EVIDENCE-BASED PRACTICES, COMMUNITY COURTS, & MISDEMEANOR OFFENDERS

Challenges & Strategies for Practitioners
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Presentation Overview

• Provide an overview of the leading framework for evidence-based practice in the criminal justice context;

• Discuss how the current framework poses interesting challenges for community court practitioners;

• Discuss strategies for conceptualizing and implementing evidence-generating practices in community courts.
A Bourgeoning Consensus

• A recent report from the National Center for State Courts reflects the increasingly accepted view that a Risk-Need-Responsivity model is "the better way" to conceptualize interventions aimed at recidivism reduction (National Working Group, 2011).

• "The Risk-Need-Responsivity (RNR) model is perhaps the most influential model for the assessment and treatment of offenders" (Andrews & Bonta, 2007).
Risk-Need-Responsivity Model

THREE CORE PRINCIPLES
Terminology: A Word of Caution

• Proponents often use the terms “risk” and “need” interchangeably, e.g., defining criminogenic needs as “those dynamic risk factors most associated with criminal behavior.”

• “Criminogenic needs are considered dynamic risk factors...” (NCSC, 2011).
Why the Confusion?

• **Familiar Words, Less-Familiar Meanings:**

  – **Risk** = Risk of Reoffending

  – **Need** = Criminogenic Needs

  – **Criminogenic Needs** = Factors thought to be *most* related to re-offending, which by and large conflict with treatment-court logic.
More Confusion?!

• “Holy Amalgamation, Batman! Risk/Need Factors!”

• Remember: Needs = Factors that have been shown (via research) to increase an individual’s risk to re-offend.

• Confusing? Yes! Tautological? No!
Risk Principle

#1: **Risk Principle**: Holds that the intensity of intervention should correspond to the offender’s level of recidivism risk (i.e., NOT the severity of the offender’s clinical needs):

- **High-Risk** = More Intensive Intervention
- **Low-risk** = Less Intensive Intervention
Risk Principle

“If one our correctional goals is to reduce offender recidivism then we need to ensure that we have a reliable way of differentiating low risk offenders from higher risk offenders in order to provide the appropriate level of treatment” (Andrews & Bonta, 2007).
What’s the Risk of Disregarding the Risk Principle?

• Best Case Scenario: Depletion of scarce resources.

• Worst Case Scenario: Increased risk of recidivism for previously low-risk offenders.
Need Principle

• #2: **Need Principle:** Effective interventions must target *particular* needs, so-called criminogenic needs, that are directly related to recidivism.
The “Big Four”

• “The ‘Big Four’ are proposed to be the major predictor variables and indeed the major causal variables in the analysis of criminal behavior of individuals” (Andrews & Bonta, 2010).

• Of the four, three are “dynamic” (changeable via intervention), so we’ll focus on those.

  – Criminal History is considered a major risk/need factor; alas, absent a time machine, there is little to be done to address this “static” risk factor.
Dynamic Risk/Need Factors

• Antisocial Personality Pattern:
  – “impulsive, adventurous pleasure-seeking, generalized trouble... restlessly aggressive, callous disregard for others.”

• Antisocial Cognition:
  – “attitudes, values, beliefs, rationalizations, and a personal identity that is favorable to crime.”

• Antisocial Associates:
  – “both association with procriminal others and relative isolation from anticriminal others.”
The “Moderate Four”

- Family/Marital Circumstances
- School/Work
- Leisure/Recreation
- Substance Abuse (Substance abuse? Did he say, “Moderate?!”)
What’s Missing?

• Untreated/improperly treated mental illness and trauma/victimization.

• “The minor risk/need factors (and less promising intermediate targets of change) include the following: personal/emotional distress, major mental disorder, physical health issues, fear of official punishment, social class of origin, seriousness of current offense, and other factors unrelated or only mildly related to offending” (Andrews & Bonta, 2010).
#3: **Responsivity Principle:** Intervention design should incorporate cognitive behavioral and social learning strategies and be responsive to the *specific* learning needs of offenders.
Eh?

• **Cognitions = Thoughts**

• **Proponents of CBT emphasize the relationship between:**
  - How we think and how we feel;
  - How we think and how we act.
Ok... Eh?

- Cognitive Social Learning Strategies include:
  - Respectful and collaborative, alliance-oriented approaches;
  - Teaching various techniques for identifying and managing the relationship between one’s thoughts and one’s actions, e.g., stop and think;
  - Modeling appropriate behavior (i.e., teaching pro-social behavior as an alternative to antisocial behavior);
  - Positive and negative reinforcement.
Risk-Need-Responsivity Model

CHALLENGES
A Promising Framework

Practitioners and researchers can in fact “agree in their *identification* of a paradigm without agreeing on, or even attempting to produce, a full *interpretation* or *rationalization* of it. Lack of a standard interpretation or an agreed reduction to rules will not prevent a paradigm from guiding research.”

“[W]hat EBP proposes requires some counterbalance and caution” (Sparrow, 2011).
And...

You can’t shop off the rack! Screening, interventions... anyone know a good tailor?
The Challenge: Broad Brush

- The evidence supporting the Risk-Need-Responsivity Model is based on research with felony offenders in correctional settings.

- When it comes to misdemeanor offenders, there is simply no evidence to suggest this model is effective – let alone intelligible.

- This model raises serious implementation issues for low-leverage cases.
The Challenge: Broad Brush

AND YET... It seems like every RFP demands the use of Evidence-Based Practices!
Transposing the Risk Principle

• At the end of the day, risk of re-offending is very much tied to concerns about public safety.

• In community courts, we often see populations that are very high-risk of re-offending BUT at a very low-level, i.e., low-level misdemeanors and violations.
Transposing the Risk Principle (Cont.)

- However, these populations are often very high-need with respect to social services and clinical presentation (but again, low-risk when it comes to committing crimes that seriously threaten public safety).

- A proponent of the risk principle might suggest less-intensive intervention or no intervention at all – even though untreated drug addiction, for example, will almost invariably lead to rearrests for possession.
Transposing the Risk Principle (Cont.)

• Is there even a clear and meaningful way to distinguish high- v. low-risk offenders for the purposes of offering intervention and determining its intensity?

• Even for low-level and low-risk offenders, a period of inpatient drug treatment is often necessary to kick a 30-year heroin habit... Is this too intensive for, say, a charge of criminal trespass or turnstile jumping?
Transposing the Need Principle

• As previously indicated, the “Big Four” criminogenic need profile is based on research conducted with felony offenders – we simply don’t know if these risk/need factors best predict re-offending on the misdemeanor level.

• When it comes to low-level and quality of life crime, it is quite plausible that substance use and mental illness are much more predictive of re-offending than, say, anti-social cognitions.
Transposing the Need Principle

- The dynamic criminogenic risk/need factors have – thus far – only been responsive to lengthy interventions, e.g., Thinking For a Change (T4C).

- Low-leverage cases preclude such lengthy mandates, let alone the typical paucity of staff resources.
Transposing the Responsivity Principle

• Community Courts are often limited to non-individualized interventions (e.g., not tailored to a participant’s specific learning needs).

• And again, these interventions are typically very short-term.

• **Note:** Not fatal flaws but formidable obstacles – requires sensitivity in the design phase.
Risk-Need-Responsivity Model

STRATEGIES
Innovate

• Community courts are ideal laboratories for testing new ideas.

• Effective Screening/Assessment? Experiment!

• Effective Short-Term Interventions? Experiment!
Program Evaluation

• There is a paucity of evidence regarding what actually works for misdemeanor offenders – we need community court practitioners to develop and implement evidence-generating practices.

• This requires the early and active involvement of evaluators/researchers!
Embrace Trial & Error

• Evidence-generating practices are incredibly useful even if the outcomes are disappointing.

• “Without a willingness to try new ideas and risk failure, it is impossible to imagine how we are ever going to challenge conventional wisdom or address our most difficult social problems” (Berman & Fox, 2010).