A Balanced Approach to Offender Management Inside and Outside the Walls: Focusing on Accountability and Promoting Success

Reentry in the State of Connecticut:

Partners in Progress

February 24 - 26, 2009

Richard P. Stroker

Introduction

- During this session I will focus on:
  - From a national perspective, factors that may be contributing to institutional violations and the rise in revocations.
  - From a system perspective, significant issues to consider regarding infraction/violation decision making.
  - Looking at other jurisdictions, identifying some effective approaches and meaningful results that may deserve attention.

1. Institutional Infractions/Misconduct

- Each year, approximately 15% – 25% of inmates engage in some form of "misconduct"
  - Range from failing to report for a work assignment to insubordination to possession of narcotics to an assault on a guard or fellow prisoner to homicide
- A minority (less than 30%) of inmates have a "clear" conduct record and are not cited for any violations during incarceration

see, e.g., Berk et al., 2006; Hollist et al., 2004; Lovell & Jemelka, 1996)

a. Impact of Infractions in Prisons and Jails

- Misconduct disrupts order in facilities, endangers lives of staff and offenders
- Financial costs of responding also very significant
  - Approximately $1,000 per incident

(see, e.g., Berk et al., 2006; Hollist et al., 2004; Lovell & Jemelka, 1996)

Impact of Punishment

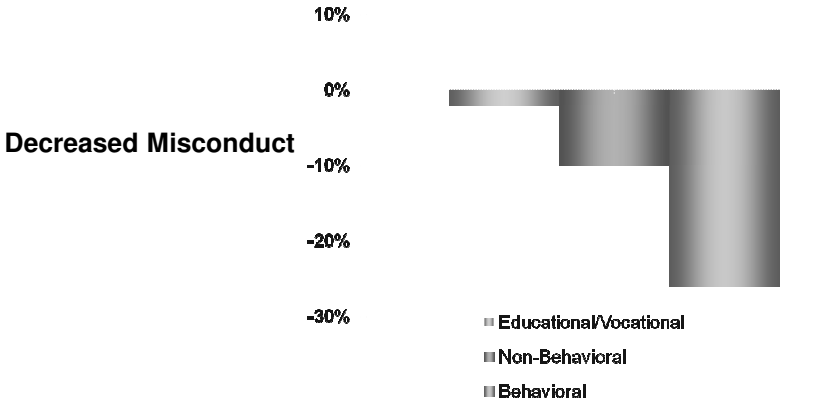
- Punishment teaches people how to avoid being punished in the future.
- Punishments can cause offenders to change behaviors briefly, to avoid further punishment.
- Changes brought about by punishment are often weak and short lived.

Sources: Skinner, 1953; Ryan & Deci, 2000

Using the EBP Information

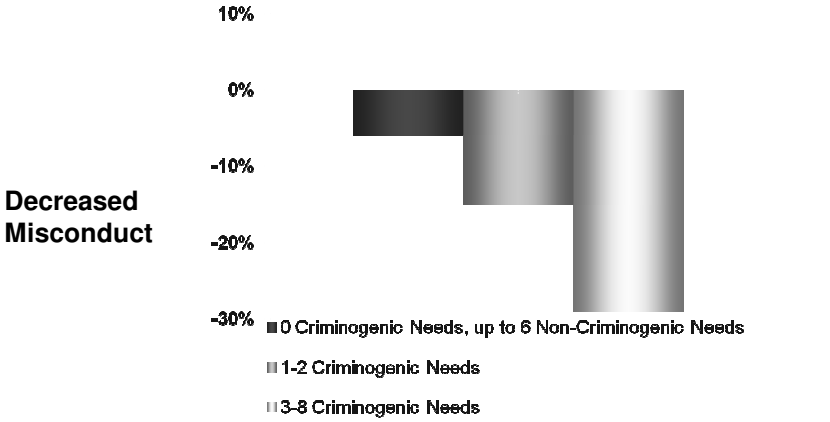
- If punishment has little long term benefit in changing behavior, what does seem to work?
- The research on evidence-based practices helps us see that identifying and addressing crime-producing needs can help bring about significant changes in behavior.

Prison Misconduct Rates as a Function of Type of Treatment Provided*



(French & Gendreau, 2006

Prison Misconduct Rates as a Function of Targeting Multiple Criminogenic Needs



(French & Gendreau, 2006)

Institutional misconduct

- **The practical implications of these results for prison managers cannot be stressed too highly…for those readers with experience working in prisons, even a small reduction (e.g., 10%) in misconducts for a group of disruptive inmates might mean the difference between having a chaotic prison environment and having one that is coping adequately with the usual pressures. Furthermore, significant cost savings can result from even a modest reduction in misconducts..."**

b. Using Incentives

- Applying evidence-based practices to infractions helps us to see that attending to criminogenic needs can lower inmate infraction rates.
- Another EBP notion – using incentives to influence behavior – can also help to eliminate infractions from occurring.

Why Should We Use Incentives?

- One objective of correctional management is to secure offender compliance with rules and conditions. By measuring the offender's compliance, and responding to various behaviors, offenders are held accountable for their actions. We might view this as a short term objective.
- A second, perhaps broader, objective is to help bring about modifications in the offender's behavior that will help promote positive long term changes.

Behavior Change is the Goal

- Modifications of behavior can be stimulated from within the person and through the use of external sources.
- Punishment is an example of an external source.
- Incentives are also an example of an external source.

Sources:

Motivating Offenders to Change: Walters, Clark, Gingerich, & Meltzer, 2007; Tools of the Trade: Taxman, Shepardson, & Byrne, 2006

What is the Most Effective Way to Use Incentives or Punishments?

- To maximize effectiveness, agencies and staff should respond in ways that are:
  - Swift
  - Certain
  - Progressive
  - Proportionate

Source: Taxman, et al., 2007

Motivating Offenders in Prison: Oregon Example

- Oregon Department of Corrections
  - Non-Cash Incentives (NCI) Program
    - Established in 2003
    - Provides incentives for program compliance and good behavior
    - System of 3 levels
      - 1: 0-6 months of clear conduct
      - 2: 6-17 months of clear conduct
      - 3: 18+ months of clear conduct

Examples of Non-Cash Incentives

- Participate in sporting events
- Join clubs/special interest groups
- Hold office in clubs/special interest groups
- Increased canteen spending
- Property (CD/TV)
- Preferred housing
- Correspondence courses
- Running program
- Weightlifting program
- Increased visiting privileges

c. Eliminate Violations Before they Occur

- In addition to addressing criminogenic factors and using incentives/rewards, staff can help to establish expectations through their behavior.

- "3 R's"
  - Role Model
  - Reinforce
  - Redirect behavior

Role Model

- Create a positive environment
- Demonstrate behavior expected from others
- Emphasize a belief that offenders can change
- Look for teachable moments
- Stay respectful when others are not
- Act in ways that are worthy of respect and imitation
- Talk about pro-social behaviors all the time

Reinforce

- Be clear about expectations
- Encourage pro-social behavior and language
- Provide more positive than negative feedback
- Celebrate even small steps forward
- Be specific about what works and why
- Repeat reinforcement often

Redirect

- Encourage better choices as signs of strength
- Remain calm, matter of fact, neutral
- Hold offenders accountable with the least punishing intervention necessary
- Gather all the facts and don't jump to conclusions
- Help offenders plan small steps to get from here to there

Setting the "Tone"

- The way that institutional staff act towards inmates, and towards each other, sets the standard of conduct or the "tone" for the facility.

- How we treat others will largely be reflected in how they treat us.

Consider your Data

- Your infraction data could help you to understand, anticipate, and reduce infractions.
- Where do most violations occur within your facility? What time of day? What types of violations occur?
- What does this information tell us about our deployment of staff, training needs, practices, physical barriers/issues, etc.?

2. A National Perspective on Violations Work

- 1988: The National Institute of Corrections (NIC) began the first national project to identify and assist jurisdictions interested in examining this issue; the Center was selected as their training and technical assistance partner.
- 1988-2008: The Center has worked with 32 jurisdictions (11 states, 21 counties) through a series of NIC-sponsored projects, as well as others who have sought this assistance outside of the NIC supported work.

Working on Violations

- For many of these states, the primary areas of concern have been:
  - How can we reduce the number of violations that are occurring?
  - How can we invest our staff time more meaningfully?
  - How can we improve our system approach?
  - How can we improve our tools and policies to encourage more appropriate and consistent results?

The National Picture

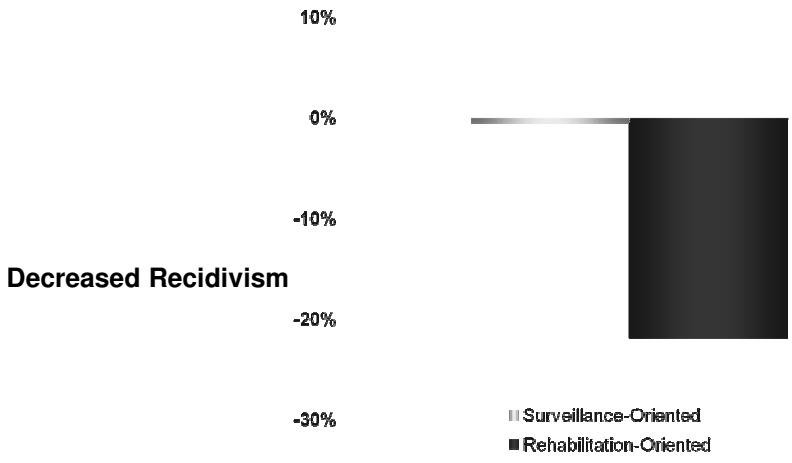
- Based on current trends, about two-thirds of released offenders will be rearrested, and about one-half convicted of committing a new crime, within three years of their release.
- About one-third of offenders are rearrested within 6 months of release.

Source: BJS 2002, 2006; Study of 15 states representing 2/3 of prisoners released in US

Factors Associated with Failure

- Risk assessment instruments help us appreciate some dynamic factors that impact risk. They include:
  - Substance abuse use
  - Lack of job skills/employment issues/limited education
  - Poor reasoning skills/criminal thinking/attitude and decisionmaking processes
  - Absence of pro-social support groups
  - Mental health/general health problems
  - Absence of a stable residence
  - The nature of the person's social network and associations

Impact of Supervision Approach on Recidivism: Surveillance-Oriented vs. Rehabilitation-Oriented



(Aos et al., 2006)

What Do We Know?

- The good news is that we understand many of the reasons that individual offenders are likely to fail, and even when this failure is likely to occur.
- The bad news is that we are catching more and more offenders failing, and our interests are often focused more on improving technical aspects of our work rather than on identifying and achieving broader goals.

The Legacy of Morrissey

- In the 1970s, the U.S. Supreme Court decided the Morrissey v. Brewer and Gagnon v. Scarpelli cases. As a result, jurisdictions focused considerable attention on the proper procedures to be followed before parole could be revoked – which included the right to:
  - Written notices of the charges
  - Appear, present testimony, question witnesses
  - Be heard before a neutral party
  - Have the matter resolved within a reasonable time
  - Be notified of the reasons for the decision

Morrissey's Forgotten Point

- However, as the Court itself pointed out in the Morrissey case, the most important consideration in violation cases is making the best possible decision about the disposition of the violation.
- This point – focusing on outcome rather than process – seemed to get lost in the years following the Court's decision.

The Violations "Drain"

- Of course it is expensive to detain violators in jails and prisons.
- But responding to numerous violations can also consume a considerable amount of valuable parole supervision time and resources.
- In many jurisdictions, the number of violations is increasing, with more staff time being devoted to this area each year.
- If we want offenders to behave properly, and their misbehavior is increasing, does that tell us anything about our methods?

3. Building a Better Violations System

- Let's assume that you want to reduce the number of violations or failures that occur in order to promote better public safety.
- If you are clear about your objective, how can your violation system contribute to the achievement of this overall goal?
- We often know those who are most likely to fail, and can often predict why. How can we use all of our information to build a better violations system?

See your Violations System as an Extension of Supervision

- Offenders will violate rules and conditions. You should expect it. You should plan for it. Your violations response system should be seen as a logical and integral part of your supervision activities.
- This means that, as with supervision, your goal in the violations area is to help promote offender success. To do this, your violation responses should be appropriate, immediate, proportional to the violation, and consistent.

Case Example: South Carolina

- Several years ago, officials in S.C. became concerned about the number of parolees who were having their community supervision revoked.
- In trying to understand and explore this situation, it became apparent that there was no clear or overriding "vision" that drove violation decision making; there was an absence of structure or rules that would encourage sound and consistent outcomes; and there was an absence of meaningful alternatives that could be used.

Analyzing Information

- A "systems analysis" was performed in order to understand the key decision points that existed – steps where discretion could be applied in the violations area. Mapping the system was critical to understanding the entire picture of work.
  - How does the current system of responding to violations work?
  - What are the key decision points in this process?
  - Who are the key decision makers at each point?
  - What is the volume of cases managed?
  - What is the time lapse between key steps?

Understanding Violation Tools/Options

- What tools/sanctions and resources do staff have to respond to violation behavior?
- What guidance/instruction/policies guide their use under particular circumstances?
- What must staff do to access/impose these tools/sanctions and resources?

Understand the Policy Environment

- How are staff guided in the management of violation behavior:
  - What guidance does current written policy provide to line staff—what action are they expected to take?
  - How are staff trained in this area, and what does this training consist of?
  - What role do supervisors and managers play in this process?
  - How much discretion do staff have to make independent decisions?

Understand the Culture

- What do parole officers perceive their function to be with regard to offender supervision:
  - Do they believe their role is to enforce conditions, assure accountability, and respond aggressively when non-compliance is determined?
  - Do they believe their role is to assist the offender to be successful on supervision?
  - Some combination of these?
- What 'messages' do they get from the agency about this?
- What do supervisors and managers believe?

Understand the Capacity of Staff

- To what extent do staff have knowledge and skills to meet the agency's expectations?
  - Typical conditions
  - Monitoring tools
  - Evidence-based practices
  - Motivational interviewing/offender engagement
  - Case management planning

Looking at your Data

- Data can be gathered and analyzed to better understand practices, patterns, and methods employed by staff.
  - What types of violations were occurring?
  - In what direction were we going?
  - Were there patterns to violations in different parts of the State?
  - Were there patterns to violations in different offices, or with different officers?

Making Progress

- As a result of this analysis, policies were developed that outlined the overall objectives and "vision" of the organization, staff were trained in new methods of detecting and responding to violations, and new violation alternatives were created.
- Over a short period of time, the number of parole cases being revoked declined substantially.

Key Lessons Learned

- The experience in S.C., and in several other jurisdictions, highlighted some key areas that should be considered when reviewing policies and practices in the violations area. These included:
  - The important role that conditions played in this area;
  - The value of a proactive supervision approach;
  - The need to respond in a timely manner to all violations;
  - The impact of empowering staff to utilize a variety of flexible responses; and
  - The importance of using a guideline or tool to help encourage consistency and proportionality.

A. Examine your Conditions and their Use

- Consider all of the rules or conditions that you have, their purpose, and how they are applied.
  - Could some of these rules or conditions be clarified, simplified, or eliminated?
  - What is the purpose of each rule or condition?
  - Do staff have a common understanding about the meaning of the various rules or conditions?
  - Are the rules in writing, written in a 6th grade reading level?
  - How are these rules explained to offenders – who else should we be explaining them to?

B. Don't Wait for Failure

- Supervision staff often have a good idea about the types of violations that will occur, and perhaps even who will commit them. If they wait, these violations may very well happen. Taking the proactive approach to offender management, we can anticipate failure and intervene in appropriate ways to make the violation less likely.
- This may require staff to give more thought to, and spend more time with, those offenders who appear most likely to violate rules or conditions, establish more appropriate case plans to interrupt failure, and work with community providers and others to address criminogenic factors.

How Should Staff Spend their Time?

- Research (Bonta, et al., 2008) indicates that when parole officers spend time talking with parolees about criminogenic needs, rather than focusing on specific conditions of supervision, recidivism declines.
- Experience in various jurisdictions (including S.C.) indicates that this is true.

C. Respond to Every Violation

- In order to demonstrate commitment to supervision rules or conditions, staff should respond to every violation promptly.
- We want to be clear in the message we send to offenders (and staff) about rules. Rules or conditions are taken seriously (so create or impose them wisely). Ignoring violations only encourages more violations – and promotes failure rather than success.

D. Linking Responses to Goals

- Responding to every violation promptly does not mean that all consequences must be harsh. Responses to misbehavior should be proportional to the wrong-doing.
- Allowing front line staff and supervisors to impose certain types of sanctions in response to inappropriate behavior can have many positive benefits. It can:
  - Resolve problems at the lowest possible level;
  - Eliminate certain future tasks for staff;
  - Demonstrate the importance of proper behavior to the offender; and
  - Reduce the number of offenders revoked.

Using Graduated Sanctions

- Research findings have concluded that the use of appropriate graduated sanctions in response to violations can be a factor in reducing recidivism.
  - Burke, 2004; Taxman et al., 1999; Taylor and Martin, 2006; Andrews and Janes, 2006

E. Use a Guideline to Encourage Consistency and Proportionality

- One of the goals associated with a violation response system can be to impose proportional and consistent sanctions, in light of the risks posed by the offender and the seriousness of the violation.
- In order to achieve these goals, it can be helpful to use a violation decision-making tool or guideline.
- The tool/guideline can be used to identify the types of violations that can be handled at various levels, and the sanctions that can be imposed by various levels of officials.

Guidelines as Part of an Overall Offender Management Strategy

- Guidelines for responding to violations will help staff properly identify the true nature of the situation. How dangerous is this particular offender in light of his or her past and recent behavior (the risk element)? How serious is this particular violation?
- Having a guideline helps create a common language, and some common expectations, when staff talk about a particular violation.

A Strategic Approach to Violations

- Where jurisdictions have taken a strategic approach to violations – using the foregoing principles and applying them to their work – they have seen reductions in returns to prison.
- Examples: Kansas, New Jersey, Georgia, Texas

4. Lessons from Across the Country: What Results are We Seeing?

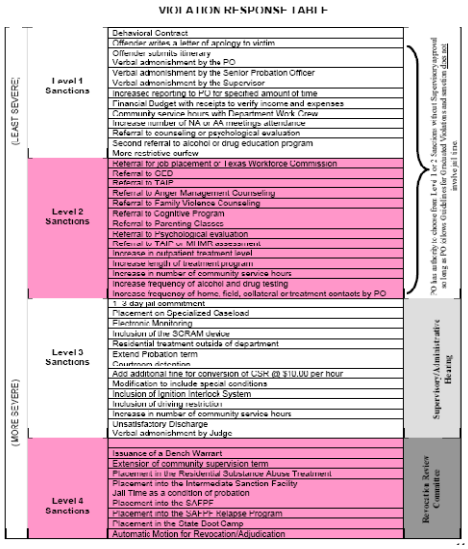
Processes and Tools

- Revised vision, mission, goal statements – clarifying the purpose of violation responses
- Modified processes for case management, decisionmaking, and matching responses to violation behavior
- Expanded array of response options
- Revised policies
- Training curriculum to support implementation
- Tools to support decisionmaking

Multiple Methods to Approach Modifications to the Infractions/Violations Decision Making Process

Example of a Violation Response Table

Menu Model



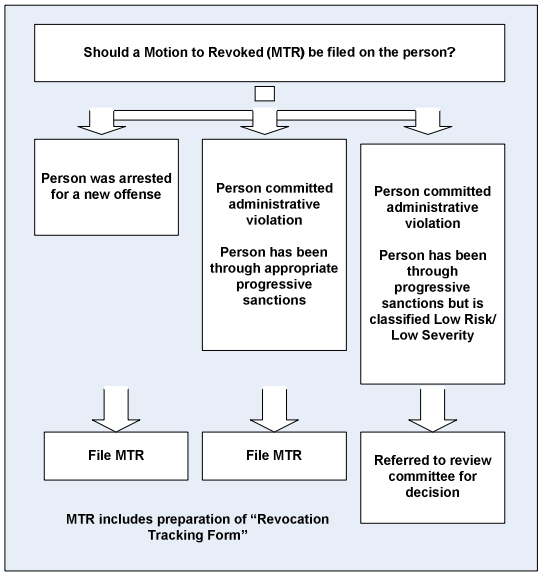
Level 1 and 2 administer by PO

Level 3 by Supervision Administrative Hearing

Level 4 by Revocation Review Committee

Example of Revocation Protocol

Decision Making Tree Model



Example of Revocation Protocol

Matrix Model

Violation Sanctioning Grid

	Code	Violation	Sanction Progression 1st Violation	2nd Violation	3rd Violation
Low Range	L01	Failure to Participate in Community Service	L	M	M
	L02	Positive Urinalysis/Use of Alcohol (No History)	L	M	H
	L03	Failure to Pay Supervision Fees	L	L	M
	L04	Failure to Pay Urinalysis Fees	L	L	M
	L05	Failure to Support Dependants	L	L	M
	L06	Failure to Pay Restitution and/or Other Court Ordered Fees	L	L	M
	L07	Changing Employment Without Agent Notification/Permission	L	L	M
Medium Range	M01	Failure to Notify Agent of Changes of Status	L	M	M
	M02	Failure to Report as Instructed	L	M	H
	M03	Positive Urinalysis/Use of Drugs (No History)	L	M	H
	M04	Travel Violations	L	M	H
	M05	Possession of Unauthorized Contraband, Cell Phone or Beeper	L	M	H
	M06	Failure to Take Prescribed Medications as Prescribed by MD	L	M	M
	M07	Failure to Maintain Employment	L	M	H
	M08	Failure to Participate/Attend Treatment	L	M	H
	M09	Entering Prohibited Establishments	L	M	H
	M10	Associating with known Felons, Gangs, Co-Defendants, etc.	L	M	H
	M11	Failure to Abide by Written Instructions	M	M	H
	M12	Failure to Abide by Field Imposed Special Conditions	M	M	H
	M13	Conviction of Summary Offense (No Court Record)	M	M	H
	M14	Positive Urinalysis/Use of Alcohol (Previous History)	M	M	H
	M15	Violating Curfew/Approved Schedule	M	M	H
	M16	Electronic Monitoring Violation	M	H	H
	M17	Failure to Provide Urine	M	H	H
	M18	Failure to Complete Treatment	M	H	H
	M19	Failure to Notify Agent of Arrest w/in 72 hrs	M	H	H
High Range	H01	Changing Residence without Permission	M	M	H
	H02	Associating with Crime Victims	M	H	H
	H03	Positive Urinalysis/Use of Drugs (Previous History)	M	H	H
	H04	Pending Criminal Charges	M	H	H
	H05	Failure to Abide by Board Imposed Special Conditions	M	H	H
	H06	Failure to Report Upon Release	M	N/A	N/A
	H07	Removal From Treatment/CCC Failure	H	H	H
	H08	Assaultive Behavior	H	H	H
	H09	Absconding	H	H	H
	H10	Possession of Offensive Weapons	H	H	H
	H11	Possession of Firearms	H	H	H

Decision Point
348I
348W
336
Con1
Con2

Code	Low Sanction Range
WTWR	Written Warning
WTVR	Written Travel Restriction
DJBS	Documented Job Search
IRPT	Increased Reporting Requirements
CURF	Imposition of Curfew
LOTR	Other

Code	Medium Sanction Range
IMAT	Imposition of Mandatory Antabuse Use
URIN	Imposition of Increased Urinalysis Testing
OPAT	Placement in Out-Patient D & A Treatment
DFSE	Deadline for Securing Employment
COMS	Imposition of Community Service
ICRF	Imposition of Increased Curfew
DRPT	Placement in a Day Reporting Center
EMOS	Imposition of Electronic Monitoring
PGPS	Imposition of Passive Global Positioning
AGPS	Imposition of Active Global Positioning
MOTR	Other

Code	High Sanction Range
IDOA	Placement in Drug and Alcohol Detox Facility
CPCF	Placement in CCC Half Way back
IPAT	Placement in In-Patient Drug and Alcohol Treatment
VCCF	Placement in Violation Center Contract Facility (PennCap)
ARR2	Incarceration
IPMH	Placement in Mental Health facility
HOTR	Other

Different Approaches, Similar Results

Georgia

Changes Made

- Offenders more active in case management planning.
- Officers more focused on impacting positive behavior change than accountability.
- Guidelines developed to assist officers in determining the appropriate level of response and type of response.
- Violation responses tailored to the severity of the violation and the risk posed by the offender.

Results

✓Parole revocations dropped from an average of 261 each month in 2001 to an average of 224 each month in early 2002, representing a **decrease of approximately 11 percent in the number of revocations among the parolee population**.

New Jersey

Changes Made

➢Clarified the parole agency's vision, mission, and goals; identified additional resources for parolees in the community; developed training and supervision approaches for line staff that would reinforce expectations about how they should anticipate and respond to violations; and developed clear policy for staff about responses to violations.

➢Focused on new approach to supervision, emphasizing *responding* to violations rather than *prosecuting* violations.

Results

✓By midway through the 2003 fiscal year the New Jersey State Parole Board reported 2,178 revocations for the year.

✓For the corresponding period of the 2004 fiscal year, the board reported only 1,692 revocations for the year, **a decrease of 486 revocations or 22.3 percent.**

Texas

Changes Made

➢An expanding prison population and demand for additional bed space drove the initiative.

➢Steps were taken to increase the rate of parole releases.

➢Guidelines were established using recidivism risk and violation severity as the decision criteria for violations responses.

➢The continuum of sanctions was supplemented to expand the range of available response options.

➢A decision making tool was implemented to define a structure for responding to violations.

Results

✓Rate of offenders released on parole was increased.

✓Number of revocations for technical violations was reduced.

✓The prison population decreased by 6,117 during a one year period.

Kansas

Changes Made

➢Adoption of a case management strategy based less on contacts and surveillance and more on effective interventions with offenders to enhance the likelihood of successful completion of parole. This included a comprehensive overhauling of key policies related to supervision standards, response to behaviors (including interventions), classification, contact requirements, case planning, and administrative/case file review.

➢Articulated clearly a goal of trying to work with offenders in the community whenever possible while still protecting community safety.

Results

✓Revocation rates dropped by nearly 50% over a six year period.
✓Absconder rates dropped by approximately 40% over a ten year period.
✓Rate of individuals returning to prison for new crimes decreased by 36% over a ten year period.

Kansas

- Monthly Revocation Rates:
  - FY 2003 203/month
  - FY 2004 191/month
  - FY 2005 178/month
  - FY 2006 136/month
  - FY 2007 103/month
  - FY 2008 114/month

➢ Parole Absconders
- FY 1997 – 503
- FY 1998 – 530
- FY 1999 – 587
- FY 2000 – 739
- FY 2001 – 446
- FY 2002 – 491
- FY 2003 – 467
- FY 2004 – 389
- FY 2005 – 396
- FY 2006 – 351
- FY 2007 – 303

Kansas

% of Parole Population Returned to Prison for New Crime Convictions

Fiscal Year	*1996*	*1997*	*1998*	*1999*	*2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*
	5.3%	5.0%	4.8%	5.5 %	5.4%	4.2%	3.5%	3.6%	3.3%	3.3%	3.0%	3.4%

Conclusions: Key Lesson Learned

- Perhaps the key to this area lies in seeing your offender supervision and violations systems as part of a whole, with the expectation that your violation actions will assist you in carrying out your overall offender management plan.

A Review of the Major Lessons

- Again, the major lessons are:
  - Eliminate many infractions/violations from ever occurring by addressing criminogenic needs, using incentives, and applying other EBP approaches.
  - Anticipate failure, and be proactive in managing the offender. When violations do occur, respond immediately.
  - Empower front line staff to resolve issues quickly.
  - Consider the offender's risk, severity of the violation, and the overall objectives of the case plan in responding to violations.
  - Use guidelines that help staff to be consistent and proportional in their responses to violations.