

Study of Evidence-Based Practices in Minnesota

2011 Report to the Legislature



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Executive Summary

The 2009 Minnesota Legislature directed the Information and Supervision Services Committee's Evidence-Based Practices (EBP) Policy Team of the Minnesota Department of Corrections (DOC) to assess the use of EBP and opportunities for greater implementation in community supervision. The legislation (Minnesota Laws 2009, Chapter 59, Article 4, Section 8) specifically required the report to review the following areas and the extent to which they are currently used in Minnesota, as well as barriers and solutions for implementation:

- I. Implementation of evidence-based practices intended to reduce recidivism;
- II. Improvement of policies and practices for crime victims;
- III. Establishment of an earned compliance credit program;
- IV. Performance measures for community supervision agencies;
- V. Potential performance incentives for community supervision agencies; and
- VI. Any other topic related to EBP that the committee deems appropriate for inclusion.

Summary of Potential Solutions/Key Recommendations

In efforts to reduce offender risk, enhance public safety, and provide cost-effective correctional services, the following key recommendations are respectfully offered for consideration:

- Support appropriate workload sizes for community supervision through funding supplements. Minnesota has a great deal of expertise in EBP; however, oversized workloads inhibit successful implementation.
- Revisit existing statutes with an EBP perspective; any proposed changes in sentencing laws, guidelines or mandates should require consideration of EBP similar to the current fiscal note process.
- Invest in information systems and technology to measure results.
- Train corrections practitioners, administrators, educators, criminal justice, and community-based stakeholders in EBP with the expectation of adherence to implementation of these principles.
- Fund community programs that support risk reduction activities to improve public safety outcomes.
- Establish a commission charged and supported to make recommendations for establishing performance standards, implementation planning, outcome measures, technological enhancements, training curricula, research findings, and quality assurance in EBP and other related criminal justice policies and practices.

Introduction

Evidence-based practices (EBP) are strategies that, based on research, reliably produce sustained reductions in recidivism, positive offender change, and victim and community reparation.

There are essentially three reasons for using EBP: moral/ethical, pragmatic, and financial. Each complements the other and taken together, forms a compelling and empirically-researched argument for changing the way the business of criminal justice and corrections is to be conducted.

Being pragmatic, the simple fact is EBP consistently produces positive offender change as measured by rearrest, reconviction or reincarceration. Meta-analyses of correctional EBP, along with 30 years of robust research, have demonstrated reductions in recidivism of 30 percent or more.^{1,2}

Since the 1970s, the United States has grown increasingly dependent upon the sanctions of punishment and incarceration to solve its public safety problems. Researchers have demonstrated through numerous studies that punishment alone does not reduce recidivism.^{1,2} In contrast, a variety of EBP results in fewer crimes, fewer arrests, and a reduced dependence upon incapacitation at a fraction of the cost of jail or prison.³

The National Institute of Corrections and the Crime and Justice Institute have identified eight principles of correctional evidence-based practices:⁴

- 1) Assess actuarial risk/needs
- 2) Enhance intrinsic motivation
- 3) Target interventions:
 - a) Risk principle
 - b) Need principle
 - c) Responsivity principle
- 4) Skill train with directed practice (using cognitive-behavioral treatment models)
- 5) Increase positive reinforcement
- 6) Engage ongoing support in natural communities
- 7) Measure relevant processes/practices
- 8) Provide measurement feedback

In preparation of this report, a survey was distributed to all community supervision agencies in Minnesota to assess the extent of EBP implementation. A 100 percent return rate was realized with each of the 56 agencies providing supervision to adult offenders and 52 agencies providing supervision to juvenile offenders responding. Survey results are incorporated throughout the body of this report.

I. Implementation of EBP Intended to Reduce Recidivism

a. Assess Actuarial Risk/Needs

Utilizing a research-validated tool, individuals are assessed to determine who is at greater risk to recidivate, as well as factors correlated with criminal conduct (criminogenic needs). Assessment is an ongoing function, based on formal instruments (i.e., Level of Service Inventory-Revised or LSI-R and Youth Level of Service/Case Management Inventory or YLS/CMI) and informal interactions and observations. These tools are multi-dimensional, resulting in more accurate assessment of offender risk.

Extent of implementation: Community supervision agencies in Minnesota supervise a broad spectrum of offenders, both in age and offense severity, from juvenile status offenders (i.e., truancy, tobacco, etc.) through high-risk adult prison releasees. A number of factors influence an agency's decisions concerning offender supervision including offense type, risk level (as measured by assessment), agency resources, and judicial expectations. In contrast to punishment-based correctional practices, research consistently shows offense type and severity do not speak directly to the offender's risk to reoffend; for example, an adult felon may be at a lower risk to recidivate than a juvenile misdemeanant. Subsequently, many agencies within Minnesota utilize a number of risk pre-screening and assessment tools to guide supervision decisions. Less time-consuming than a full assessment, pre-screens are a condensed version of a risk assessment used to identify low-risk offenders who might then be minimally supervised. In order for pre-screens to accurately identify low-risk offenders, they must be research-validated.

Currently in Minnesota, pre-screens are used by 66 percent of adult agencies and 60 percent of juvenile agencies to determine which offenders receive a full assessment and/or to determine supervision levels. Only a small number of agencies use a validated pre-screening tool. Most agencies use tools that have not been validated and may result in misclassification of offender risk and inappropriate supervision. Further, formal training for pre-screening is limited to validated tools.

The use of risk/need assessments is widespread. In Minnesota, 93 percent of adult agencies and 96 percent of juvenile agencies reported using an assessment tool. While offense-specific assessment tools are also utilized for domestic abusers and sex offenders, the most widely-used assessment tool for adults is the LSI-R and for juveniles the YLS/CMI. Both of these tools are research-validated and can be effectively used in case-planning with offenders.

Periodic reassessment of offender risk is necessary to ensure appropriate case management and supervision.

The fact that most agencies are utilizing the same assessment tools is of significance. Offenders move across county lines, are committed to prison, and are released from prison. Having familiarity with the assessment as they transition through the system is of great value. Also noteworthy is the existence of a statewide automated scoring system that serves as a collective database for these assessments.

The authors of the LSI-R and YLS/CMI prescribe training criteria which currently consists of 20 hours of initial training for certification, in addition to annual booster trainings. However, many agencies (per the survey) consider staff fully trained after less than ten

hours of training. In addition, several agencies reported staff administering the assessments without any formal training. Research indicates untrained users of the LSI-R are unable to produce assessments that are predictive of recidivism. This results in scattered allocation of resources, supervision levels not consistent with offender risk, and offender needs not properly identified and addressed, which in turn impacts public safety.⁵

b. Enhance Intrinsic Motivation

For long-term public safety to occur, internal motivation of offenders is required. Staff must engage offenders in a constructive manner to enhance intrinsic motivation. Research strongly suggests Motivational Interviewing (MI), “a client-centered, guiding method for enhancing intrinsic motivation to change by exploring and resolving ambivalence,”⁶ is a foundational skill for EBP. Staff proficient in MI techniques enhance motivation for initiating and maintaining offender behavior change, thereby enhancing public safety.

Extent of implementation: MI has been introduced to varying degrees for a decade in Minnesota. Historically, many agencies have limited their implementation to exposing staff to introductory training with little or no follow-up. MI is not a set of prescriptive techniques; rather, it is a style of communication requiring ongoing training and coaching to gain proficiency. Initial MI training is 29 hours in length, based on international standards. While 98 percent of agencies supervising adults and 90 percent of agencies supervising juveniles report agents are trained in MI, less than 20 percent meet this training standard. Recently there has been a significant effort toward comprehensive implementation within a handful of agencies.

Some agencies have begun establishing internal capacity (in-house trainers and coaches) with the goal of implementation reaching well beyond exposing staff to a classroom training session.

c. Target Interventions

- 1) *Risk Principle:* Supervision and treatment resources should be prioritized for higher-risk offenders in order to affect the most change. This answers the question “who” we target. Research shows extensive interventions with high-risk offenders are effective in reducing recidivism, while extensive interventions with low-risk offenders can and will increase recidivism in those populations. In a study of two programs that reduced recidivism for high-risk offenders by over 30 percent, those same programs increased recidivism for low-risk offenders by 7 to 29 percent.⁷

Extent of implementation: Eighty-six percent of agencies reported using the LSI-R or another assessment tool to set supervision levels/contact standards for adult populations. Similarly, in juvenile populations, 87 percent reported using the YLS/CMI or another assessment tool to set supervision levels/contact standards.

Barriers: Barriers unique to the risk principle are statutory and structural. Mandatory-minimum sentences, sentencing guidelines, and judicial practices may prescribe interventions (e.g., incarceration, intensive supervision, mandated programming) for offenders who may be at low risk to reoffend as determined by a validated risk assessment instrument.

- 2) *Need Principle:* Interventions with high-risk offenders should be targeted specifically to needs relating to criminal behavior (e.g., criminal personality, anti-social attitudes and peers, values and beliefs, substance abuse, dysfunctional family, etc.). This answers the question “what” we target.

Extent of implementation: Assessment tools are also widely used in this state to assist in making sentencing/disposition recommendations. Adult supervision agencies reported 64 percent use the LSI-R or another assessment tool to make dispositional recommendations, while 79 percent of juvenile supervision agencies use the YLS/CMI or another assessment tool. Further, the needs identified in the assessment are addressed in case management and formal case planning.

Case plans are written, structured tools that help guide and direct a collaborative process between the offender and the corrections practitioner. Case planning involves a series of steps and begins with an assessment to obtain a thorough knowledge and understanding of the offender’s needs relating to criminal behavior. Although case plans are required by 71 percent of adult supervision agencies and 75 percent of juvenile supervision agencies, not all agencies incorporate offender input into the case plan. Offender input enhances motivation and increases the likelihood of sustained behavior change.

- 3) *Responsivity Principle:* Practitioners must be responsive to offender individual learning style, gender, intelligence, culture, temperament, motivation, etc. Programming and other interventions must be matched in type, style, structure, and frequency. This answers the question “how” we target.

Extent of implementation: Dependent upon resources and offender demographics, some agencies attend to the responsivity principle by assigning offenders to gender- and culturally-specific caseloads and programs. Oftentimes agencies simply do not have the resources to consistently adhere to the responsivity principle in that respect. Supervision agents may adhere to this principle by adapting their approach to that which is most effective with each offender. The extent to which this presently occurs is difficult to objectively measure.

d. Skill Train with Directed Practice

Treatment interventions using a cognitive-behavioral approach where positive social skills are modeled, taught, practiced and reinforced, are more effective than other interventions.⁸ Skills taught in such programs include social skills, anger management, and problem solving. Research has found higher-risk offenders require several hundred hours of intervention.⁹ Meta-analysis indicates effective cognitive behavioral programs are characterized by high quality implementation.¹⁰ Implementation considerations include utilizing a research-based curriculum, appropriate referrals, thoroughly trained and competent facilitators, and adherence to program fidelity.

Extent of implementation: In Minnesota, a number of community supervision agencies have adopted this principle by either referring offenders to external vendors or delivering these programs internally. In fact, nearly 80 percent of agencies in Minnesota refer and/or deliver cognitive behavior programs to adult offenders while 77 percent refer and/or deliver cognitive behavior programs to juveniles. Facilitator training is dependent

upon the length and breadth of the curriculum and as prescribed by the authors. However, survey findings indicate slightly more than one-third of facilitators do not meet the training standard as prescribed by the authors, nearly one-third have altered the curriculum, and a little more than half are lacking quality-assurance practices. Additionally, inadequate screening/referral results in scarce resources being expended on inappropriate offenders.

e. Increase Positive Reinforcement

When learning new skills and making behavioral changes, people maintain new skills and behavior when acknowledged, rewarded, and reinforced. Research indicates four positive to one negative reinforcement is optimal for promoting positive behavior change. This is not at the expense of swift and certain accountability for negative or unacceptable behavior. This issue is further addressed in the Earned Compliance Credit Program section of this report on page 12.

Extent of implementation: Subsequent to the offender making positive change as monitored through supervision and measured by formal reassessments; positive reinforcement in community supervision is represented as reductions in supervision levels, removal of restrictions, and, potentially, early discharge. Approximately 80 percent of community supervision agencies will recommend early discharge to the court, yet only 55 percent of agencies have formal policies concerning early discharge.

f. Engage Ongoing Support in Natural Communities

When offenders are strategically connected positively within their communities, the likelihood of long-term behavior change and stability is enhanced. This principle requires the involvement of many other community-based initiatives, agencies, and programs (e.g., faith-based organizations, employers and employment services, housing services, mental and physical health care, mentoring, family support, etc.). The degree to which this principle is adhered to is difficult to objectively quantify.

g. Measure Relevant Processes/Practices

Agencies must routinely formally assess offender change (by updating case plans and performing reassessments), evaluate offender recidivism, assess staff proficiency in EBP, and evaluate services and programs to ensure desired outcomes. For agencies to successfully implement EBP, they must also develop a quality-assurance plan for adherence to practices and principles found to be effective.

Extent of implementation: Many of the principles of EBP require structural and systemic considerations. In practicality, implementation of EBP hinges upon the proficiency, understanding, and competency of administrative, supervisory, and line staff in practical application of the principles. For example, while an agency may have adopted a validated risk/need assessment tool, it is paramount that the supervising agent who scores the assessment be proficient in its application. While training plays a vital role in quality assurance, proficiency must be demonstrated through objective measurement. As prescribed by the authors of the LSI-R and YLS/CMI, scoring proficiency at 96 percent reflects a valid assessment. Eighteen percent of Minnesota community supervision agencies participated in a scoring proficiency measurement with results indicating an average scoring proficiency rate of 83 percent. Indicative of this study, the need for improved training and quality-assurance procedures is necessary. Additional resources and training are required to address this issue.

Survey results indicate 75 percent of community supervision agencies in Minnesota regularly reassess offenders with a validated instrument. Thirteen percent of Minnesota community supervision agencies measure MI proficiency. A number of factors may be measured concerning the delivery of cognitive behavioral programming within community supervision agencies. Factors such as facilitator training/competency, curriculum fidelity, referral/screening processes, and outcome measures (i.e., recidivism) should comprise a comprehensive quality assurance policy/practice. Slightly more than 50 percent of Minnesota community supervision agencies report lacking quality assurance for cognitive behavioral programming. Case planning practices vary across the state.

h. Provide Measurement Feedback

Once a method of measuring EBP processes, practices, and performance is in place, the information must be shared. For the offender, feedback concerning his or her behavior and progress builds accountability and motivation to change, ultimately enhancing public safety. The same is true within an organization. Monitoring delivery of services and fidelity to procedures helps build accountability and maintains integrity within the agency's mission.

Measurement feedback is discussed in detail in the Performance Measures for Community Supervision Agencies section of this report on page 14.

Additional Factors/Information

Community corrections in Minnesota has a longstanding history of inter-agency collaboration concerning the implementation of EBP. Corrections professionals who are EBP subject-matter experts have provided leadership across delivery systems concerning EBP implementation, training, policy creation, and quality assurance considerations. The Cognitive Behavioral Network, Offender Risk Assessment Network (ORAN), Female Offender Task Force, and Motivational Interviewing Network (MI Net) meet regularly to discuss research, develop curriculum and respond to training needs, and generate policy recommendations for agencies. Comprised of staff representing each of the delivery systems, membership is voluntary and these collaborative networks have provided much of the state's EBP training needs. Despite the advantages of this structure, challenges and barriers have presented themselves.

Fiscal Barriers

Reducing an offender's risk to reoffend requires supervision agents to skillfully employ EBP principles and practices. To accomplish this, agents must have ample time to supervise and work with medium- and high-risk offenders. Current caseloads/workloads carried by many agents far exceed nationally recognized standards and inhibit a risk-reduction focus. Though Minnesota has established training for risk assessments, cognitive-behavioral programming, and MI by training line staff and/or supervisors as certified trainers, the demand for training greatly outweighs supply. While this model is both cost-effective and bolsters quality assurance, it presents a number of challenges. Trainers are typically practitioners who carry a caseload/workload. Rarely are trainers' workloads offset, which significantly limits the amount of time they are able to dedicate to training. Additionally, agencies providing trainers absorb the costs (salaries, travel expenses, and caseload coverage), and agencies are finding it necessary to restrict the amount of time trainers are permitted to dedicate to training other agencies. Finally, given the current structure, it is exceedingly difficult for trainers to dedicate additional time to updating curriculum or to researching new tools and programs.

Research-based, risk-reduction programming varies significantly across the state. Resource-poor, sparsely populated/geographically isolated, and economically-challenged areas within the state often cannot provide the proper dosage of programming (longer programs for higher-risk offenders). They may also have difficulty adequately addressing offender “responsivity” factors such as gender, ethnicity, culture, and intelligence to maximize risk-reduction efforts.

Structural Barriers

The concepts of “just deserts” and punishment have been deeply imbedded in Minnesota statutes and public sentiment for several decades. Sentencing practices have been reflective of the “just deserts” and punishment models in hopes offender behavior will be positively altered. Four decades of research provide conclusive evidence that punishment without treatment does not alter criminal behavior or provide deterrence.

The practice of sentencing offenders immediately following an admission of guilt without the benefit of risk assessment information results in the imposition of special conditions that may not address criminal needs, may increase an offender’s risk to reoffend, and may devote scarce resources to offenders not needing intervention. Sentencing reflects the offense and not the offender.

Criminal justice and community-based partners, stakeholders, and the public have little knowledge regarding EBP. Limited training has been provided; however, greater collaboration is needed from criminal justice partners (e.g., judges, attorneys, law enforcement) to enhance training and assure follow-up training and implementation planning occurs.

A college education is required for employment as a supervision agent in Minnesota. Colleges and universities are not consistently preparing students for employment in corrections by failing to provide EBP-specific research, information, theory, or skill-based training.

Statutory Barriers

There are statutes that focus on time and punishment rather than long-term risk reduction.

Potential Solutions to Address Barriers

- Support for appropriate workload sizes for community supervision should be provided through a funding supplement.
- Funding for community programs that support risk-reduction activities to improve public safety outcomes should be provided.
- Funding for industry-appropriate training and skill building for community supervision should be enhanced.
- Consistent and ongoing EBP-specific training for stakeholders, criminal justice, and community partners should be required.
- Efforts to secure technical assistance for the purpose of developing high-quality and global EBP implementation plans must be supported.
- Incentives to universities/colleges that incorporate EBP skills and strategies within their criminal justice curricula should be offered.

II. Improvement of Policy and Practices for Crime Victims

Victim safety, offender release notification, restitution, and criminal justice system training regarding victim issues are high-priority issues requiring attention.

a. Victim Safety and Notification

A number of best and promising practices (practices, while not validated by actuarial research, showing positive results) have been recognized with regard to victim safety and notification. They include: making available a victim advocate in a prosecutor and/or supervision office to provide a wide range of services to crime victims and serve as a liaison to victims and service providers in the community; developing a collaborative and coordinated response between a variety of community agencies; ensuring proper release notification to victims; establishing procedures within jail/prison facilities to prevent inmate calls to victims or witnesses; and developing standardized procedures for documenting violations of harassment and protective orders by offenders including how that information is to be provided to the charging authority.

Acknowledging victims in an agency mission statement sends a strong message that victim safety and well-being are crucial and victims are important clients of the agency. As a result, criminal justice partners recognize that victims are entitled to vital services including protection from intimidation and harassment, collection of restitution, notification of offender status, and avenues for input into sentencing and releasing decisions. Victim input should be considered when developing policies, procedures, and programs.

Extent of Current Practice

Victims should be advised of their right to input at every juncture of the criminal justice process. Commonly, victim input is sought prior to sentencing but inconsistently thereafter.

Victims may request notification of offender release as well as the opportunity to provide input into release planning decisions. This enables victims to make critical decisions regarding development of safety plans. Currently, victims may obtain offender information by submitting written requests for notification to the custodial facility, through Victim Information and Notification Everyday (VINE), and through the newly-implemented MNCHOICE.

Community notification occurs with all predatory offenders released from prison. The extent of notification to the community is dependent upon the offender's assessed risk to commit new predatory crimes as determined during incarceration.

Offender violence and lethality assessments are court-ordered and provide mechanisms to assess which offenders are at risk for greater levels of violence and/or violence that could become lethal. These assessments assist corrections officials to prioritize and focus on offender supervision strategies and programming. They may also be used to assist victims in developing safety plans. The extent to which information from these assessments is consistently shared with victims and victim advocates is difficult to objectively measure.

Dependent upon resources, corrections agencies in Minnesota may assign certain offenders (e.g., sex offenders, repeat DWI offenders, domestic abusers, high-risk offenders, etc.) to specialized caseloads. Agents carry smaller caseloads allowing for increased reporting, surveillance, drug testing, program referrals, case management and/or case planning.

b. Restitution

Best and promising practices for the collection of restitution include: a single system for court-ordered payments;¹¹ establishment of a statewide advisory committee to conduct an assessment of restitution practices and provide recommendations;^{12, 13} and establishment of a restitution fund to immediately pay victim restitution orders and reimbursement to the fund by collecting from the offender.¹⁴ Restitution is a fundamental right of crime victims, and its importance cannot be overestimated. Unfortunately, restitution can be one of the most difficult rights to enforce.

Extent of Current Practice

How restitution is ordered and collected has been identified as problematic across both corrections and victim service agencies. Court disbursement of restitution is often lower in priority than court costs, fines, cost of incarceration, and other financial obligations. Further, restitution may not be ordered in all situations (i.e., when an offender is diverted from the court system) or may be difficult to collect when offenders are on unsupervised probation, supervised release, or incarcerated. Additionally, jurisdictions often lack standard protocols for restitution processing or interagency agreements stipulating who is responsible for monitoring, enforcing, collecting, and disbursing restitution.

Restitution funds have been established in a number of Minnesota counties. Monies come from supervision fees or locally-imposed surcharges. Offenders may perform community service work at a specified dollar amount per hour, and the fund then makes payment to the victim. In several counties, funds are used to immediately reimburse victims. The offender then either performs a corresponding number of community service hours or monetarily reimburses the fund.

Some Minnesota courts enter civil judgment at the time of sentencing or upon execution of sentence, expiration, or discharge on cases owing restitution. Civil judgment does not ensure payment and would require significant effort on the part of the victim to collect. Others refer the matter to collections or Revenue Recapture when the offender fails to comply with his/her payment schedule.

A promising practice is the *Ramsey County District Court Restitution Guidelines*, a set of guidelines developed by a multi-disciplinary workgroup. These guidelines establish clear expectations of who is responsible for each piece of the restitution process, with the ultimate goal to assist all personnel in the criminal justice system to make restitution work.

c. Criminal Justice System Training

Best and promising practices include the development of in-house expertise by designated staff. In-house experts implement internal training for staff, external training for victim organizations, and cross-training for allied justice professionals. Training focuses on educating staff at all levels about the rights and needs of victims as well as the impact victimization has on the lives crime victims. Staff are trained to provide information, assistance, and referral to victims of crime. Without adequately-trained staff, the provision

of victim rights and services will never be fully realized. Multi-disciplinary training is essential in providing a coordinated response to victim needs.

Extent of Current Practice

Each agency is responsible for providing training to its staff. Training on victim issues and services is fragmented, isolated, and/or non-existent for many criminal justice system practitioners. Across the broad field of corrections, training for new and experienced staff regarding victim-related issues is needed. Similarly, corrections agencies should seek opportunities to train their employees about victim rights and the services available from both system and community-based agencies.

Barriers

Victims are sometimes difficult to locate because they move and do not provide contact information to corrections, prosecution, or victim services.

Victims are not provided sufficient information and assistance post-sentence for a number of reasons including insufficient resources for both corrections and victim service agencies; uncertainty about responsibilities regarding crime victims, their rights, and services; lack of coordinated response systems; and varying protocols/practices across the state.

No single offender identifying number is used by all criminal justice agencies to locate offenders and coordinate files.

Victims have many unmet needs, including housing and transitional services, language barriers, disabilities or other special needs, difficulty obtaining transportation to court hearings and services, and confidentiality concerns (victims not assured information will not be given to offender).

Presentence investigations are not always ordered. Subsequently, victims may not be contacted and may not be afforded an opportunity to provide a victim input and impact statement.

Potential Solutions to Address Barriers

- Counties should develop interdisciplinary training programs and education for professionals including presentations by victims about their justice experiences. Foundational-level training should be provided to all employees as part of their initial job orientation and training. Ongoing training for all staff, including emerging trends and best practices in responding to victim needs, should be mandatory. Training must be multidisciplinary, including victim advocates, corrections staff, law enforcement, prosecutors, and judges.
- Corrections agencies should have a dedicated position or centralized unit to provide a wide range of services including facilitating the coordination of local victim services, providing necessary information to victims both pre- and post-sentence, and coordinating and implementing staff training at all levels.

III. Earned Compliance Credit Program

Earned compliance credit is a system that reduces the time offenders are on active supervision by a unit of time for each month the offender is in full compliance with conditions of supervision and making progress in case plans. Doing so provides agencies with greater flexibility to devote supervision efforts to moderate- and high-risk offenders who present a greater threat to community safety and are more likely to benefit from supervision and programming³ and may hasten offender compliance and victim satisfaction.

In Minnesota, sentencing judges possess total discretion to terminate probation early. This differs from the sentences assigned to offenders committed to the commissioner of corrections, which are governed by Minnesota sentencing guidelines and directed by statute. A statutory change would be necessary to utilize an earned compliance credit program for offenders on supervised release. An additional consideration would be the appropriateness of such a program for the higher-risk offenders who receive prison sentences. Therefore, this report section addresses earned compliance credit program possibilities for probation offenders only.

Extent of Current Practice

The Minnesota Department of Corrections *2009 Probation Survey* indicates 132,471 offenders (44,353 adult felons; 36,788 adult gross misdemeanants; 40,305 adult misdemeanants; and 11,025 juveniles) were on probation supervision in Minnesota on December 31, 2009. Supervision was provided by the DOC, Community Corrections Act (CCA), and County Probation Officer (CPO) systems. The DOC and 38 percent of CPO and CCA counties have policies and/or procedures governing early discharge recommendations. Among counties that have a discharge policy, great variation is seen regarding qualifying offenders and when eligibility is achieved. Eligibility for early discharge is largely confined to adult felons and, to a limited extent, adult gross misdemeanants. There appears to be no early discharge policy for adult misdemeanants and juveniles, presumably because misdemeanants receive relatively short-duration probation periods and often minimal supervision, and juvenile probation terms are reviewed every six months by law.

Offender risk to reoffend, as determined by a valid risk assessment, is not considered in many existent early discharge policies. No Minnesota county has a formal structure indicating a specific amount of credit earned for specific durations of compliance.

Fiscal Barriers

With the exception of offenders supervised by the DOC, offenders are assessed supervision fees to cover agency operational costs. DOC supervision fees are directed to the state general fund by statute. Supervision fees are an increasing element of budgets in CCA and CPO counties and are commonly used to fund operations rather than offender programming. For the few agencies assessing annual fees, abbreviated probationary durations may create a negative financial impact.

Structural Barriers

Decisions to terminate probationary terms early are ultimately determined exclusively by sentencing judges who possess total discretion regarding the matter. Judges employ individual practices which vary by offense category, personal strategy, local practice and other considerations. Consequently, probation durations vary within the state, judicial districts, and counties. Potentially, offenders with similar offense histories and conviction levels experience probation terms of varying lengths.

Further variance results from the policies of the various supervising agencies. Some have policies permitting early discharge, others do not, and variance occurs in existing policies. The situation is also often confounded when offenders are sentenced in one jurisdiction but supervised in another with a different policy. Additional complications result from the varying positions of prosecuting attorneys and the extent to which their involvement is included in decisions to terminate probation early.

EBP indicate case plans are crucial elements of supervision of higher-risk offenders. Requiring progress toward case planning goals should be an essential component of an earned compliance credit program. Currently in Minnesota, the extent of case plan utilization and content varies, which will confound the implementation of a statewide-earned compliance credit. The current case management programs utilized within Minnesota do not easily lend themselves to the collection of the data required for an earned compliance credit program.

Implementation of earned compliance credit will require agents to monitor offender performance and periodically record offender credit in an agency database. Reliable accomplishment of this task will necessitate the development of software to notify supervising agents of the need at intervals and provide a method and location to record the data.

Statutory Barriers

M.S. §609.02, Subd. 15, indicates probation may be imposed for a period of supervision no greater than that set by statute. The statute permits sentencing courts to discharge probation early, but under no circumstances does it compel them to do so.

Potential Solutions to Address Barriers

- The population of offenders under probation supervision is substantial, the resources available for supervision limited and increasingly taxed, and the offender need for supervision variable by offender risk. Consequently, it is important to limit supervision to those offenders most appropriate for supervision, as determined by risk level, in order to maximize the ability to provide the supervision. To accomplish this, agencies must be able to remove offenders from supervision when conditions and case planning goals have been met and risk to reoffend is reduced. The ability to shorten probationary supervision durations may also hasten offender compliance (consistent with increasing positive reinforcement as discussed on page 6), including more timely payment of restitution that results in increased victim satisfaction.
- A Minnesota earned compliance credit draft model policy has been developed whereby higher-risk offenders who are making progress in their individualized case plans, compliant with probation conditions, arrest-free, and current with court-ordered financial payments would earn credit toward the imposed probation sentence. Specifically, compliant offenders who are not required to register as predatory offenders would receive 20 days of credit each month. Predatory offenders required to register would receive 10 days of credit each month. See Appendix A for a draft model policy of an earned compliance credit program for Minnesota probation offenders.

IV. Performance Measures for Community Supervision Agencies

Two key components of EBP are those of measuring relevant processes/practices and providing measurement feedback. “Accurate and detailed documentation of case information, along with a formal and valid mechanism for measuring outcomes, is the foundation of evidence-based practice.”⁴

Performance measurement can identify who was successful and who wasn’t; raise questions about who receives specific services, and identify the relationship between services and results. These measures can also answer the question of why a specific program did or did not achieve its goals and how the services could be improved to benefit more individuals. Evaluation and performance measures are critical strategies that create the opportunity for learning, change, and growth for organizations.

Measuring what is important is not easy. Terms such as performance measures, outcomes, evaluation, and quality assurance are all used to describe ways programs can assess their performance and develop feedback mechanisms to determine whether they are achieving the intended results.

Performance measures provide agencies with a strategy for assessing what they do and how well they do it. Performance measures can be grouped into two basic types: process and outcome measures. Process measures provide information on the number of individuals served, the services they received, characteristics of individuals served, and other descriptive information. Outcome measures focus on the results of services. They can be short-term, such as the number of individuals who successfully completed a treatment program, or longer-term, such as whether individuals committed a subsequent crime within three years of completing probation.

Quality assurance (QA) measures, which are generally process indicators, focus on whether a program is being implemented as planned (i.e., with fidelity). Without QA, it is impossible to be sure the intervention is adhering to the components that made the original program effective. Programs strategically monitoring fidelity through QA practices have improved outcomes.¹⁰

Extent of Current Practice

State and local supervision agencies within Minnesota have identified and compiled performance measures for the past 13 years. Recognizing the need for uniform outcome measures, the DOC, the Minnesota Association of County Probation Officers, the Minnesota Corrections Association, and the Minnesota Association of Community Corrections Act Counties compiled and completed the *Correctional Outcome Measures Report* in early 1997. Minnesota Laws 1997, Chapter 239, Article 9, Section 48, established a workgroup in May 1997 to create uniform statewide probation outcome measures. That report was completed in January 1998 and recommended five objectives on which to collect data (see Introduction section of *Minnesota Statewide Probation and Supervised Release Outcomes* 2006 report¹⁵):

- 1) Protection of the public,
- 2) Enforcing orders of the criminal and juvenile justice systems,
- 3) Assisting the offender to change,
- 4) Restoring the crime victim, and
- 5) Community restoration and community involvement.

In July 2001, the multi-jurisdictional Data Definition Team (DDT) was created and focused on the issues of quality assurance, defining and clarifying how outcome measures would be collected using current (and future) data systems, and creating/coordinating a data collection and reporting protocol. As a result of the DDT's work, standardized outcomes and definitions were established and documented in the *Minnesota Statewide Probation and Supervised Release Outcomes 2006 report*¹⁵. Minnesota is able to report statewide recidivism and restitution collection analysis on felony offenders on probation and supervised release. The state of current data systems precludes reporting for other offense levels or specific offender populations, such as DUI, domestic assault, juveniles, etc. DDT reports are updated and posted annually on the Department of Corrections public website.

Implementation of EBP performance measures statewide would require improvements in data systems, increased data collection, additional analytical resources, the development of additional measures, as well as timely feedback loops. Supervision agencies were asked whether they collect outcome data on the use of EBP within their agency. Forty-one percent of adult agencies and forty percent of juvenile agencies indicated they are able to collect some outcome data, although it is limited primarily to program completions, changes in risk scores, and recidivism.

Fiscal Barriers

Data collection and analysis, though costly, provides long-term payoff by focusing corrections professionals on those methods of supervision, programming, and treatment that reduce recidivism. For performance measurement to be effectively implemented data systems and analysis require investment in ongoing support, maintenance, and staff time to report and collect data. The fiscal disparities between counties affect the ability to collect and analyze information.

Structural Barriers

One of the driving forces behind the correctional delivery system structure is the variance in local needs and resources across Minnesota. These locally-controlled service delivery systems respond to significant differences in population, economic conditions, culture, service availability, transportation, and geography. These factors affect the ability for a consistent system to be successfully implemented. Minnesota's three correctional delivery systems and varying judicial practices present challenges to implementation of statewide performance measures. Challenges include variations in supervision practices, methods of operation and delivery of services. While not insurmountable, strong leadership, coordination and oversight are required to arrive at consistent and achievable measures.

Statutory Barriers

Sentencing laws (i.e., mandatory minimums) often do not reflect EBP. Sanctions are offense-driven, rather than reflective of the individual's risk to reoffend. Further, frequent statutory changes in target populations, sanctions and services affect the reliability, validity, and usefulness of information. Data practice and licensing restrictions also can prevent or hinder access to needed data for measuring certain outcomes.

Potential Solutions to Address Barriers

- A statewide performance measures commission comprised of the existing DDT and representatives from the three corrections delivery systems should be formalized to address the creation of a statewide outcome measurement template (data element, etc) and definitions; adopt EBP quality assurance measures statewide; develop outcomes and statewide

standards for service providers (both contracted and offender-pay services) similar to the Correctional Program Checklist;¹⁶ and serve as an avenue for resource sharing, data collection strategies, etc.

- Implementation of EBP will require the development and investment of information systems to collect and interpret data; resources and tools for agencies supporting efforts to monitor quality assurance; and development and implementation of training programs for corrections agencies, judiciary, and other criminal justice partners. Investment strategies must be developed, acknowledging savings may not be realized for several years (i.e., a program must first be implemented, its fidelity monitored, and outcomes measured over a period of time).
- Contracted service providers should be required to report performance measures as developed by the commission. Further, statewide oversight methods or processes should be utilized to ensure standardized and consistent performance outcome reporting.

V. Potential Performance Incentives for Community Supervision Agencies

The concept of performance incentives is not new. In the private sector and in staff performance areas, incentives have been used to encourage continuous improvement and superior performance and can usually be clearly defined and measured. In the public sector, incentives tied to client outcomes have been more difficult to effectively implement and in a number of cases, have been manipulated and resulted in harm to clients. Within corrections, variables of resources, population characteristics, and economic opportunities across the state make it impossible to fairly compare offender outcomes across jurisdictions. Additionally, in some areas, local pressure still exists to utilize correctional interventions which generate negative, unintended outcomes (e.g., incarceration and intensive supervision of low-risk offenders, inappropriate programming, etc.). Subsequently, incentives granted solely on positive offender outcomes would be punitive to agencies operating in resource-poor areas or within judicial and social environments insistent upon the use of non-EBP practices.

Within corrections, performance incentives should be focused on adherence to EBP principles, program fidelity, quality assurance measurement/feedback, sustainability, tracking of outcomes, and the assurance agencies are consistently applying EBP with offenders.

Extent of Current Practice

Currently performance incentives have not been implemented within corrections in Minnesota. Within Hennepin County, there are some new incentive-based initiatives in juvenile services. The county has evaluated out-of-home placements utilizing a standardized tool (i.e., Correctional Program Checklist¹⁶) and now builds outcomes and performance bonuses into the contracting process. Performance bonuses are paid when a juvenile does not reoffend. Initial outcomes will not be available until mid-2013.

Fiscal Barriers

There is a significant risk of eroding essential services including those critical to EBP should incentives become a reallocation of current resources. Funds should be made available and targeted to enhance those skills that are the basis of EBP: risk assessment, enhancing intrinsic motivation, targeted interventions, skill train with directed practice, increase positive reinforcement, engaging ongoing support in natural communities, measurement, and feedback.

Structural Barriers

Different funding sources, program resources, and access to services all present challenges for the ability to deliver equitable incentives across the state.

In addition, service delivery systems, agency rules, and policies vary across counties and jurisdictions. This makes it almost impossible to develop consistent incentive strategy as well as to provide incentives for positive performance.

Statutory Barriers

Some existing statutes may impede the ability to implement performance incentives. (e.g., mandatory electronic home monitoring for DUI). Statutes requiring mandatory conditions and sentencing practices need to be considered if implementing incentives.

Potential Solutions to Address Barriers

- Incentives should not be punitive, negatively impact agencies, or create the possibility of statistics being altered or manipulated to achieve resources offered as incentives. Incentives would best be presented in the form of training funding that directly impacts a department's ability to implement and sustain EBP. A commission charged with establishing performance measures could also be charged with granting funds from a specific source to local or state agencies for the purpose of training and implementing EBP that supports and makes possible the achievement of performance measures.
- If incentives are considered, it is recommended they focus on adherence to EBP principles, program fidelity, quality assurance measurement/feedback, and the tracking of outcomes in efforts to achieve ongoing improvement.

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Appendix A – Minnesota Earned Compliance Credit Model Policy

Purpose – To motivate offenders to comply with conditions through a system of incentives, enhance public safety, and promote positive changes in offender behavior.

Applicability – Statewide by statute

Eligibility – Adult probationary offenders sentenced to a probationary term of two years or more.

Definitions

Probation - A court-ordered period of community supervision imposed as an alternative to or in combination with jail, or as an alternative to prison.

Earned Compliance Credit - A system that reduces the time offenders serve on probation by shortening the duration of probation sentences by a unit of time for each month an offender is in compliance with supervision conditions.

Case Plans - An individualized strategy of accountability and behavior change for supervised offenders that:

- targets and prioritizes the specific criminal risk factors of the offenders,
- matches programs to the offender's individual characteristics; e.g., gender, culture, motivational stage, development stage, and learning style, and
- establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations.

Procedures

- A. Offenders, except offenders required to register as predatory offenders, will earn 20 days of credit off an imposed probation sentence for each month they are compliant with probation conditions. Offenders convicted of offenses requiring registration as predatory offenders will earn 10 days of credit off an imposed probation sentence for each month they are compliant with probation conditions.
- B. For all offenders not sentenced on the first day of a month, eligibility to earn credit will commence on the first day of the month succeeding the probation imposition date.
- C. Offenders earn compliance credit during each month they are:
 - 1) fulfilling the terms of their individualized case plans,
 - 2) current on monthly payment of restitution, fines, and fees, and
 - 3) arrest-free.
- D. Supervising agents will monitor offender eligibility to earn compliance credit and award any credited time every six months in the agency's data system.

Interstate Compact Cases – Offenders supervised pursuant to the Interstate Compact will not be eligible for earned compliance credit.

Invalid Status – An offender's eligibility to earn compliance credit ceases when one or more of the following circumstances exist: incarcerated in a jail, workhouse, or prison; on absconder status; deported; or while a probation violation is in process relative to the current sentence of supervision.

Revocation of Earned Compliance Credit – Previously-earned compliance credit will be revoked when the court finds the offender in violation of the probation case on which the earned compliance credit was accrued. Sanctions conferences may be used without revoking previously-earned compliance credit.

Earned Compliance Credit Discharge: Offenders will be discharged from probation at the date designated by the application of earned compliance credit unless the court finds the offender in violation of probation.

Appendix B – Work Group Membership

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Earned Compliance Credit Program

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Sue Alliegro, Minnesota Sentencing Guidelines Commission
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