. Because they have not been repeatedly exposed to punishment in the past, they are unlikely to have hit a ceiling effect on or habituated to sanctions. They are apt to remain fearful of incarceration or of receiving a criminal record, and will be predisposed to apply themselves heartily to avoid such negative consequences. In other words, as counterintuitive as it might seem, punishment tends to work best for less severe offender populations and these individuals generally do not require positive rewards to succeed. Criminal justice professionals can rely primarily on the threat of punishment to keep LR/LN offenders in line, and reserve positive rewards for the more severe offenders in the other quadrants.

### 4. Suited Disposition

Pre-trial diversion or administrative probation is best suited for LR/LN offenders.<sup>151</sup> Because they have a low likelihood of re-offending, it is not a wise investment of resources to target these individuals for intensive services. The longer they are involved in the criminal justice system, the greater is the likelihood that they will adopt antisocial attitudes, develop antisocial relationships, or perhaps be preyed upon. That would be the very es-

---

<sup>148</sup> *Id.* at 118-19 (explaining why LR/LN offenders should be treated individually or in separate groups).

<sup>149</sup> *Id.*

<sup>150</sup> Because they are low needs, the rationale is the same as for HR/LN offenders. See *supra* notes 134-135 and accompanying text.

<sup>151</sup> For a discussion of pretrial diversion and administrative probation, see *supra* notes 15-16 and accompanying text.

ever, the factors would not be dispositive or entitled to any particular weight. A judge would remain free to impose a sentence in seemingly direct conflict with the empirical evidence.

Finally, the most intrusive approach would be to erect a rebuttable presumption in favor of imposing an evidence-based disposition, and would require judges to state on the record why they chose to depart from the empirical data. This would not necessarily create a reviewable issue for appeal. The standard for appeal could be quite restrictive, such as an abuse of discretion or clearly erroneous finding. However, requiring the rationale to be articulated on the record would help to shape how sentencing arguments are framed in court proceedings. It could also provide a basis for President Judges or the public to evaluate sentencing judges' performance. It would be possible, for example, to know whether a particular judge has a penchant for imposing more costly or less effective dispositions. Pennsylvania has experimented with making sentencing information available to the public, and the results have been largely favorable.<sup>155</sup> This process led to better quality research being conducted on the sentencing information, as well as better informed input from policymakers and the public.<sup>156</sup>

Regardless of what model is incorporated into sentencing statutes or guidelines, it is difficult to argue against at least considering empirical information on effectiveness and cost-effectiveness, when rendering criminal dispositions. Failing to heed this information has led to an unquestionable crisis for the criminal justice system in this country. Our correctional system is overloaded, state budgets are buckling under huge expenditures, minorities and the poor have been disproportionately injured, and yet recidivism remains at historic highs.<sup>157</sup> We can and must do better.

---

<sup>155</sup> See generally Mark H. Bergstrom & Joseph S. Mistick, *The Pennsylvania Experience: Public Release of Judge-Specific Sentencing Data*, 16 FED. SENT'G REP. 57 (2003).

<sup>156</sup> *Id.* at 62-63.

<sup>157</sup> See generally PEW CTR. ON THE STATES, ONE IN 100: BEHIND BARS IN AMERICA 2008 (2008) (describing correctional crisis in U.S.).



**Timothy J. McGinty**  
CUYAHOGA COUNTY PROSECUTOR

Duane Deskins, a federal prosecutor for more than 30 years, joined the Prosecutor's Office in December 2013 as Chief Prosecutor in the Juvenile Division and Director of Crime Prevention. During his tenure at Justice Department, Deskins worked as an Assistant United States Attorney in Boston, Chicago, Los Angeles and his native Cleveland. Besides directing more than 1,000 criminal investigations and prosecuting hundreds of cases, he helped shape and implement the department's Project Safe Neighborhood and Project Sentry (PSN) strategy to reduce violent crime using data-driven initiatives and broad-based community collaborations.

Since taking charge of the Juvenile Justice Division, Deskins has led a proactive effort to crack down on youth gang violence within the Detention Center and in neighborhoods throughout Cuyahoga County. He has worked with police chiefs and community groups alike to deter juvenile crime and present at-risk youngsters with more positive options. He has also forged closer ties between prosecutors at Juvenile Court and those who work downtown at the Justice Center. Deskins grew up in the Glenville and Shaker Square neighborhoods and graduated from St. Ignatius High School. He received his undergraduate and law degrees from Boston College. He additionally serves as the First Assistant Cuyahoga County Prosecutor.

**OFFICE OF THE PROSECUTING ATTORNEY**

The Justice Center • Courts Tower • 1200 Ontario Street • Cleveland, Ohio 44113  
(216) 443-7800 • Fax (216) 443-7601

# OUR TEAM

---



## **BRANDON EDWIN CHROSTOWSKI - FOUNDER AND RESTAURATEUR**

Brandon Chrostowski is on a mission to change the face of re-entry in the United States. In 2007, he founded EDWINS Leadership & Restaurant Institute. The idea for EDWINS was born "from a break" that Chrostowski received early in life. It has grown from a six-month program conducted in prison that provides training in culinary arts and hospitality to a full-service restaurant dedicated to teaching those recently released all facets of restaurant operations.

After release, individuals are not only equipped with basic culinary skills, they also are assisted with finding employment, have the opportunity to utilize free housing, basic medical care, clothing, job coaching and literacy programs.

Chrostowski began his career in Detroit 19 years ago and has since trained in some of the world's finest restaurants including Charlie Trotters and Lucas

Carton in Paris; Le Cirque, Picholine and Chantrelle in New York City, and L'Albatros Brasserie and Bar in Cleveland. He received an Associate's degree in Culinary Arts and a Bachelor's degree in Business and Restaurant Management at The Culinary Institute of America. An accomplished sommelier, Chrostowski received his certification from the Court of Master Sommeliers in 2008.

U.S. +

Live TV

# CNN HEROES

## Restaurant gives ex-offenders a recipe for success

By Kathleen Toner, CNN

Updated 3:13 PM ET, Thu March 17, 2016



CNN Hero Brandon Chrostowski: Another chance at life 02:06

Story highlights

An upscale Cleveland restaurant is staffed almost entirely by people who were once incarcerated

It's the vision of Brandon Chrostowski, a veteran of top restaurants in Chicago, New York and Paris

"At Edwins, you can come to us after you've served that time and start over"

**Editor's Note:** Do you know someone who is making a difference in your community? Nominate them to be a CNN Hero.

**Cleveland, Ohio (CNN)** — Foodies savor the French cuisine at Edwins, an upscale restaurant that's earned a reputation as one of Cleveland's finest eateries.

But this high-end establishment provides far more than a good meal. It's staffed almost entirely by people who were once incarcerated.

By day, ex-offenders learn the fundamentals of the culinary arts industry. By night, they put their skills to work.

It's the vision of Brandon Chrostowski, a chef and veteran of elite restaurants in Chicago, New York and Paris. He realized that the stigma of a prison record made it challenging for ex-offenders to find work, so he decided to do something about it.

"After someone's done their time, everyone deserves that fair and equal second chance," said Chrostowski, 36. "At Edwins, you can come to us after you've served that time and start over."



### CNN Hero Brandon Chrostowski: Life after Edwins 02:05

His nonprofit program provides 40 to 50 hours a week of free training in everything from knife skills and the "mother sauces" to the steps of service and the basics of wine. Students then rotate through positions in the front and back of the house.

"It's a top-down perspective of this business," Chrostowski said of his six-month program. "Once they learn that, they can work anywhere."

Live TV

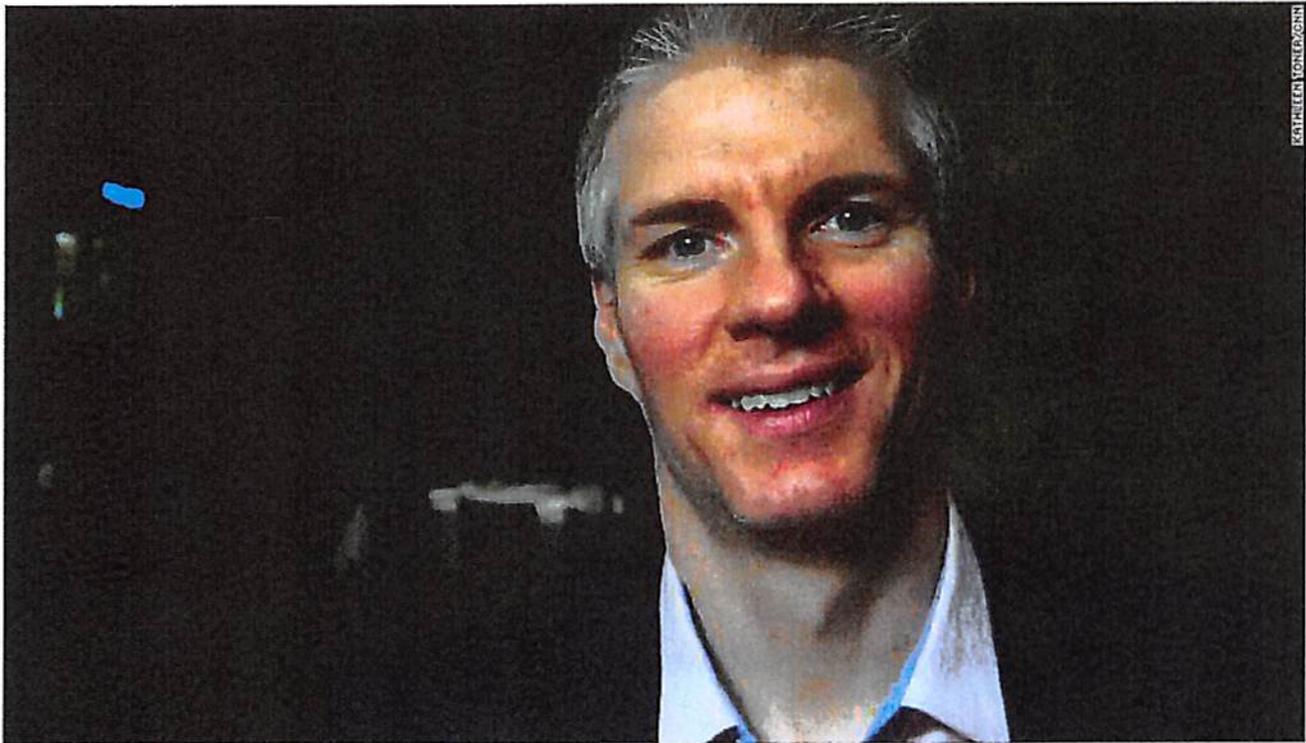
Students get a weekly stipend, as well as a portion of the donations left by diners in lieu of tips. A full-time caseworker helps them with housing, counseling or getting a driver's license.

It's a recipe that seems to be working. Chrostowski says 114 students have graduated, more than 90% of them are employed, and none has returned to prison.

CNN's Kathleen Toner spoke with Chrostowski about his work. Below is an edited version of their conversation.

**CNN:** Your program is about second chances, something you once had.

**Brandon Chrostowski:** I was a reckless teenager, and one night, I was arrested and thrown in jail. Fortunately, I had a judge who gave me a break instead of 10 years in prison. While I was on probation, I met a chef who mentored me. Once I was in that kitchen, I knew that's where I belonged for the rest of my life.



---

Brandon Chrostowski: "We all make mistakes, so we take everyone, regardless of their past."

Seeing the struggle of (these men and women) coming home from prison, I think all the time, "That could've been me." It just pushes me to work harder for them. We're giving an opportunity and believing in someone, just like that judge believed in me.

**CNN:** What's your philosophy, and how does it work?

**Chrostowski:** We all make mistakes, so we take everyone, regardless of their past, and we have a culture of trust, period.

Live TV

The first thing I did when I moved into this space was rip out the old security cameras, because moving forward means you accept someone for who they are and not who they were. We're providing the ultimate freedom -- we're not judging you -- and our students love it. I've had less problems here than any other place I've ever worked.

If someone is violent or comes to work on drugs, we have a zero-tolerance policy. But when people are ready, we welcome them back. Edwins is a family. There's a spirit in here where we're in this together. To have a second chance is to have a new life. And if you're ready to work hard, you can change the stars.

**CNN:** What's the significance of the name, Edwins?

**Chrostowski:** It's my middle name, from my grandfather. He was a tough guy, but he knew that through hard work and courage, you can succeed.

It also comes from a declaration that "Education Wins," because to overcome challenges, through education, is to win again. No one forgets the taste of winning. It's not on our tongue, but it's in our soul, and it's contagious. So if you can overcome a hard challenge here at Edwins, it's a win. It gives you confidence. That's our secret ingredient.

**CNN:** You've recently expanded beyond the restaurant. What are your ambitions for the future?

**Chrostowski:** The need for housing was immediate. Many of our students were going home to a shelter or the back seat of a car. So we ended up buying three buildings that are now our campus.

At the Edwins Second Chance Life Skills Center, we have the dorm, the alumni house, and we're building a fitness center, library and test kitchen. For students, the housing is essentially free; the \$100 a month you pay gets returned to you at the end, which gives you a nest egg.

In the future, my hope is to expand that even further with a butcher shop, a fish shop, a spice shop, you name it. It improves the community, and it improves the education for our students.

Edwins is a passageway, a brief part of your journey. And I've been given the gifts to kick and to scratch and to fight to make sure that that door does get opened.

Want to get involved? Check out the Edwins Leadership & Restaurant Institute and see how you can help.



## *Making the No Return Investment*

### Reentry Simulation

Ninety-five percent of the over 1.5 million incarcerated individuals in the United States will eventually be released back into the community (West & Sabol, 2009; ACA, 2013). Of those, approximately 65% will reoffend and return to prison within 3 years of release (BOP, 2013). Communities all across the country are affected; as a victim, a tax-payer, a family member, or a community resource.

While offenders are released to diverse communities with differing levels of support and intrinsic motivation, experience suggests that they share many of the same challenges. This Reentry Simulation will illustrate the journey to self-sufficiency and the barriers that may contribute to feelings of helplessness and decreased self-efficacy. Participants will assume the identity of an ex-offender and perform tasks in four 15 minute sessions with each session representing a week. By the end of this hour long, eye-opening activity, participants will have simulated a month in the life of someone who has released from prison. Participants will encounter the same challenges faced by many ex-offenders as they try to complete their court ordered obligations as well as maintain their day to day life. This simulation suggests that, ultimately, the ability to navigate “the system” may be a primary factor in the relationship between resiliency and recidivism.

# Toledo Star Re-entry

# Participation Requirements

- \* High to moderate risk offenders.
- \* Monthly participation in Court sessions.
- \* Monthly participation in Cognitive behavioral treatment.
- \* Monthly participation in drug treatment, if required.
- \* Participation in GED program, if necessary.
- \* Obtain/maintain employment
- \* Abstain from drug use.
- \* No new arrests.

# Cognitive Behavioral Treatment

- \* Required of all program participants
- \* Modification may be needed to add mental health condition for cognitive behavioral treatment.
- \* Cognitive behavioral treatment necessary to address criminal thinking and anti-social values & attitudes.
- \* Most effective in group settings, if possible.

# How PCRA is Incorporated

- \* Used to determine each offenders level of risk (High to Moderate).
- \* Used to assess offender's criminogenic needs/barriers to success on supervision.
- \* Examples of criminogenic needs:
  - Anti-social attitudes
  - Anti-social associates
  - Education/employment
  - Familial/Marital/Relationship
  - Substance abuse

# Incentives

- \* Monthly program reward
- \* Gift cards at 6 month and 12 month intervals
- \* Early Termination from supervision

# Sanctions

- \* Sanctions are designed to correct minor misconduct and to prevent it from becoming major misconduct while also allowing participants to remain in the program.

# Sanctions Continued

- \* Verbal reprimands
- \* Electronic monitoring
- \* Period of time in a halfway house
- \* Revocation/prison if the violation is egregious (New law violation or violation involving uncharged criminal behavior or violence).

# Responsivity

- \* Responsivity factors have implications for offenders' responses to interventions:
- \* Responsivity factors may include:
  - \* Gender
  - \* Culture
  - \* Learning style
  - \* Cognitive development
  - \* Level of motivation
- \* Responsivity factors should be taken into account when determining the appropriate course of intervention.
- \* Collaborating with local Re-entry coalition for existing programs and services to address these factors offered through their vast array of service providers.

# Program Data

Since program inception

- \* 42 Offenders admitted into Re-entry Court
- \* 17 Graduates
- \* Average of 4 participants graduating a month
- \* Currently there are 7 participants in the program
- \* (6 in Phase I of program, 1 in Phase II)

# Program Data

(The last 12 months)

## Successful graduates

- \* 2 participants are on track to graduate in July.
- \* Offenders have been in the program for 15 months.
- \* No positive drug tests.
- \* Offenders participated on average in 42 treatment sessions.
- \* On average 2 awards were not given.

## Unsuccessful Discharges

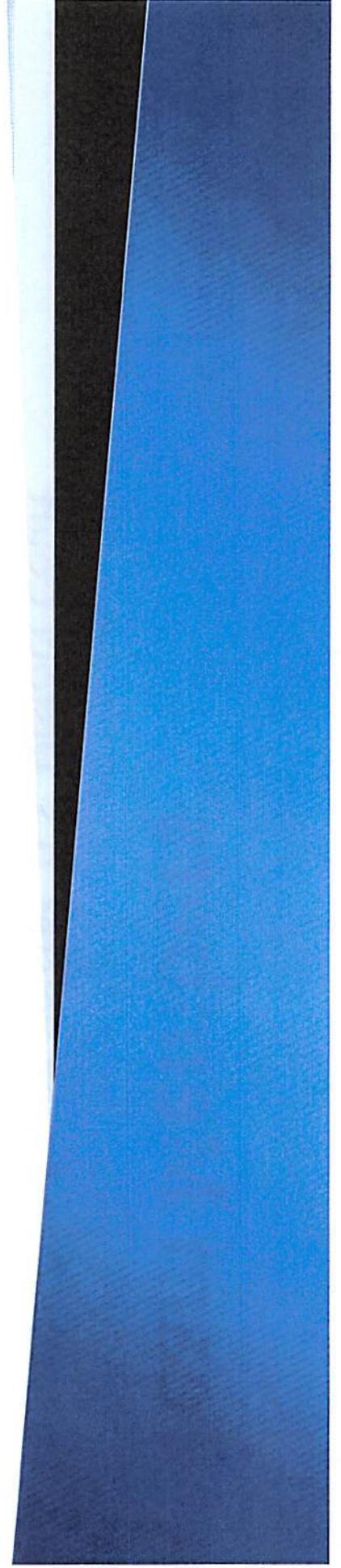
- \* 2 participants were discharged unsuccessfully from the program.
- \* Offenders were in the program for an average of 13 months.
- \* An average of 2 positive drug screens.
- \* Offenders participated on average in 12 treatment sessions.
- \* 1 participant ordered to serve 60 days at the halfway house.

# Overall Goals

## Two Things We Would Like to Accomplish This Year

- \* Increase/maintain participation level in program with an average of 5-6 participants.
- \* Develop a relationship with community religious leaders.

# Cleveland Star Re-entry



# Team Members

- Judge Dan Aaron Polster, U.S. District Court
- Magistrate Judge Kenneth S. McHargh, U.S. District Court
- Bill Radaker, U.S. Pretrial Service and Probation Office
- Suzanne Evans, U.S. Pretrial Services and Probation Office
- Valencia Small, U.S. Pretrial Services and Probation Office
- Jermaine Whitmore, U.S. Pretrial Services and Probation Office
- Marci Rapp, U.S. Pretrial Services and Probation Office
- Ben Gullo, U.S. Attorney's Office
- Charles Flemming, Office of the Federal Public Defender
- Vanessa Womack, Community Assessment & Treatment Services



# Participation Requirements

- Cognitive Behavioral Treatment
- How PCRA is incorporated
- Life Skills
- Any other requirements



# Incentives and Sanctions

- Non compliance is addressed
  - Sanctions
- Program compliance is rewarded
  - Incentives
- Responsivity (barriers to treatment) is handled



## Program Data *(since inception)*

- Number of admissions 50
- Number of graduates:
  - 24 from Phase I
  - 11 Phase I failures
  - 16 completed Phase II
  - 4 were unsuccessful in Phase II
  - 2 could not complete due to medical reasons (Phase I)
  - 3 voluntarily withdrew from Phase I but went on to complete their TSR
  - 6 remain in Phase II
- Average number of monthly clients 7
- Current number of clients 8



## Program Data (for the most recent 12 months)

- Number of successful graduates (7 graduated from Phase I)
- 7 Graduates (2 graduated from Phase II, 2 failed in Phase II, 6 are in Phase II).
- Average length of stay (total program) (approximately 16 months).
- Average number of positive drug tests (two positive tests by the same participant).
- Average number of treatment sessions attended (participants attend on 6 hours of group and one hour of individual cognitive therapy per month over the course of an six months.
- Average number of sanctions imposed (Residential Treatment, Residential Reentry Center, Location Monitoring Program and Letter of Reprimand have all been utilized in the last year).



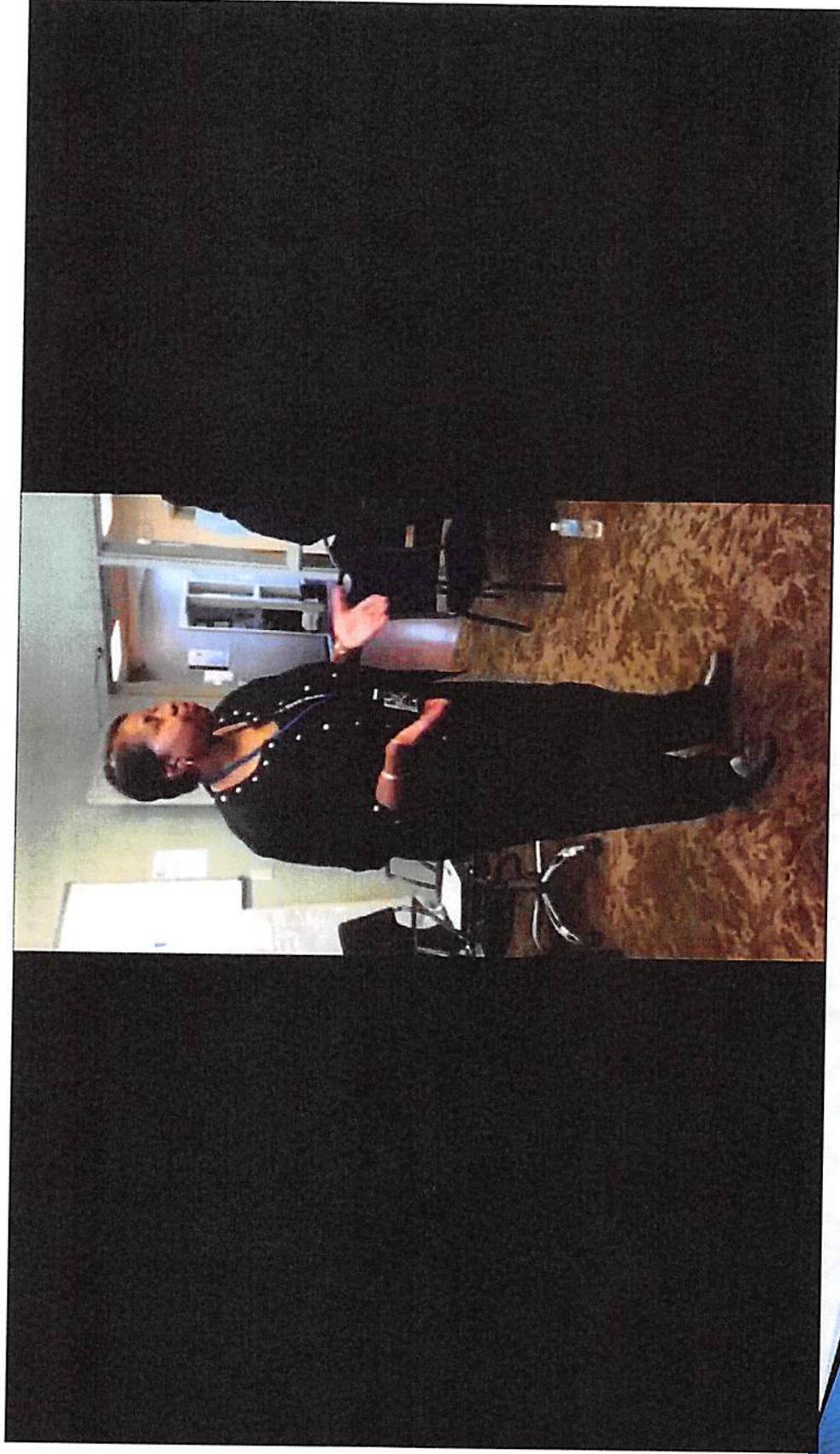
## Program Data (for the most recent 12 months)

- Number of unsuccessful discharges
  - 4 unsuccessful terminations = 2 in Phase I, 2 in Phase II)
  - Average length of stay (total program) 12 months (23, 9, 12 & 4)
  - Average number of positive drug tests (six positive tests were received by two participants)
  - Average number of treatment sessions attended
  - Average number of sanctions imposed (only 1 out of the 4 had a sanction – residential treatment)
  - Include re-arrests and revocations (each of the 4 unsuccessful cases were due to new law violations)

# Cognitive Behavioral Treatment



# Cognitive Behavioral Treatment



# Team Strategies

- Provide high-quality service to all participants.
- Ensure that all participants are in compliance with all aspects of supervision and working toward achieving their monthly goals.
- Identify barriers and locate community resources to assist participants with housing, transportation, clothing, treatment, education, and employment services.
- Identify treatment needs and make appropriate referrals for service.
- Focus is placed on resume writing and employment assistance. Participants meet frequently with Employment Specialist to discuss job training programs and employment opportunities.



# Identified Needs and Resources Used to Assist Participants

## ■ *Housing*

- Open Door Program
- Eden Corp.
- Cleveland Men's Shelter
- City Mission
- Oriana House

## ■ *Transportation*

- Bus Tickets (Second Chance Act funds)



# Identified Needs and Resources Used to Assist Participants

## ■ *Clothing*

- U.S. Pretrial Services and Probation Office Clothing Closet

## ■ *Treatment*

- Cognitive Behavioral Treatment (CBT) is held at Community Assessment and Treatment Services
- Substance Abuse and Mental Health Treatment Agencies (probation office contracts with various treatment providers throughout Northeast Ohio)
- FrontLine Service



# Identified Needs and Resources Used to Assist Participants

## ■ *Educational Services*

- GED Class – partnership with Cuyahoga Community College (classes held at the Carl B. Stokes U.S. Courthouse)
- Cuyahoga Community College
- Edwin’s Culinary Institute



# Identified Needs and Resources Used to Assist Participants

## ■ *Employment Services*

- Employment Specialist Marci Rapp, U.S. Pretrial Services and Probation Office
- Federal Bonding Program
- Rising Above Program (Maurice Stevens)
- Job Fairs throughout Northeast Ohio
- Ohio Means Jobs
- Towards Employment



# Identified Needs and Resources Used to Assist Participants

- *Community Resources & Programs*
  - Northeast Ohio Re-Entry Coalition, Inc. (Curtis Scruggs)
  - Identification Vouchers – North Star Reentry Center
  - Child Support Enforcement Center
  - The Ohio Benefit Bank
  - Home Energy Assistance Program (HEAP)
  - The Greater Cleveland Food Bank
  - Lutheran Metropolitan Ministry
  - West Side Catholic Center



# Identified Needs and Resources Used to Assist Participants

- *Community Resources & Programs Cont.*
  - Social Security Administration
  - Department of Veterans Affairs – Cleveland VA Medical Center
  - Medical Services – Metro Health Reentry Clinic
  - Care Alliance Health Center
  - United Way 2-1-1
  - Cleveland Housing Network (Computer Training and Money Management)
  - Second Chance Act (funds have been used to purchase work clothes, bus tickets, DL reinstatement fees)
  - Life Skills Program – (classes offered – Resume Writing & Mock Job Interviewing, 24/7 Dads
  - Fatherhood Program, Financial Management, Grief Recovery, Wellness)

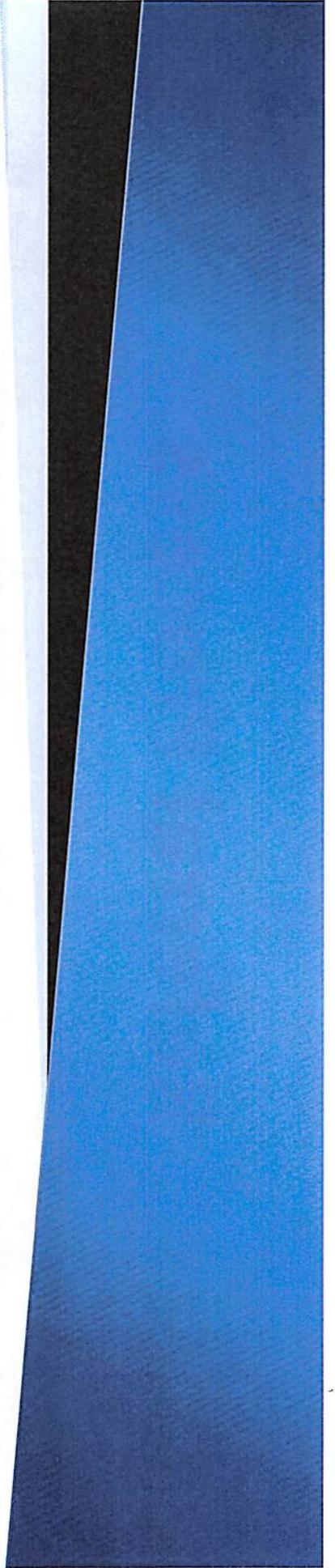
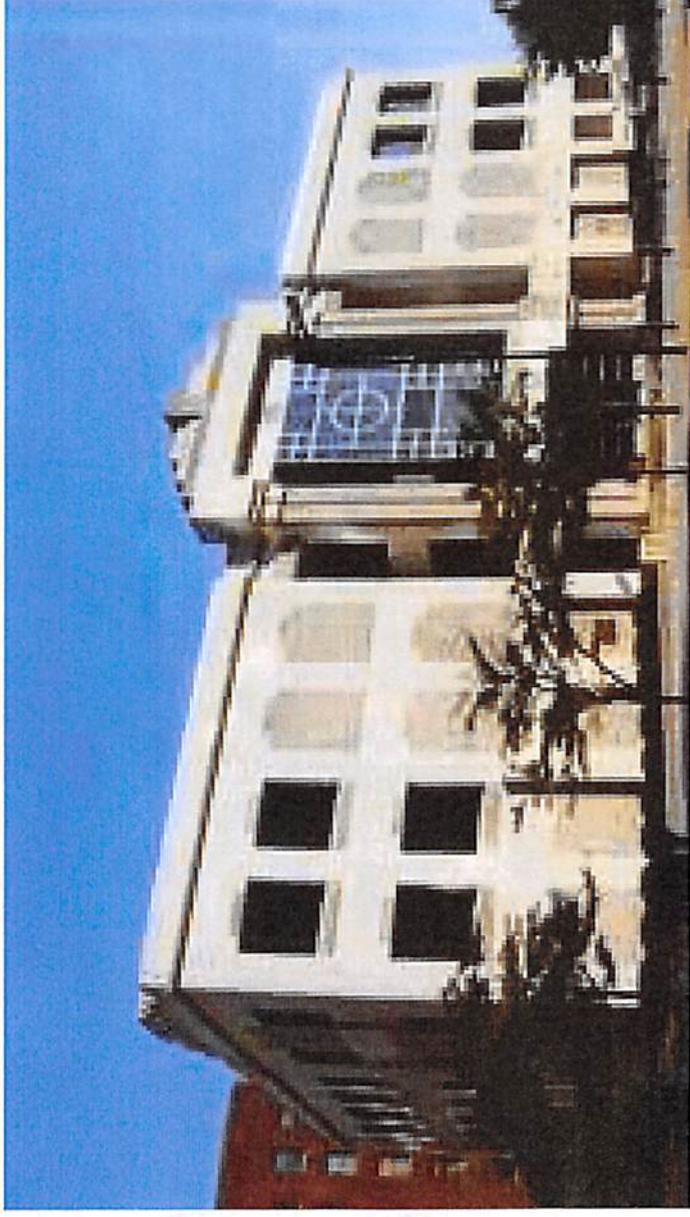


# 2 Things We Would Like to Accomplish This Year

- Inviting guest speakers
- Refining our use of intermediate sanctions



# Youngstown STAR Re-Entry Court



# Referral Process



# Involvement with FCI Elkton









# Referral Process

- Involvement with FCI Elkton
- Community Confinement Center at Pre-release
- During Supervision Intake Process
- Staff Case with Treatment Team
- Observation of Youngstown STAR Program
- Modification Request
- Review Participation Packet



# Participation Requirements

- Cognitive Behavioral Treatment
- High or Moderate PCRA Risk Score or Criminal History Category of IV, V or VI or Risk to the Community
- Participation with Smart Money Modules
- Participation with Fatherhood Initiative Workbook
- Open a Checking and Savings Account
- Work to obtain a drivers license and insurance
- Employment or meaningful contribution to the community
- Work towards establishing independent / stable housing
- Remain in compliance with standard / special conditions



# Incentives and Sanctions

- Explain how non compliance is addressed
  - Withholding Credit for the Month
  - Negative Reinforcement
  - Location Monitoring Program
- Explain how program compliance is rewarded
  - Graduation Ceremony
  - Court Recognition, Group Applause and Tangible Reward
- How responsivity (barriers to treatment) is handled
  - Staff Cases with Treatment Team for Appropriate Measures



# Program Data

*(since inception)*

- Number of admissions 35
- Number of graduates 12
- Average number of participants is 6
- Currently we have 7 participants (5 men, 2 women)
- We currently have 3 pending participants
- 3 clients are currently in Phase II



# Program Data cont.

*(for the most recent 12 months)*

- Number of successful graduates
  - Average length of stay: Thirteen months
  - Average number of positive drug tests: One per year
  - Average number of treatment sessions attended: At least one and half hours per week per participant
  - Average number of sanctions imposed: Over the past year at least one sanction has been used each month. The most frequently used sanctions withholding credit, verbal reprimands, and home confinement.
- Number of unsuccessful discharges
  - Average length of stay: Five months
  - Average number of positive drug tests: Two per year
  - Average number of treatment sessions attended: At least one and half hours per week per participant
  - Average number of sanctions imposed: Minimum of one sanction per participant.
  - Include re-arrests and revocations: One participant



# Overall Goals

- Overall goal of reentry court is not to just complete the program but mitigate risk in the community.
- To have the participants surpass the length of time for re-arrest as predicted in the PCRA Assessment for their risk level.
- To become full time employees who are knowledgeable about banking, parenting and speaking in public.



# Overall Goals Continued

- ❑ To empower our participants to overcome barriers in society and move forward with their lives in a productive manner.
- ❑ Successfully complete the program and ultimately their term of supervision.



## 2 Things We Would Like to Accomplish This Year

- Establishing a Peer Support Mentoring Program
  - We have identified a great need for additional structure in the Phase II part of the program. Evidenced based practices shows us that this is a meaningful addition to the program.
- Expanding our Partnerships with Local Employers
  - So far we have formed partnerships with two local employers and we are looking to form more.



# Akron STAR Program

(Successful Transition - Accelerated Reentry)



## Empowering Change



# Team Members

**Judge Sara Lioi, U.S. District Court**

**Magistrate Judge Kathleen B. Burke, U.S. District Court**

**Kit Schneckenburger, U.S. Pretrial Services and Probation Office**

**Bryan Capezzuto, U.S. Pretrial Services and Probation Office**

**Dennis Reed, U.S. Pretrial Services and Probation Office**

**Eric A. Sampson, U.S. Pretrial Services and Probation Office**

**Debra K. Migdal, Federal Public Defender**

**Linda Barr, Assistant U.S. Attorney**

**Robert E. Bulford, Assistant U.S. Attorney**

**Dr. James A. Orlando, Summit Psychological Services**

**Sarah Day, Summit Psychological Services**

# Participation Requirements Screening

**Cognitive Behavioral Therapy**  
**Individualized Case Management**  
**PCRA – Moderate or Low/Moderate**  
**CHC IV or above**  
**Responsibility Factors**



# Incentives and Sanctions

<b>Incentives</b>	<b>Sanctions</b>
<p><b>Verbal Encouragement</b></p> <p><b>Positive Reinforcement</b></p> <p><b>Monthly Credit</b></p> <p><b>Applause</b></p> <p><b>Tangible Reward – \$10</b></p> <p><b>Marc's Gift Card</b></p>	<p><b>Withhold monthly credit</b></p> <p><b>Hold monthly credit in abeyance</b></p> <p><b>Set corrective goals</b></p> <p><b>Increased requirements</b></p> <p><b>Halfway house stay</b></p>



# Program Data

*(since July 24, 2013)*

- 14 Admitted to program**
- 5 Currently in Phase I**
- 6 Graduated from Phase I**
- 3 Successfully discharged from TSR**
- 2 Terminated due to new convictions**
- 1 Voluntarily withdrew**



# Program Data

*(for the most recent 12 months)*

- 4 Graduated from Phase I - 17 months**
- 3 Graduated from Phase II - 8 months**
- 1 Voluntarily withdrew - 3 months**

Excellence



# Program Data

**Treatment Dosage – 6 hours of group COG and 4 hours of individualized case management monthly throughout Phase I**

**Sanctions Imposed – Credits withheld, credits held in abeyance, increased treatment, and halfway house placement**

**Guest speaker every other month**

Excellence



**Before**

# **Norman Barnes**

**Commenced September 25, 2013**

**Failed to attend AA meetings, COG sessions, and appointments with USPO**

**8 positive drug tests between October 2013 and March 2015**

**Referred to halfway house for 60 days**

**27 months in STAR Program**

**After**

# **Norman Barnes**

**Graduated Phase I in December 2015**

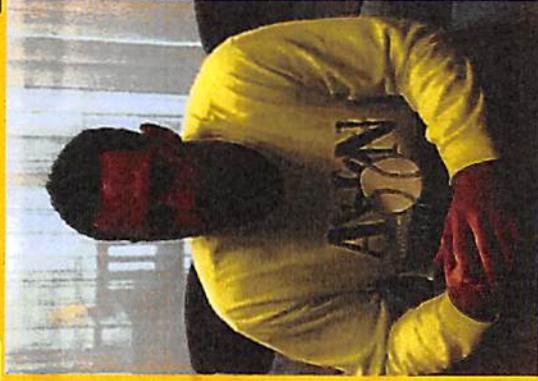
**Obtained his CDL**

**Gainfully employed and completed truck  
driving school**

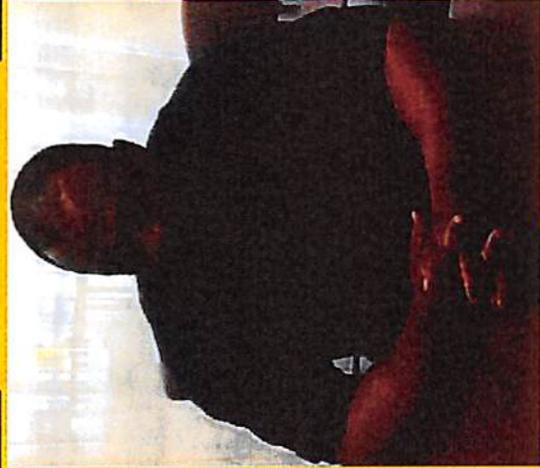
**Drug free since March 2015**

*Excellence*

# Travis Graham



# Demetrius Parker



# Lucian Blackwell

- 35 years old
- BOP custody 84 months (reduced sentence)
- CHC IV + PCRA Score of Moderate Risk Level
- Began STAR Program on 3/26/2014
- Completed Phase I on 4/22/2015
- Scheduled to complete TSR on 7/31/2016
- Used Second Chance Act funds for training as a machinist at Akron CNC Training Center
- Began work as machine operator in 1/2015
- PCRA score and risk level reduced to Low/Mod
- Has remained violation free



# Michael Lewis

- 38 years old
- BOP custody 120 months (reduced sentence)
- CHC VI + PCRA Score of Moderate Risk Level
- Began STAR Program on 11/19/2014
- Completed Phase I on 11/18/2015
- Scheduled to complete TSR on 11/30/2016
- Completed 600 hour Master Truck Driving Program in 12/2015 and obtained CDL
- Seeking full-time employment as a driver
- PCRA score and risk level reduced to Low/Mod
- Has remained violation free



# Overall Goals

Reduce Risk - Moderate Risk Participants  
and Low Moderate Participants

Establish a foundation for success beyond  
community supervision

“Encouragement is the oxygen of the soul” -  
*Sam Rutigliano*



# Two Goals for 2016

Cultivate our graduates for use  
as mentors, recruiters,  
and speakers

Increase our interaction with  
participants



