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Evidence-Based Practices and State Sentencing Policy: Ten Policy Initiatives to Reduce Recidivism^{†*}

ROGER K. WARREN^{**}

INTRODUCTION

With the support of the Conference of Chief Justices and the Conference of State Court Administrators, the National Center for State Courts (NCSC) in January 2006 launched a national sentencing reform project, “Getting Smarter about Sentencing.” The overall goal of the NCSC project is to mobilize the collective energy and experience of the judges and administrators of the state courts under the leadership of the state chief justices and state court administrators to promote reform of state sentencing policies and practices. One of the project objectives is: “to improve the effectiveness of sentencing outcomes by promoting the use of programs that work, evidence-based practices, and offender risk and needs assessment tools.”¹

Two of the other project objectives are: “to reduce reliance on long-term incarceration as a criminal sanction for those not posing a substantial danger to the community or committing the most serious offenses”; and “to promote the development, funding, and utilization of community-based alternatives to incarceration for appropriate offenders.”²

A sentencing reform project survey of state chief justices and state court administrators found that state judges hearing felony cases frequently complain about the ineffectiveness of current sentencing policies and the resulting high rates of recidivism.³ The survey found wide support among state court leaders both for reducing recidivism through greater reliance on evidence-based practices and for reducing our current over-reliance on long-term incarceration through utilization of community-based alternatives to incarceration for appropriate offenders.⁴

The NCSC national sentencing reform project also recently completed a comprehensive national public opinion survey on public attitudes towards sentencing. The public opinion survey found that the American public is also widely supportive of such reforms. Almost 80 percent of the public believes that given the right conditions, many offenders can turn their lives around and become law-abiding citizens; and 88 percent believe that treatment and counseling programs should be used “often” or “sometimes” as alternatives to prison in sentencing non-violent offenders.⁵

† Copyright 2007 Roger Warren. All rights reserved.

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1. TRACY W. PETERS & ROGER K. WARREN, NAT’L CTR. FOR STATE COURTS, GETTING SMARTER ABOUT SENTENCING: NCSC’S SENTENCING REFORM SURVEY 10 (2006), available at http://www.ncsconline.org/WC/Publications/Res_Senten_GettingSmarterReformSurvey_FinalPub.pdf.

2. *Id.*

3. *Id.* at 5.

4. *Id.* at 4.

5. PRINCETON SURVEY RESEARCH ASSOCS. INT’L FOR THE NAT’L CENTER FOR STATE COURTS, THE NCSC SENTENCING ATTITUDES SURVEY: A REPORT ON THE FINDINGS 3 (2006),

In this paper, I first summarize how greater reliance on evidence-based practices would allow the state courts to improve the effectiveness of state sentencing outcomes, reduce recidivism, and, at the same time, reduce over-reliance on incarceration and promote the utilization of community-based alternatives for appropriate offenders. Second, I then outline ten policy initiatives which the state courts could pursue in order to fully incorporate evidence-based practices into state sentencing policy. Finally, in an appendix I suggest twenty agenda topics for meetings of criminal justice policy teams interested in incorporating evidence-based practices into local sentencing practices.

I. EVIDENCE-BASED PRACTICES AND STATE SENTENCING POLICY

The sentencing decisions of state judges in individual cases are of course guided by the applicable state criminal statutes, rules, and guidelines. To the extent judges retain discretion in sentencing decisions, however, it is my experience that sentencing judges generally seek to achieve two primary objectives: (1) *to punish the offender* in a manner proportionate to the seriousness of the offense; and (2) *to promote public safety*, either (a) by reducing the likelihood of further criminal behavior on the part of the offender through strategies of incapacitation, deterrence, or rehabilitation; or (b) by deterring future criminal conduct by other potential offenders.

Over the last thirty years, the applicable state statutes, rules, and guidelines have increasingly relied upon imprisonment and incarceration—both for the purpose of punishment for criminal behavior, and for the purpose of incapacitation and deterrence from future criminal conduct—and lessened reliance on other forms of punishment as well as on strategies of rehabilitation. To a significant extent, this increased reliance on imprisonment and incarceration at the expense of rehabilitation has reflected the thirty-year-old view that rehabilitation “doesn’t work.”⁶

However, a comprehensive 1998 report to Congress funded by the National Institute of Justice reviewed all of the relevant research conducted since the mid-1980s, and concluded that rehabilitation programs can indeed effectively change offenders.⁷ Building on that earlier report, subsequent research and meta-analyses of research studies have led to the development of principles of “evidence-based practices” (EBP) in corrections, that is, corrections practices that have been demonstrated by rigorous research to reduce offender recidivism. The purpose of this Article is not to review the research on EBP, which has been done elsewhere,⁸ but to consider ways in which state courts can incorporate EBP into state sentencing policies and practices. For present purposes, it is sufficient to note that the central finding of the

available at http://www.ncsconline.org/D_RESEARCH/Documents/NCSC_SentencingSurvey_Report_Final060720.pdf.

6. The terminology and supporting research is most frequently traced to Robert Martinson, *What Works?—Questions and Answers About Prison Reform*, 35 PUB. INT. 22 (1974). Martinson’s methodology has been criticized, and it has often been pointed out, even by Martinson himself, that his research in fact showed that rehabilitation can work under the right circumstances.

7. LAWRENCE W. SHERMAN, DENISE C. GOTTFREDSON, DORIS L. MACKENZIE, JOHN ECK, PETER REUTER & SHAWN D. BUSHWAY, *PREVENTING CRIME: WHAT WORKS, WHAT DOESN’T, WHAT’S PROMISING* 9-18 to -23 (1998).

8. E.g., BRAD BOGUE, *CRIME & JUSTICE INST. & NAT’L INST. OF CORRECTIONS, IMPLEMENTING EVIDENCE-BASED PRACTICE IN COMMUNITY CORRECTIONS* (2004), <http://www.crjjustice.org/cji/evidencebased.pdf>.

research on EBP is that whereas punishment alone tends, if anything, to increase post-incarceration recidivism, certain treatment modalities (especially cognitive-behavioral interventions based on social learning theory) when properly applied to appropriate offenders (especially medium- to high-risk offenders) can lower offender recidivism rates, on average, by up to 30 percent.

America's current practice of over-reliance on incarceration in sentencing ignores contemporary scientific research about "what works" in corrections and promotes incarceration policies that in the end are associated with higher rates of recidivism and reduced public safety. Our current sentencing policies are not rationally designed to promote public safety and reduce recidivism.

America's current sentencing policies are also contrary to contemporary sentencing theory. The philosophical cornerstone of contemporary sentencing theory, as reflected, for example, in the pending revisions to the sentencing provisions of the Model Penal Code, is the concept of "limiting retributivism."⁹ Despite the awkward nomenclature, contemporary sentencing theory accurately reflects the sentencing objectives of today's state court judges as outlined at the beginning of this Section. Under this concept, retributivism, or "just deserts" in the form of imposition of punishment proportionate to the blameworthiness of the offender's conduct, sets a range of permissible sentencing severity: a sanction below the lower boundary of the range would generally be considered too lenient, and a sanction imposed above the higher end of the range would be considered too harsh. Within that permissible range of punishments proportionate to the blameworthiness of the offender's criminal conduct, "utilitarian" objectives, such as incapacitation, deterrence, and rehabilitation, may also be appropriately pursued. The principal goal to be achieved through these utilitarian objectives, of course, is public safety. Within the range of permissible punishments, rehabilitation is an appropriate objective when offenders appear amenable to treatment programs that carry some reasonable prospect for success.¹⁰

Greater conformity of state sentencing policy with evidence-based practices in corrections would serve to reduce offender recidivism and improve public safety through strategies of offender risk reduction, that is, reducing the risk that an offender will commit further crimes. The one area of state court operations whose current sentencing practices most closely conform with EBP is "problem-solving courts," which may explain the success that so many drug courts, mental health courts, domestic violence courts, community courts, and other problem-solving courts have achieved over the last fifteen years in reducing recidivism among the affected offenders.

The implementation of EBP to reduce recidivism can obviously occur in a variety of corrections contexts besides sentencing. Prison authorities can implement EBP to improve the effectiveness of rehabilitation services provided to prison inmates, for example, and parole authorities can rely more heavily on EBP in reducing recidivism among parolees and in determining appropriate sanctions and treatment upon violation or revocation of parole. Here, however, I focus on the application of EBP to state

9. AM. LAW INST., MODEL PENAL CODE: SENTENCING: REPORT 36-41 (2003).

10. *Id.* at 29; see also JUSTICE KENNEDY COMM'N, AM. BAR ASS'N, REPORT TO THE HOUSE OF DELEGATES 1 (2004), available at <http://www.abanet.org/media/kencomm/rep121a.pdf> ("Alternatives to incarceration should be provided when offenders pose minimal risk to the community and appear likely to benefit from rehabilitation efforts.").

sentencing policy. Based on the research on EBP, I outline ten sentencing policy initiatives which, if implemented, would not only improve the effectiveness of sentencing outcomes and reduce offender recidivism, but also reduce over-reliance on incarceration and promote the development of community corrections and intermediate sanctions programs as well.

II. TEN STATE POLICY INITIATIVES TO REDUCE RECIDIVISM

In the states, sentencing policy is formulated at both the state and local level; in some states, policy-making is more centralized at the state level, and in other states policy-making is more decentralized at the county or city level. For convenience, I list first those policy initiatives that are more likely to be pursued at the state level and then list initiatives that are likely more local in nature.

1. Explicitly Include Risk Reduction and Recidivism Reduction as Key Objectives of Effective State Sentencing Policy

In light of the fact that so many crimes are committed by a small percentage of repeat offenders, and the fact that we are becoming increasingly knowledgeable about how to reduce recidivism among offenders who pose a moderate-to-high risk of re-offense, risk reduction and recidivism reduction should be principal goals of effective sentencing policy. In many states, however, neither risk reduction nor recidivism reduction has explicitly been a key objective of state sentencing policies. Indeed, it was the failure of mainstream sentencing policies to address drug addiction, mental illness, domestic violence, homelessness, low-level “quality of life” crimes, and other social, psychological, and community “problems” that so often underlie the repeated commission of crime that motivated so many state judges, prosecutors, corrections officials, and others over the last fifteen years to establish specialized drug courts, mental health courts, domestic violence courts, homeless courts, community courts, and other “problem-solving” courts across the United States. One of the principal objectives of the widespread efforts to institute these new “courts” has been to address this deficiency of state sentencing policy and reduce recidivism among these categories of offenders. The fact that the principal criterion by which the success of problem-solving courts is usually evaluated is reduction of offender recidivism highlights this reality.

Courts can encourage appropriate legislative and executive branch policy makers, as well as those policy makers associated with sentencing commissions and other independent sentencing guidelines entities, to explicitly include risk reduction as a key objective of state sentencing policy. In addition, when not inconsistent with state law, courts can include risk reduction as a sentencing objective in expressions of state judicial branch policy. In Oregon, for example, a Judicial Conference Resolution adopted in 1997 requires sentencing judges to consider the likely impact of potential sentences in reducing future criminal conduct.¹¹

11. Michael H. Marcus, *Smart Sentencing: Public Safety, Public Trust and Confidence Through Evidence-Based Dispositions*, in NAT'L CTR. FOR STATE COURTS, *FUTURE TRENDS IN STATE COURTS* 2006, at 56, 58, available at http://www.ncsconline.org/WC/Publications/KIS_CtFutu_Trends06.pdf.

*2. Ensure that State Sentencing Policy Allows Sufficient Flexibility
for Sentencing Judges to Implement Risk Reduction Strategies*

In addition to formal recognition of risk reduction as an important objective of sentencing policy, sentencing statutes, rules, and guidelines must grant sentencing judges sufficient flexibility to permit imposition of sentences consistent with EBP and not foreclose or prohibit such sentencing by strict, arbitrary, or unjustified sentencing mandates. Principal examples of existing mandates that sometimes interfere with sentencing outcomes that promote risk reduction are provisions mandating lengthy terms of imprisonment or incarceration, prohibiting grants of probation, or setting mandatory minimum terms of imprisonment or incarceration under circumstances where neither the seriousness of the offense nor the risks presented by the offender warrant the mandated outcomes.

*3. Promote Use of Actuarial Risk Assessment Instruments
in Assessing Suitability of Sentencing Options*

Accurate risk assessment is important in a wide variety of sentencing decision-making contexts, including:

- Determining whether an offender is suitable for a non-incarceration sanction
- Determining the most appropriate form of intermediate or non-incarceration sanction
- Determining whether multiple sentences should run consecutively or concurrently
- Determining the term of incarceration to be imposed
- Determining appropriate conditions of probation
- Determining the nature of any sanction to be imposed upon violation of probation
- Determining the offender's amenability to treatment
- Determining the offender's eligibility for diversion

It is therefore important that sentencing policy encourage the use of accurate risk assessment instruments in such circumstances. In 1994, for example, the Commonwealth of Virginia created a state sentencing commission charged with developing an offender risk-assessment instrument designed to place 25 percent of its non-violent offenders who would otherwise be incarcerated in alternative sanctions programs. The NCSC subsequently conducted an independent evaluation of Virginia's risk-assessment instrument, finding that the instrument successfully predicted the likelihood of recidivism among the diverted offenders and that formal adoption of the instrument for state-wide use would provide net annual financial benefit to the state. Based on the NCSC's recommendation, Virginia adopted the instrument for state-wide use in 2003.¹² Other states are now considering following Virginia's example.

12. Matthew Kleiman, Brian J. Ostrom & Neal B. Kauder, *Risk Assessment: A New Approach to Sentencing Non-Violent Offenders*, CASELOAD HIGHLIGHTS, Oct. 2004, at 1, 10–12, available at http://www.ncsconline.org/D_RESEARCH/csp/Highlights/Vol10No1.pdf; see also BRIAN J. OSTROM, MATTHEW KLEIMAN, FRED CHEESMAN, II, RANDALL M. HANSEN & NEAL B.

*4. Create Offender-Based Data and Sentencing Support Systems
that Facilitate Data-Driven Sentencing Decisions*

Formal risk assessment instruments are not the only way to assess offender risk. Despite the fact that the state courts sentence about a million felony offenders annually, few state or local governments routinely collect and maintain data on the impact of the various sentences imposed on offender recidivism. Such data would provide an actuarially sound assessment of the likelihood that an offender will re-offend under various sentencing scenarios. In 1997, the Oregon legislature directed that reduction of criminal behavior become a dominant performance measure of the criminal justice system, and required that criminal justice agencies collect, maintain, and share data to facilitate display of correlations between dispositions and future criminal conduct.¹³ In 2001, the first recommendation of the Oregon Criminal Justice Commission's "Public Safety Plan" was that Oregon should develop an offender-based data system in order to track an offender through the criminal justice system and facilitate data-driven pre-trial release, sentencing, and correctional supervision decisions.¹⁴ Oregon's Multnomah County courts have constructed electronic sentencing-support tools that display for judges and advocates the recidivism outcomes on various dispositions for similar offenders sentenced for similar crimes.¹⁵

*5. Develop Community-Based Corrections Programs that
Address the Criminogenic Needs of Felony Offenders*

Courts can be effective advocates for creation of corrections programs that address the criminogenic needs of appropriate offenders. Judges have often provided the leadership, for example, in advocating the development of substance abuse, mental health, and domestic violence treatment programs as an important element of problem-solving courts that have successfully reduced recidivism by effectively addressing the criminogenic needs of offenders. Courts can also insist that appropriate rehabilitation and treatment services be more closely coordinated with court decision-making processes. In 2004, for example, the Conference of Chief Justices and Conference of State Court Administrators called for the broader integration of the principles and methods employed by problem-solving courts into court administration to improve court outcomes. One of the important principles of problem-solving courts is integration of both offender assessment processes and treatment services with case processing in the court system.

Oregon has again been a leader. In 2003, Oregon adopted a statute requiring that in 2005–2007 the Oregon Department of Corrections spend at least 25 percent of its state "program funding" on "evidence-based programs." The statute requires the Department to spend 50 percent of its program funding on evidence-based programs in 2007–2009, and 75 percent commencing in 2009. The statute defines an "evidence-based program" as a "treatment or intervention program or service that is intended

KAUDER, NAT'L CTR. FOR STATE COURTS & VA. CRIMINAL SENTENCING COMM'N, OFFENDER RISK ASSESSMENT IN VIRGINIA 1 (2002), available at http://www.vcsc.virginia.gov/risk_off_rpt.pdf.

13. OR. REV. STAT. § 423.525(7) (2005).

14. Marcus, *supra* note 11, at 56–58.

15. *Id.* at 57–58.

to . . . [r]educe the propensity of a person to commit crimes” that “incorporates significant and relevant practices based on scientifically based research . . . and is cost effective.”¹⁶

6. Develop Community-Based Intermediate Sanctions Appropriate to the Nature of Committing Offenses and Offender Risks

As mentioned above, one of the principal objectives of both contemporary sentencing theory and current judicial practice is “punishment” proportionate to the seriousness of the offense committed. In cases involving extremely violent and serious crimes, the “punishment” objective obviously provides theoretical and practical limits on the circumstances under which the objective of protecting public safety through risk reduction can appropriately result in a sentence not involving imprisonment. In cases of less serious crime, however, appropriate punishment often need not take the form of imprisonment or long-term incarceration, but can and should take the form of some other “intermediate” sanction less severe than imprisonment but substantially more severe than standard probation. Although punishment does not reduce offender risk (beyond the period of punishment), and in fact appears to increase the risk of re-offense, it is almost always appropriate in felony cases on a just deserts basis or, less frequently, in order to control offender risk in the short term. It is typically important, therefore, that sentences seeking to reduce the future risk of recidivism also include appropriate intermediate sanctions—sanctions not involving long-term incarceration but that appropriately “punish” the offender and control short-term risks. Corrections programs based on EBP are not an “alternative” to appropriate punishment; they are intended to be combined with appropriate punishment.

If appropriate intermediate sanctions programs are unavailable in a jurisdiction, sentencing authorities have little choice but to ignore risk reduction consequences and resort to imprisonment or long-term incarceration in many felony cases. Effective utilization of community-based corrections programs designed to address the criminogenic needs of felony offenders therefore typically also requires the availability of appropriate intermediate sanctions programs and other offender control mechanisms as well. The design and nature of such intermediate sanctions programs and control mechanisms must be appropriate to the seriousness of the offenses for which offenders will be committed to the programs, as well as to the risk levels of the committed offenders.

7. Provide Judges and Advocates with Access to Accurate and Relevant Sentencing Data and Information

In order to pursue a risk reduction strategy, in addition to the availability of corrections and intermediate sanctions programs designed and operated in accord with EBP, sentencing trial judges must have access to accurate, reliable data, not only about the offense, but also about the offender, available corrections programs, and potential sentencing dispositions. Offender data must include or permit assessment of offender risk and needs based on actuarial risk and needs assessment instruments or other data. Program data must include information about the design capability of the program,

16. OR. REV. STAT. § 182.515 (2005).

including the types of offenders, levels of risk, and criminogenic needs for which the program was designed, as well as performance data including the program's level of success in reducing recidivism for various categories of offenders. Knowledge of potential sentencing dispositions must include knowledge of proper application of potential probation conditions that might be imposed to manage offender risk or facilitate the offender's treatment.

Pre-sentence investigations and reports are a traditional and natural source of appropriate offense and offender information. Program and dispositional data is less frequently included in pre-sentence reports. Other means of keeping sentencing judges informed about programs and available dispositions might need to be instituted. Oregon legislation that went into effect in January of 2006 requires that pre-sentence reports "provide an analysis of what disposition is most likely to reduce the offender's criminal conduct," and "provide an assessment of the availability to the offender of any relevant programs or treatment in or out of custody, whether provided by the department or another entity."¹⁷ Whatever the source, there must be sufficient data to allow the judge to meaningfully determine: whether the offender is a suitable candidate for treatment and/or intermediate sanctions; the appropriate intermediate sanctions and corrections program(s) to employ; the form, duration, and appropriate conditions of probation to be imposed; and the appropriate sanctions, programs, and probation conditions, if any, to be ordered upon a violation or revocation of probation.

8. Include a Curriculum on EBP in Judicial Education Programs for Sentencing Judges

The other policy initiatives recommended here will be unsuccessful in enhancing public safety without an effective judicial education curriculum on EBP. Unless sentencing judges are knowledgeable about the research on EBP and skilled in applying EBP principles in day-to-day sentencing decisions, they will be unable to fully and properly implement risk reduction strategies even if most of the other policy initiatives discussed here are fully implemented. The curriculum should include presentation and discussion of the research on EBP as well as an opportunity to apply the principles of EBP in designing appropriate sentencing dispositions in hypothetical sentencing scenarios. The curriculum should also emphasize the important role of the sentencing judge in the offender behavioral change process and in ensuring effective collaboration among criminal justice agencies, as discussed below, as well as in the other policy initiatives outlined above. The core curriculum could be developed nationally by corrections and sentencing experts under the direction of a judicial education specialist. Then it could be adapted for use in specific jurisdictions and incorporated into existing state and local judicial education programming for sentencing judges. Judicial education programs on EBP have recently been conducted in a number of states, including Illinois and Washington.

9. Revise Sentencing Processes to Support Risk Reduction Strategies

The research on EBP supports the view that it is not only the sentencing outcome or disposition that matters in seeking to reduce offender recidivism, but the sentencing

17. OR. REV. STAT. § 144.791(3)(a) (2005).

process as well. Motivation to change on the part of the offender is a precondition for behavioral change. The offender's motivation is strongly influenced by interpersonal relationships, especially with probation officers, judges, and other authority figures. Positive reinforcement is also much more effective than negative reinforcement in achieving behavioral change. Carrots work better than sticks. Providing incentives for behavioral change, such as relief from previously imposed sanctions or conditions, is more effective than threats of additional sanctions.¹⁸

As evidenced by problem-solving courts, judges can play a critical role in motivating offenders to change their behaviors, encouraging their engagement in the change process, and providing offenders with positive reinforcement. Social psychology studies in the field of "procedural justice" also show that when criminal defendants view court processes as fair and feel they have been treated with respect by caring and well-intentioned judges, they are more likely to cooperate with legal authorities and voluntarily engage in law-abiding behaviors.¹⁹

An effective risk reduction strategy should capitalize on the important procedural role that the sentencing judge can play in the offender's behavioral change process. Sentencing processes in such cases should allow for personal interaction between the offender and judge, engage the offender in the sentencing discussion and decision, and seek opportunities to provide positive reinforcement. Such processes may provide intangible benefits for the judge as well as promote the interests of public safety by reducing the risk of re-offending. Judges sitting in problem-solving courts employing such processes report higher levels of litigant respect and gratitude resulting in significantly higher levels of judicial satisfaction than judges sitting in other assignments.²⁰

*10. Ensure Effective Collaboration Among Local Criminal Justice Agencies to
Reduce Foreseeable Barriers to Implementation
of Risk Reduction Strategies*

Even with the support of the other policy initiatives discussed above, individual trial judges will be hard-pressed to consistently apply risk reduction strategies without the cooperation of other critical criminal justice system agencies. Effective pursuit of risk reduction sentencing strategies requires coordination between the court and other criminal justice agencies, especially prosecution, probation, and program providers. Prosecution charging, plea bargaining, and probation violation policies may obstruct court efforts to maximize the effectiveness of sentencing outcomes in reducing recidivism. In many jurisdictions, for example, the vast majority of sentences result from plea bargaining processes in which the prosecution and defense reach agreement on the sentence to be recommended to the court. Such agreements rarely, if ever, consider evidence of the likely impact of the stipulated disposition on the offender's future criminality, or the likely impact of other potential dispositions.

18. Unacceptable behavior, such as violation of conditions of probation, must be met, of course, with swift and unambiguous responses. But responses need not necessarily be harsh, and consequences should be graduated.

19. See, e.g., Tom R. Tyler and Yuen J. Huo, *TRUST IN THE LAW: ENCOURAGING PUBLIC COOPERATION WITH THE POLICE AND COURTS* (2002).

20. See Roger K. Warren, *Public Trust and Procedural Justice*, 37 *CT. REV.* 12, 16 (2000).

Probation departments are often responsible for conducting offender assessments, preparation of pre-sentence investigations and reports, operating or overseeing operation of intermediate sanctions and community corrections programs, monitoring offenders and enforcing conditions of probation, and maintaining records of program performance and offender compliance. Treatment service providers are responsible for operating treatment programs in accord with design objectives, maintaining accurate records of program and offender performance and compliance, and regularly and accurately reporting on performance and compliance. Failure of probation authorities or treatment providers to properly discharge these responsibilities will undermine the effectiveness of any court efforts to reduce recidivism.

Of course, the challenge of inter-agency collaboration in the criminal justice system is neither new nor unique to the field of EBP. Over the last fifteen years alone, state courts have often led collaborative inter-agency criminal justice policy teams in efforts to improve sentencing effectiveness through the creation and operation of problem-solving courts and to address issues of criminal justice planning, substance abuse, jail and juvenile detention facility overcrowding, intermediate sanctions, security and emergency preparedness, domestic violence, foster care reform, and delinquency prevention.

The appendix contains a hypothetical twenty-point agenda for meetings of criminal justice policy teams interested in developing a risk reduction strategy structured around evidence-based practices to reduce recidivism.

APPENDIX: EVIDENCE-BASED PRACTICES AGENDA FOR CRIMINAL JUSTICE POLICY
TEAM*

Sentencing Policy/Programs

| | CT | DA | PD | LE | PROB |
|--|----|----|----|----|------|
| 1. Establish an inter-agency criminal justice policy team. Assist in the development of a risk reduction strategy for appropriate offenders. | X | X | X | X | X |
| 2. Advocate for legislature changes that support evidence-based practices. | X | X | X | X | X |
| 3. Assist with policy development about funding. | X | X | X | X | X |
| 4. Develop community-based corrections programs that address the criminogenic needs of appropriate felony offenders. | X | X | X | X | X |
| 5. Develop community-based intermediate sanctions appropriate to the nature of committing offenses and offender risks. | X | X | X | X | X |
| 6. Develop accurate data about available corrections and intermediate sanctions programs, including desired outcomes and actual performance. | X | X | X | X | X |

Sentencing Practices

| | CT | DA | PD | LE | PROB |
|--|----|----|----|----|------|
| 7. Put higher risk and lower risk offenders in separate program tracks. | X | X | | | X |
| 8. Avoid over-responding or over-programming for low risk offenders. | X | X | | | X |
| 9. Be clear about the purpose of diversion. If most are low risk, then diversion programming will not have an impact on future crimes. | X | X | | | X |
| 10. Don't weigh probation down with low risk cases. | X | X | | | X |
| 11. Don't use program services for extremely high risk offenders. | X | X | X | | X |
| 12. Get a pre-sentence investigation or a risk/ | X | X | X | | X |

* An earlier version of this table was developed for a different purpose during a brainstorming exercise conducted by the Crime and Justice Institute.

| | CT | DA | PD | LE | PROB |
|--|----|----|----|----|------|
| needs assessment before sentencing. | | | | | |
| 13. Match offender type with right program (increases outcomes by wide margin). | X | X | X | | X |
| 14. Avoid ordering probation supervision levels from the bench (needs are dynamic). | X | X | X | | X |
| 15. Use risk tools in setting probation conditions. | X | X | X | | X |
| 16. Tighten revocation procedures and responses especially for highest risk offenders. | X | X | X | X | X |
| 17. Since increasing certainty of detection improves impact on behavior consider how to partner with law enforcement on higher risk cases. | X | X | X | X | X |
| 18. Use short jail stays for purpose of motivating change (participation in programming) instead of solely as a sanction. | X | X | X | | X |
| 19. Use risk reduction cooperation (i.e., internal change) to earn incentives (such as early discharge) instead of condition compliance (external change). | X | X | X | | X |
| 20. Use the courtroom/judge as a positive reinforcer (similar to drug courts). | X | X | X | | X |