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Implementing Effective, Victim-Centered Practices and Policies Regarding Sexual Offending

Colorado Sex Offender Management Board

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Board

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<http://dcj.somb.state.co.us/>

Disclaimer

- This presentation was designed using person-first language where possible
- The term “sex offender management” is used given its connection to and acceptance in a field of study

History of Sex Offender Management

History of Sex Offender Management

1930s – Sexual Psychopath Laws

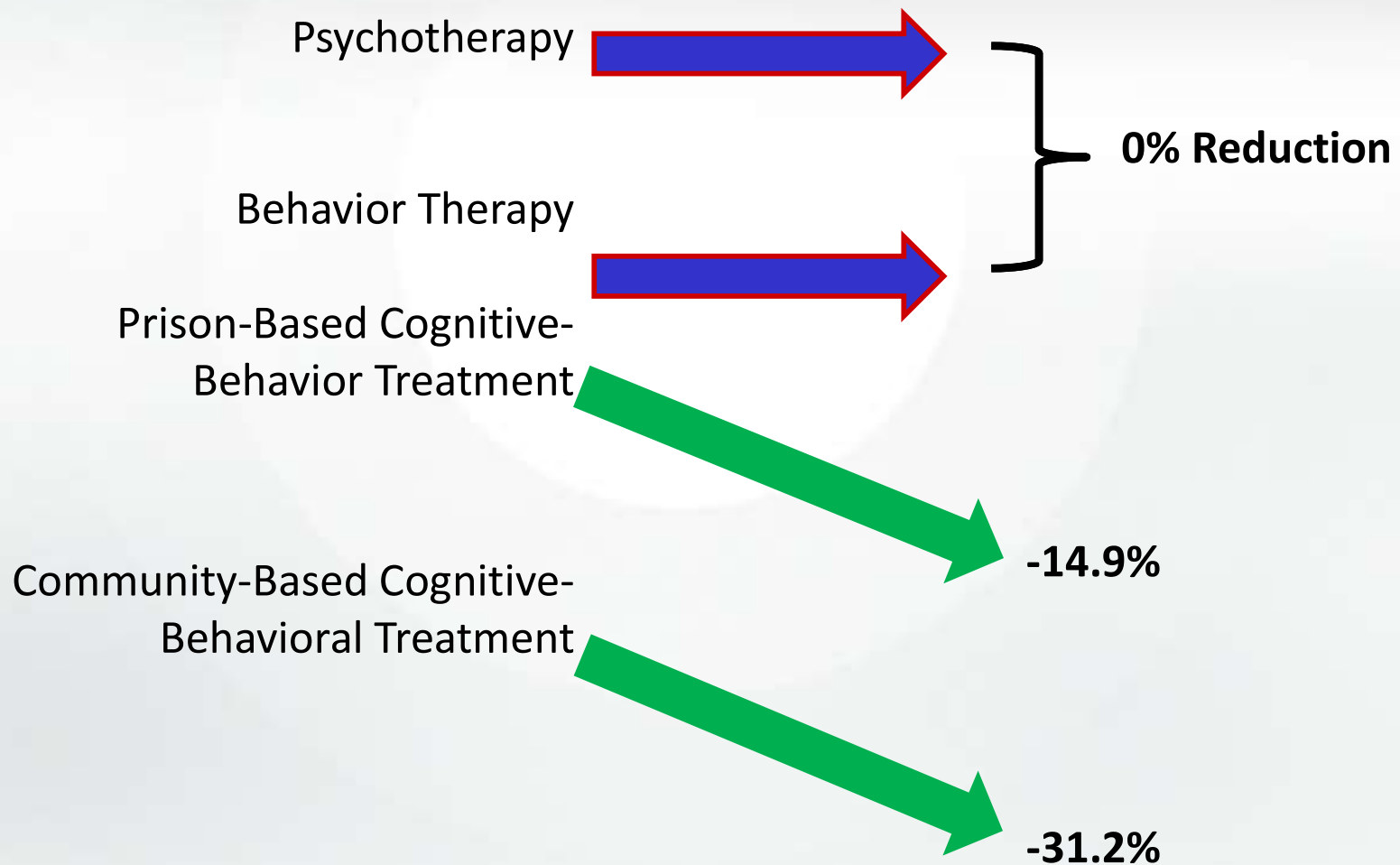
- Confine high-risk individuals who committed sexual offenses to an institution
- Provide general psychotherapy of the day
- Release back into the community with no criminal justice intervention or supervision
- Many states passed similar laws
- Laws ultimately abolished due to skepticism about effectiveness of treatment

Lieb & Matson (1998)

Research

- Before sexual psychopath laws were passed
 - None

Research After Laws Repealed: Does Treatment Work? What type?



History of **Sex Offender Management**



1960s-70s – Criminal Justice Model

- Manage dangerous individuals convicted of sexual offenses
- Incarcerate and/or community supervision
- May or may not have included treatment, and certainly not specialized treatment

Research

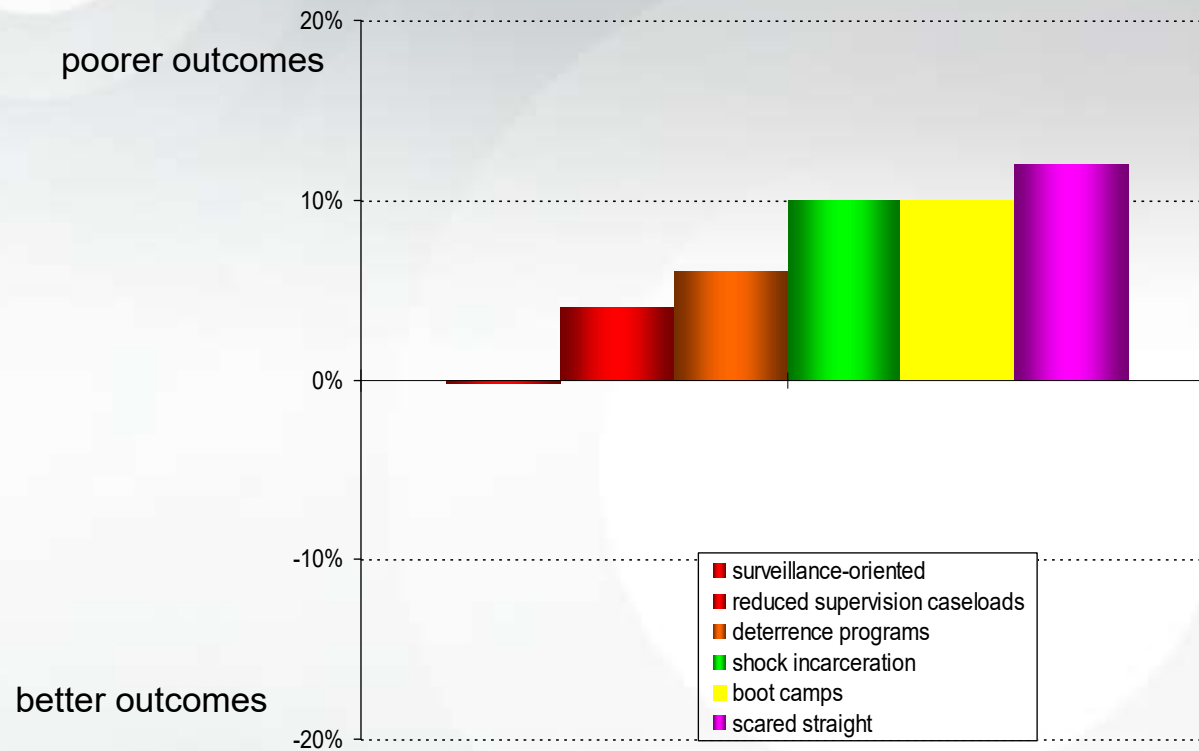
- Before criminal justice model
 - None



“Nothing works!” –

Robert Martinson (1974)

Research After: Effectiveness of “Get Tough” Strategies



Aos et al., 2001; Lipsey & Wilson, 1998

History of Sex Offender Management

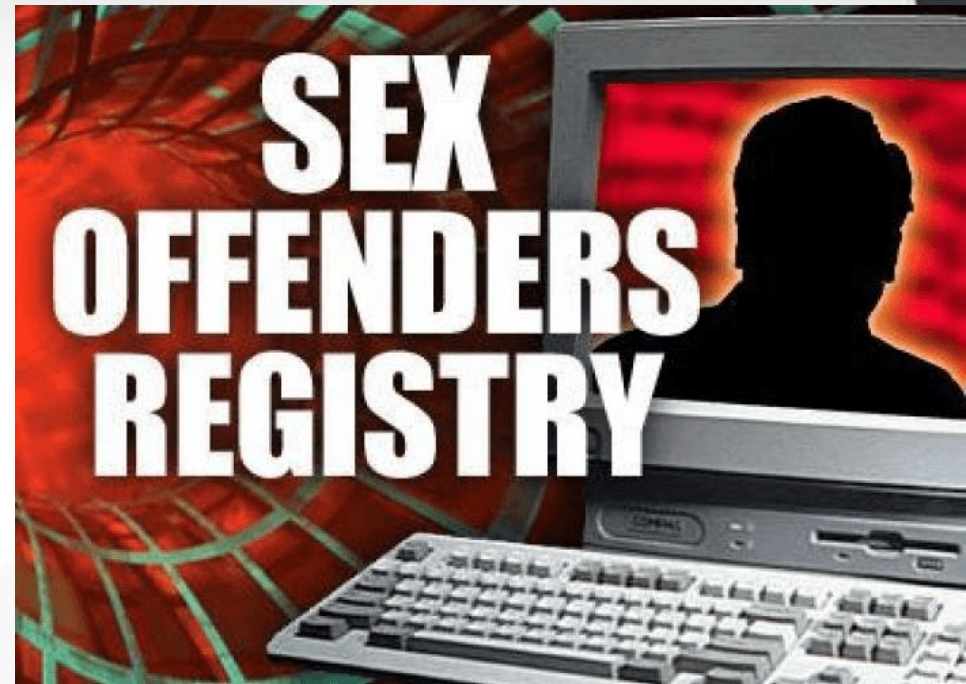


1994-2006 – Victim-Inspired Sex Offender Registration and Notification (SORN) Legislation

- 1994 – Jacob Wetterling Act
- 1996 – Megan's Law
- 1996 – Pam Lychner Act
- 2006 – Adam Walsh Act

State Implementation of SORN

- **1947 – California**
first state to implement a sex offender registry
- **1990 – Washington**
first state to implement community notification
- All 50 states, 5 U.S. Territories, and 135 tribal jurisdictions have SORN systems

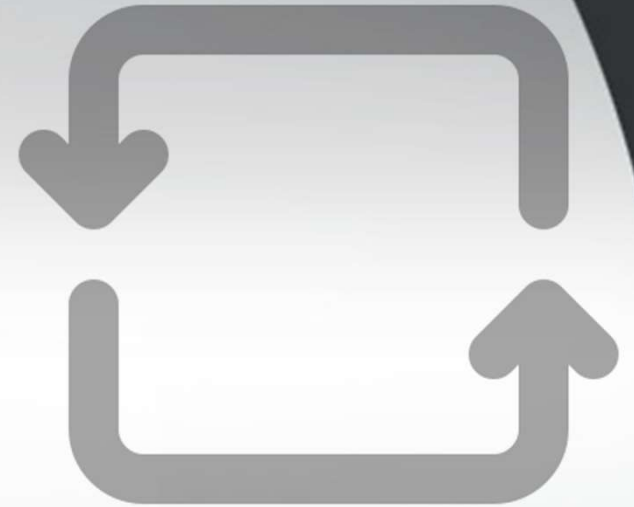


Research

- Before SORN laws
 - None

Research After: Traditional SORN Research

- Does not deter sexual offending
- Does not deter sexual offense recidivism for registrants
- Leads to unintended negative impacts on the registrants and their families
- Registrants are unlikely to recidivate with a new sexual offense anyway



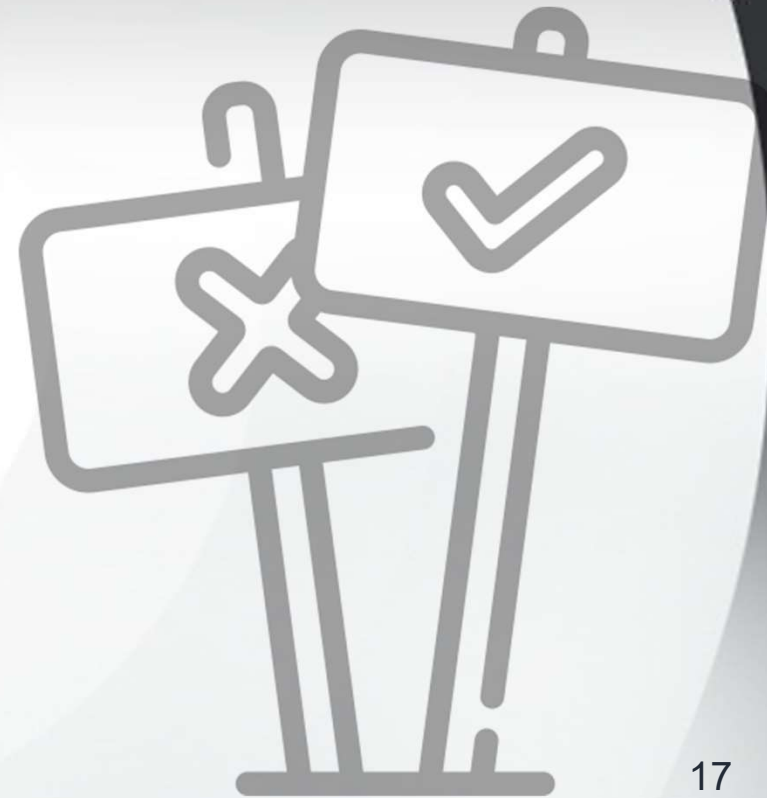
Does It Work? To Do What?

- Purpose of SORN
- Does it benefit law enforcement in criminal investigation?
- Does it help the public to take safety precautions and keep their families safe from registrants?
- Research needs to be focused on intended goal



SORN Research Regarding the Goal

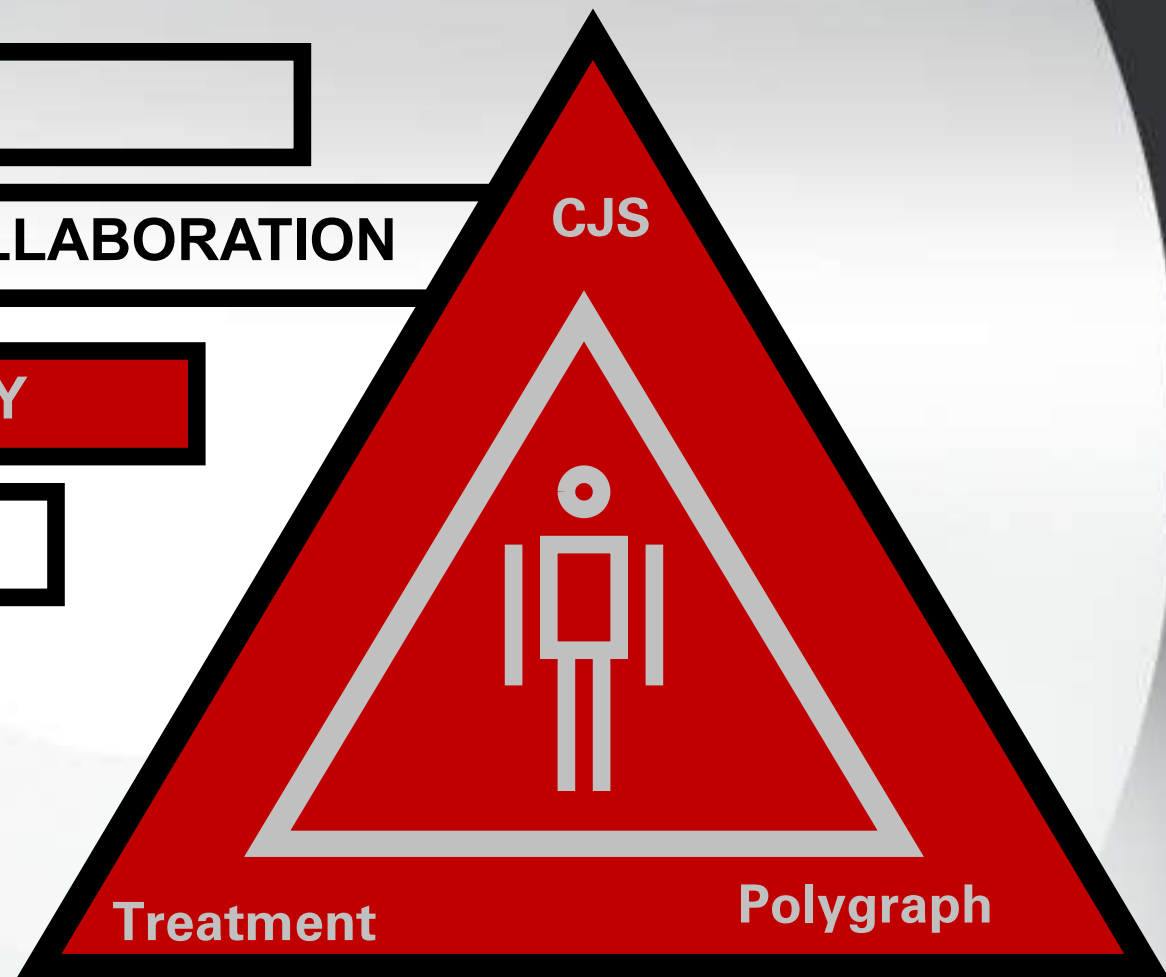
- Law enforcement sees SORN as an effective tool for criminal investigation
- Registry use decreases time to sex crime suspect arrest
- Registry information is used to screen potential applicants
- Registry is not meant to be a supervision tool or change registrant behavior



Biere & Budd, 2020; Harris, Kras, Lobanov-Rostovsky, & Ann, 2020; Harris, Lobanov-Rostovsky, & Levenson, 2015

Containment Approach has **5** Components

- 1 VICTIM ORIENTATION
- 2 MULTIDISCIPLINARY COLLABORATION
- 3 **CONTAINMENT STRATEGY**
- 4 INFORMED POLICY
- 5 QUALITY CONTROL



Research

- Before development of the Containment Approach
 - Evidence-derived model
 - Observed effective sex offender management programs
 - Identified common themes
 - First example of how practice and policy should be developed

Research After: Containment Research

Colorado Division of Criminal Justice followed
about 3,000 sex offenders released from prison
for 8+ years

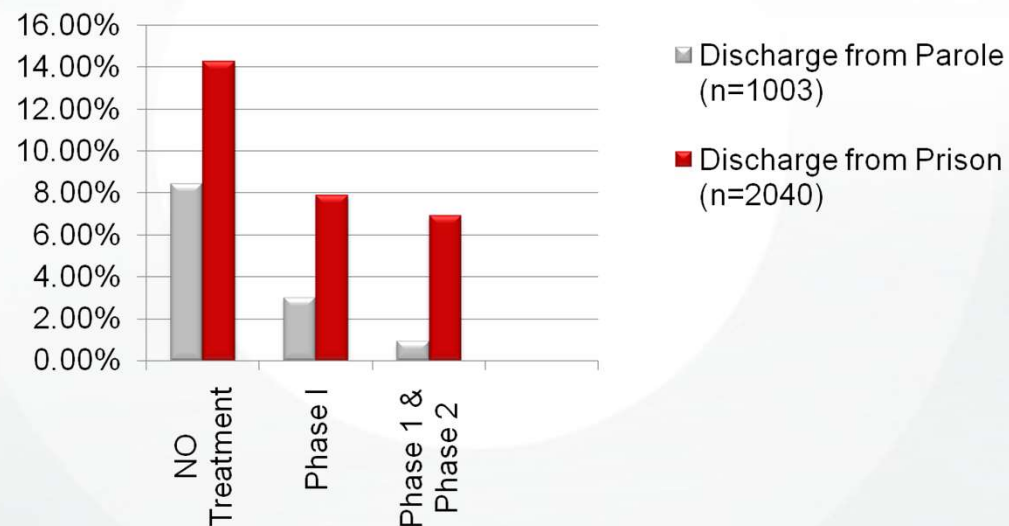
Treatment v. No Treatment

**Parole (w/Containment) v.
Discharge**

Lowden et al., 2003)

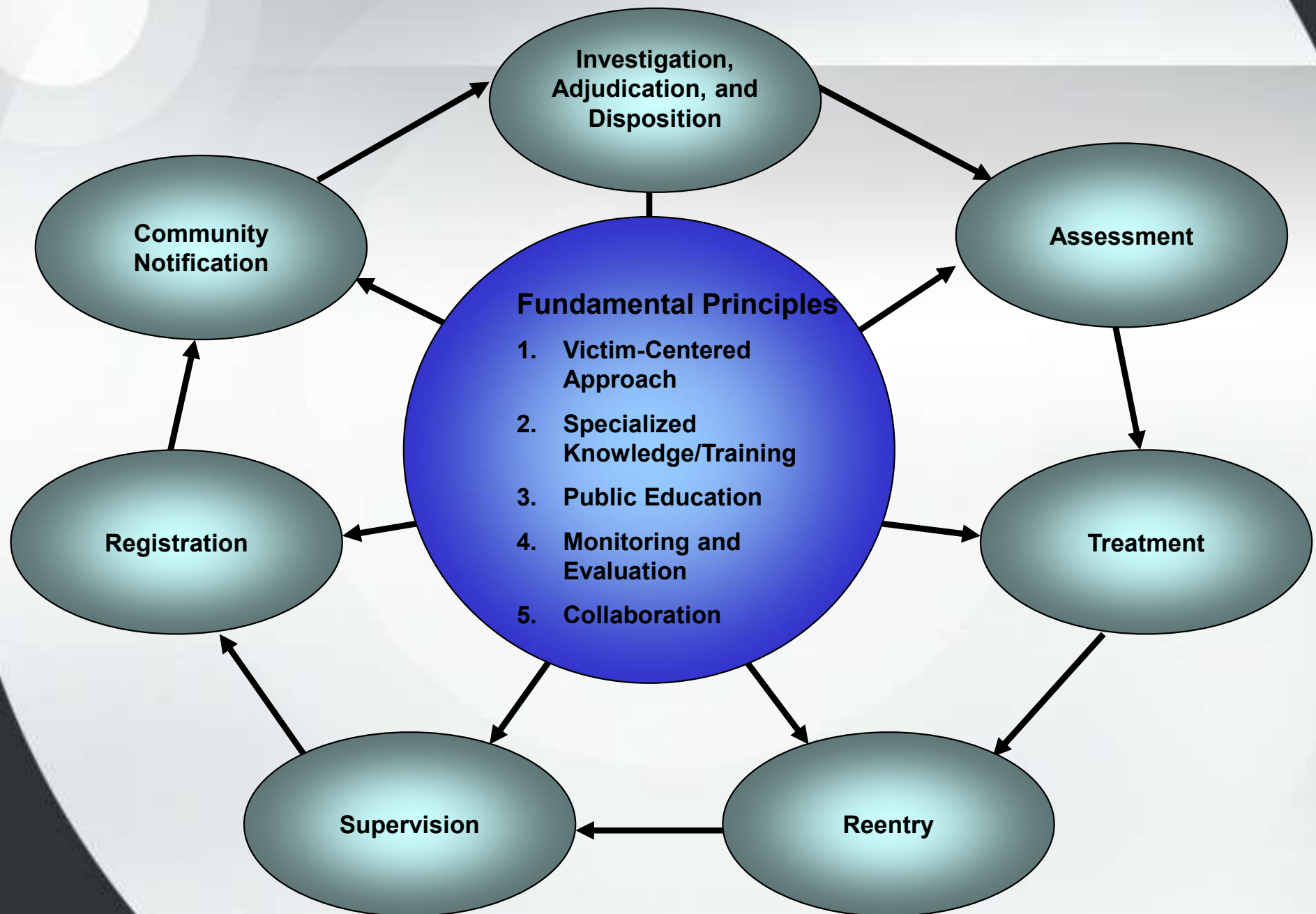
Violent Re-Arrest Rates

1 Year Recidivism Rates of 3,043 Sex Offenders Released from DOC



Lowden et al., 2003

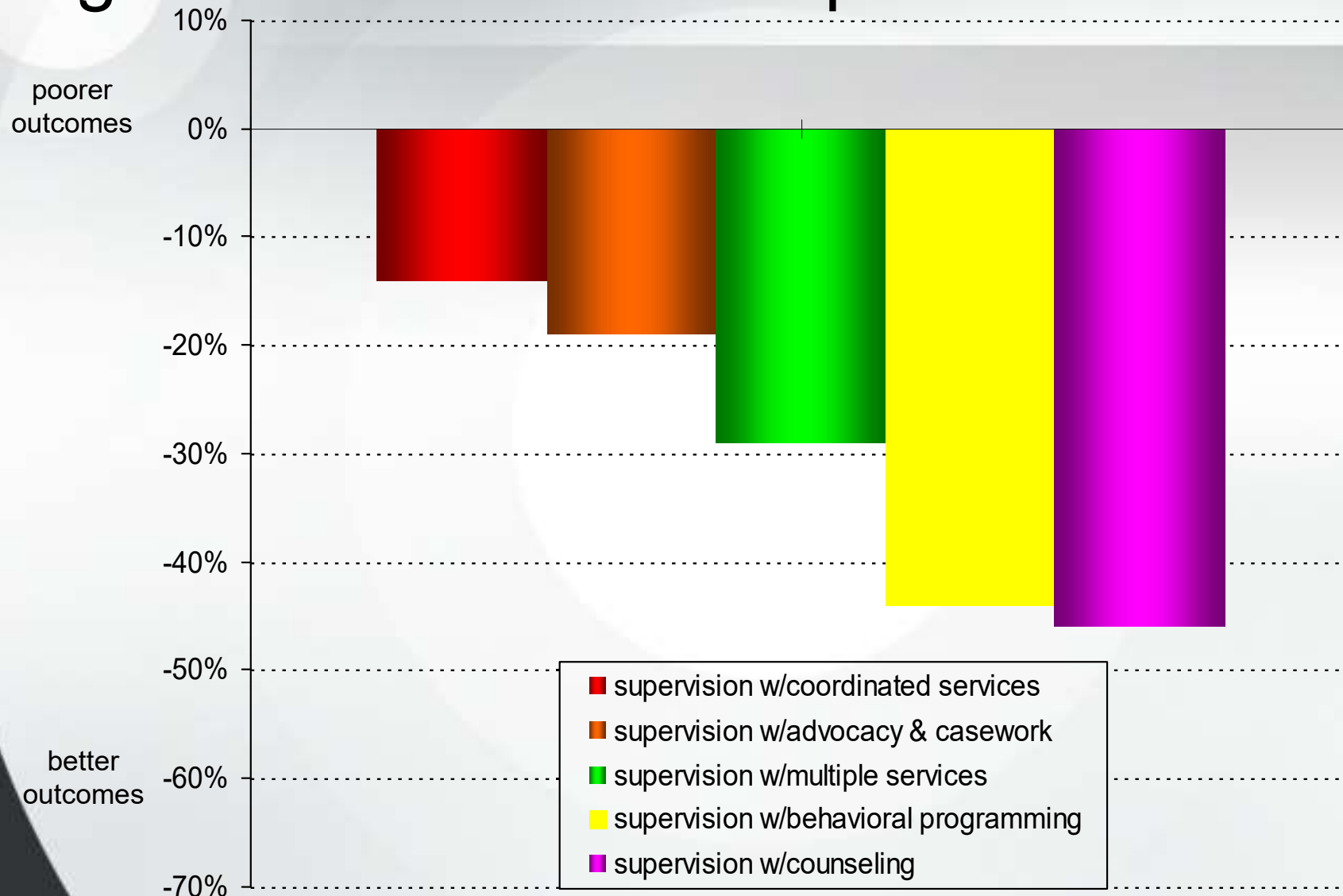
Defining the Comprehensive Approach to Sex Offender Management



Research

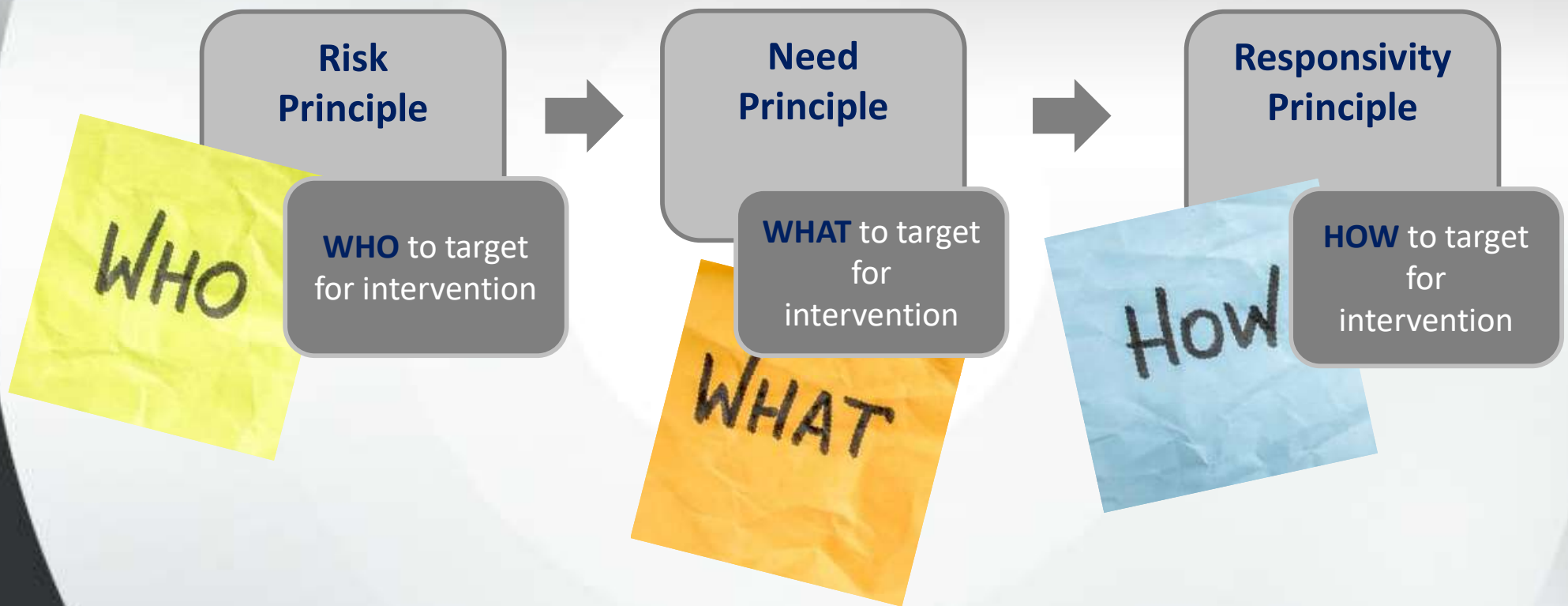
- Before development of the Comprehensive Approach
 - Adaptation based on Containment Approach
 - Attempted to address gaps in existing model
 - Good example of how to take existing practice and policy, and further modify it based on new information

Research After: Effectiveness of Integrated Treatment & Supervision Strategies



Aos et al., 2001; Lipsey & Wilson, 1998

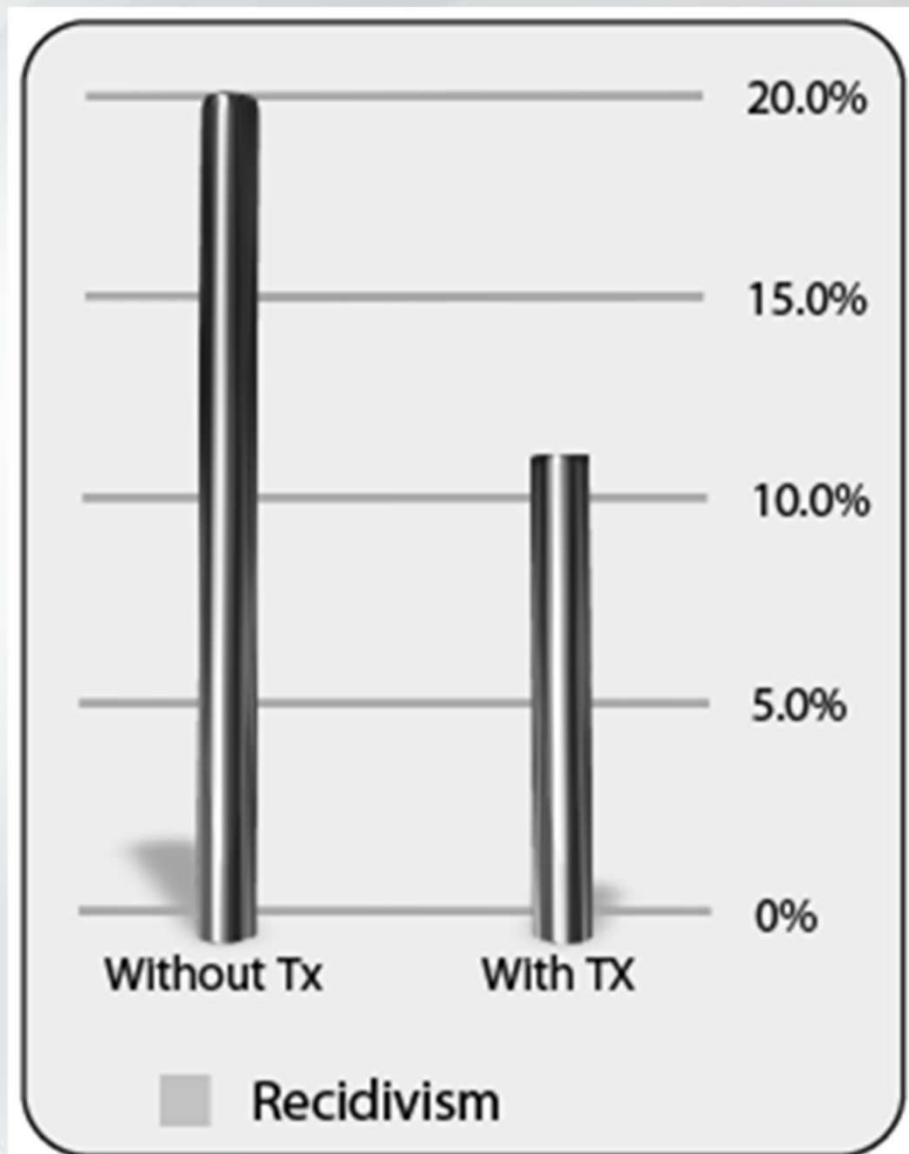
Principles of RNR Model



Research

- Before application of the RNR Principles to the sexual offending population
 - Research available on the general offenders (non-sex offense specific)
 - Hypothesized that the principles would similarly apply to persons who commit sexual offenses
 - Good example of how to take existing practice and policy, and apply it to a specialized population

Research After: RNR Research Regarding Sexual Offending



Hanson et al., 2009

Contemporary Sex Offender Management **Policies and Practices**



- I. Residence/Zoning Restrictions
- II. Civil Commitment/Indeterminate Sentencing (Lifetime Supervision)
- III. Electronic Monitoring (Global Positioning)

Do These Work?

No research support to date.
We will revisit some of these later.

How Sex Offender Management Policy and Practice is Enacted

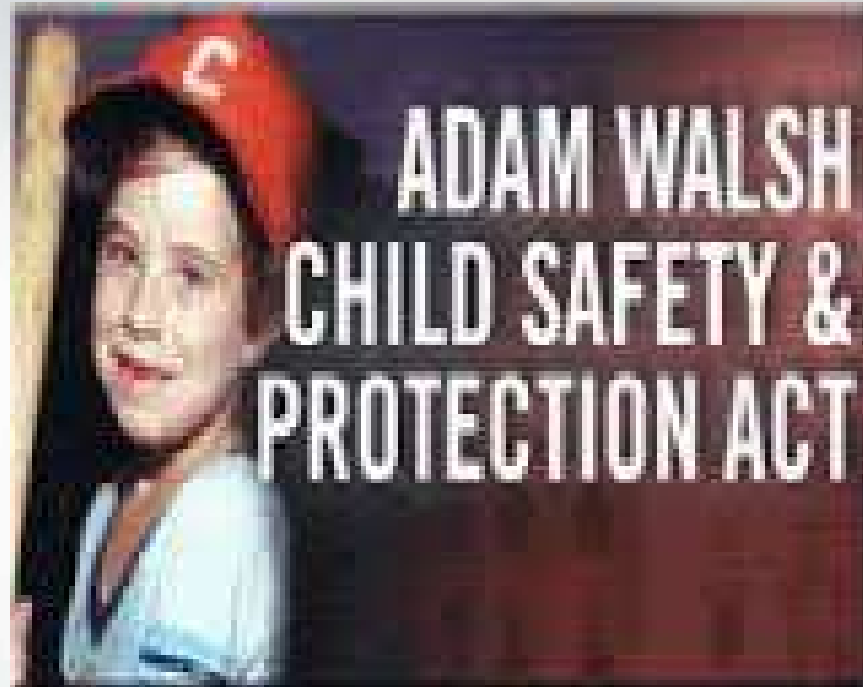
What did you notice from the history?

- Policy and practice developed in the absence of research
- Other jurisdictions follow suit without more fully investigating it
- Doing research is not at the top of the list
- Once research is available to question its effectiveness, it's hard to eliminate

An Alternative Strategy: Evidence Generating Policies

- Policy changes as experimental
 - Pre- and post-policy data
- Innovate and then study
- Pilot projects
- Staggered implementation over time
- Sunset provisions

So How is Sex Offender Management Policy Developed?

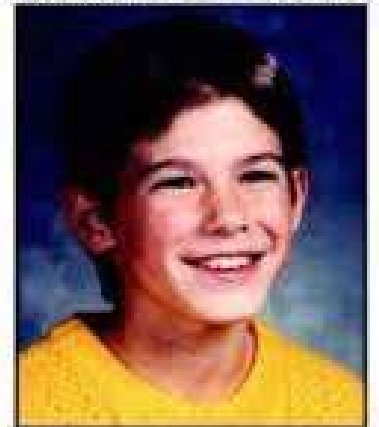


Victims of Kidnapping,
Sexual Assault and
Murder



Megan Kanka
1987-1994

MISSING PERSON



Jacob Wetterling
11 Year Old White Male

Jacob Wetterling was abducted from rural St. Joseph, MN on Sunday Oct. 22nd, 1989. The victim had been riding his bike home with two other children after renting a movie at a local convenience store around 9:00 p.m.

Victim Inspired Legislation: **Why?**

- Study **Results**: People More Compassionate When Told of A Specific Victim (Rokia)
- When Statistics Added, Compassion and Giving Decreased
- Conclusion: “Calculative Thought Lessens the Appeal of an Identifiable Victim.”

Small et al., 2007





The Public Reacts

Understandably so



The Media fuels the fire

Politicians Quote the “Science”

“There is a 90% likelihood of
recidivism for sexual crimes
against children. 90%.

That is the Standard.

That is their record.

That is the likelihood. 90%.”

*Former Rep. Mark Foley (R-FL)
Congressional Record, Vol. 151*



Summary On Developing Sex Offender Management Policy

- Individual cases drive decision-making more than research
- These cases may be outliers to the larger population needing to be addressed by the policy and practice
- The news cycle may drive snap decisions
- Political expedience often wins out over thoughtful review


**So, What Does Work
Regarding Sexual Offending?**

Where Are We as A Field?

- Validated risk assessment instruments
- Specialized treatment
- Risk management through specialized supervision with terms and conditions tailored to the individual
- Continuum of treatment/supervision options
- Multidisciplinary collaboration
- Collaboration between victim advocates and those working with the person who offended
- Importance of prosocial support and development of protective factors

Limitations

- What works for who?
 - Community interests
 - Persons who are victimized interests
 - Persons who offend interests
- Do these account for the individualized needs of both those who have offended and those who are victimized?
 - What are their interests?
- Do risk management strategies allow for, or inhibit, development of protective factors?

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A New Approach: Harm Prevention

Something Borrowed, Again...

From Substance Use Disorder Treatment

- 1980s-90s – Relapse prevention approach
 - Not used as much with offending populations any more
 - Problems with identifying lapse behavior and motivation for behavior recurrence

Current Thinking in Substance Use Disorder Treatment

- Harm reduction

- “Harm reduction is an approach that emphasizes engaging directly with people who use drugs to prevent overdose and infectious disease transmission, improve the physical, mental, and social wellbeing of those served, and offer low-threshold options for accessing substance use disorder treatment and other health care services.”
- “Harm reduction is an important part of the...comprehensive approach to addressing substance use disorders through prevention, treatment, and recovery where individuals who use substances set their own goals... Harm reduction works by addressing broader health and social issues through improved policies, programs, and practices.”

Harm Reduction

- Strengths and weaknesses of applying harm reduction to sexual offending
 - Can we talk about harm reduction regarding sexual offending?
 - Can we tolerate victimization in a strategy?
 - Goal of no more victims

A Modified Approach: Harm Prevention

- Harm - cause hurt, injury, or damage to someone or something
- Prevention - the action of stopping something from happening or arising.

Harm Prevention

- Sexual offending requires a different approach, as we learned from relapse prevention and lapses
- Reducing harm is still tolerating harm, which we cannot do with sexual offending
- Whose harm are we considering
- Are we only concerned about those who are victimized and community safety?
- Are we at all interested in offender interests, beyond the contribution to recidivism reduction?

Harm Prevention

- Can we balance out the three different interests?
 - Those who offend
 - Those who are victimized
 - Community
- These interests are sometimes in conflict with each other
- How do we weigh out these competing interests?
- Are any interests more important than others?

Maslow's Hierarchy of Needs

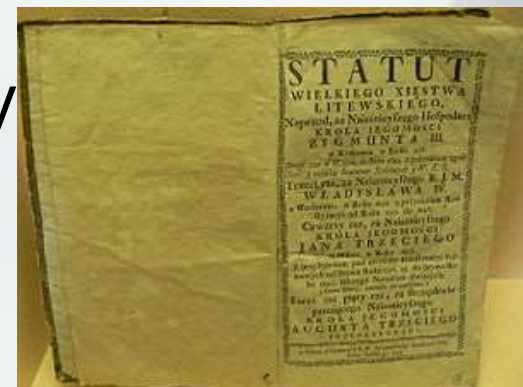


Sexual Offending Management Practices and Policies

- Do they allow us to meet each group's basic needs?
- Are the only needs recidivism prevention?
- What if they cause loss of housing, employment, resources, and prosocial support? Does that matter?
- Devote the majority of resources to sex offender management. What about meeting the needs of those who are victimized?

Colorado SOMB Enabling Statute – 16-11.7-101 C.R.S.

The board shall develop, prescribe, and revise, as appropriate, a standard procedure to evaluate and identify adult sex offenders...recommend management, monitoring, and treatment based upon existing research and shall incorporate the concepts of the risk-need-responsivity or another evidence-based correctional model... The board shall develop and implement methods of intervention for adult sex offenders, which methods have as a priority the physical and psychological safety of victims and potential victims...”



SOMB Original Guiding Principles

3. Community safety is paramount.

The highest priority of these standards and guidelines is community safety.

New SOMB Guiding Principles



- 1. The highest priority of these Standards and Guidelines is to maximize community safety through the effective delivery of quality evaluation, treatment and management of sex offenders.
- 3. Community safety and the rights and interests of victims and their families, as well as potential victims, require paramount attention when developing and implementing assessment, treatment and management of sex offenders.

Ethical Responsibilities of Sex Offender Management Professionals

- To support and assist our clients
- Who are our clients if we treat persons who commit sexual offenses?
- Can we put community safety or persons' who were victimized by our client interests above our client's interests?

Clinicians Working with Clients Who Have Sexually Offended

- Truly able to be victim centered?
- Who is your client?
- Whose interests are we ethically required to consider?
- Can we truly separate our client's interests from those of the person who has been victimized?

Intersection of The Interests of
Those Who Commit Sexual
Offenses, Those Who Are
Victimized, and the Community

Interests of Historical Sex Offender Management Practices and Policies

- Community – keep them safe from offending behavior
 - Primary prevention
 - Community education and notification
- Offenders – provide them with rehabilitation options
 - Secondary/tertiary prevention
- Victims – what are their interests?
 - What type of prevention? From what?

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Let's Talk About How We Attempt to Meet Victim Interests: Victim Centeredness

What is victim centeredness?

- Meeting the needs of those who are victimized as part of sex offender management
- Considering the interests of those who are victimized in decision-making related to sex offender management
- Making clinical and case management decisions based on the protection of those who have been or are at risk of being victimized
- Others?

Implementing A Victim-Centered Approach to Sex Offender Management

Setting the Framework - Collaboration

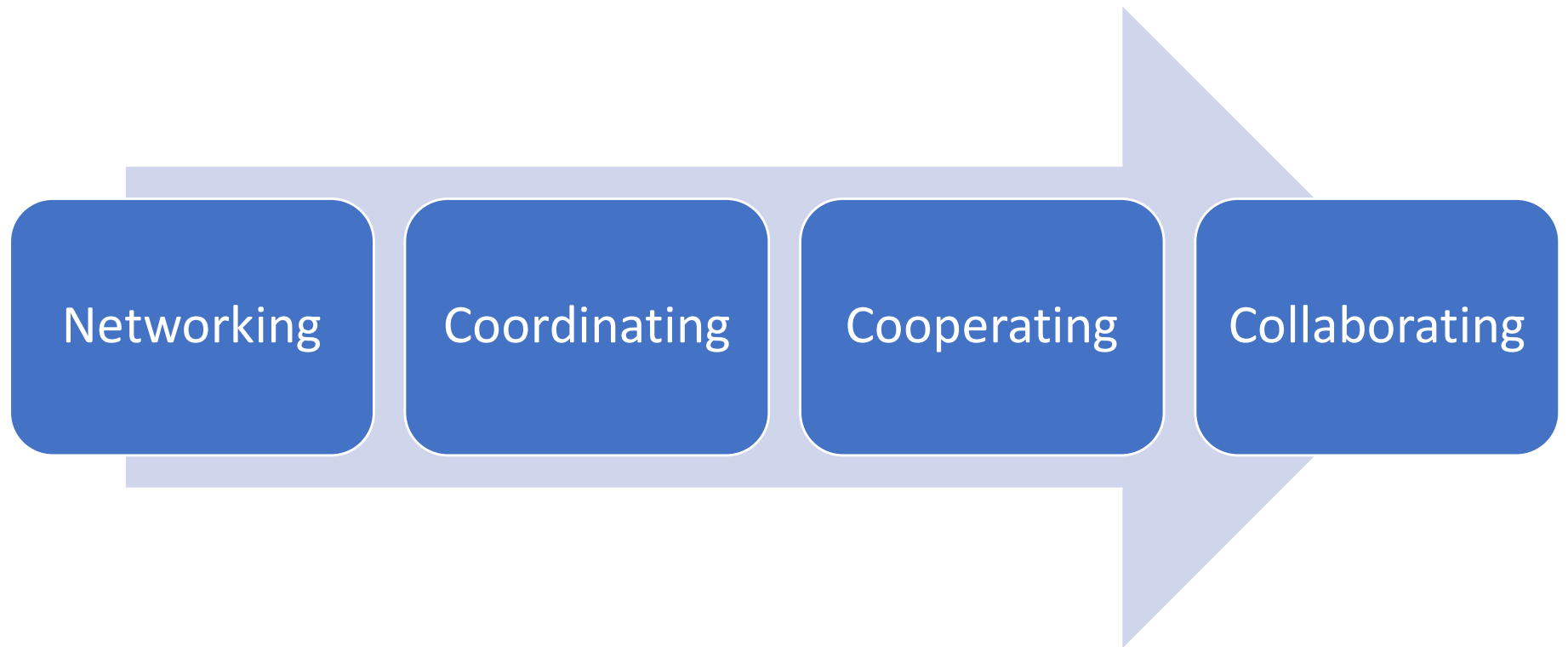
1. First Definition:

- *the action of working with someone to produce or create something.*

2. Second Definition:

- *traitorous cooperation with an enemy.*

Setting the Framework — Himmelman

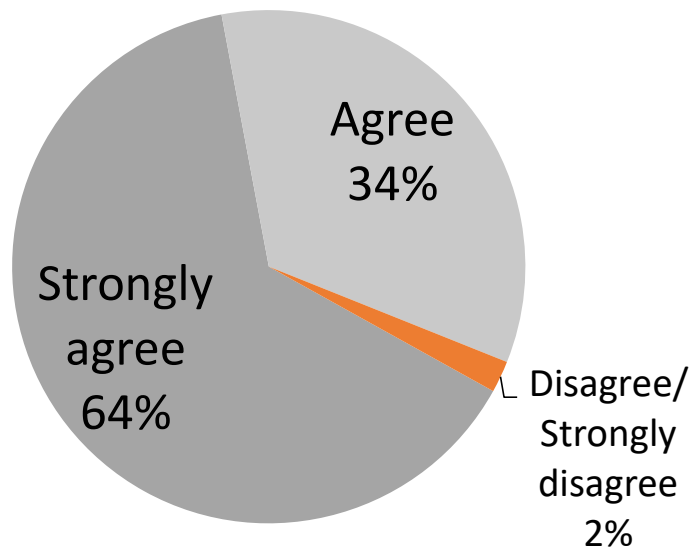


2014 OVW-Funded Project

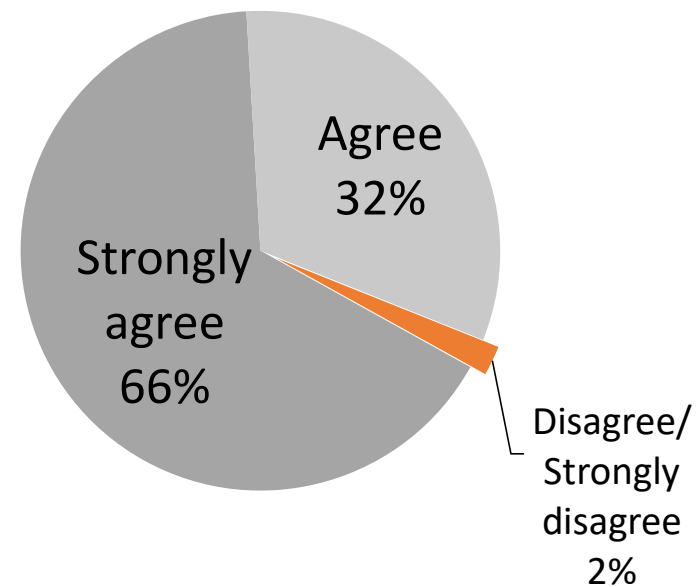


“Victim Advocates and Sex Offender Management Professionals Should Collaborate More to Enhance Victim-Centered Responses to cases involving sexual violence”

Victim Advocates

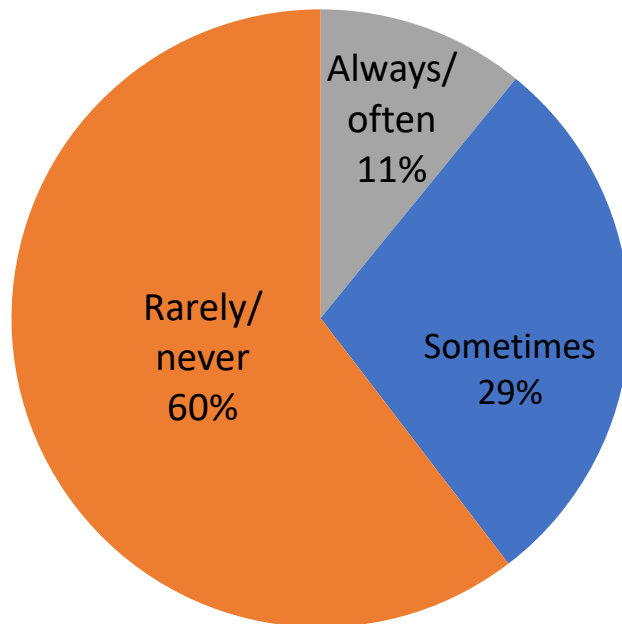


Sex Offender Treatment Providers

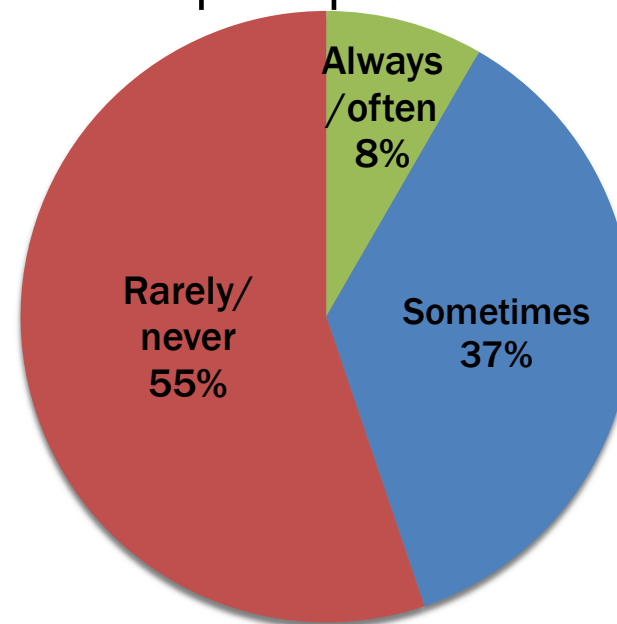


“How often does collaboration between victim advocates and sex offender management professionals occur in your community?”

Victim advocates’
perceptions



Sex offender
treatment
providers’
perceptions



Barriers to Collaboration

- Lack of Interaction
- Workloads
- Lack of Role Clarity
- Perceived competing interests
- No common vision
- Professional mistrust
- Terminology
- Competition for resources

Collaboration-Supportive Factors

- Respect Perspectives
- Shared Vision
- Understand Roles
- Mutual Trust
- Identify opportunities
- Address Conflicts
- Cross-Trainings
- History of collaborating
- Meeting routinely

Victim Centeredness Best Practice

- Include victim representatives on multidisciplinary teams working with an individual who has offended
- Connecticut model
 - Thanks for the work of Gail Burns Smith and David D'Amora
 - Embed victim representatives in individual probation departments
 - Provide case level input
 - Provide information those who are victimized if requested

How do you balance out interests on a Multidisciplinary Team?

- Mutual disclosure of information and how much information
- Duty to warn and protect
- Discuss who is benefitting from the information and how
- Limitations

**One Sex Offender Management
Strategy that Appears to Balance Out
Interests Fairly Well**

Circles of Support and Accountability (COSA)



- 1994 - Developed in Canada through the Mennonite Church
- Volunteer and Professional Support Systems for Sex Offender Reentry
- Currently Being Used in Canada, the UK, and the USA (Including Colorado)

Circles of Support Research (Toronto)

N=60 COSA High Risk Sex Offenders

Comparison=60 Matched Non-COSA

High Risk Sex Offenders

Measure: Sexual Recidivism

Follow-Up Period: 4.5 Years

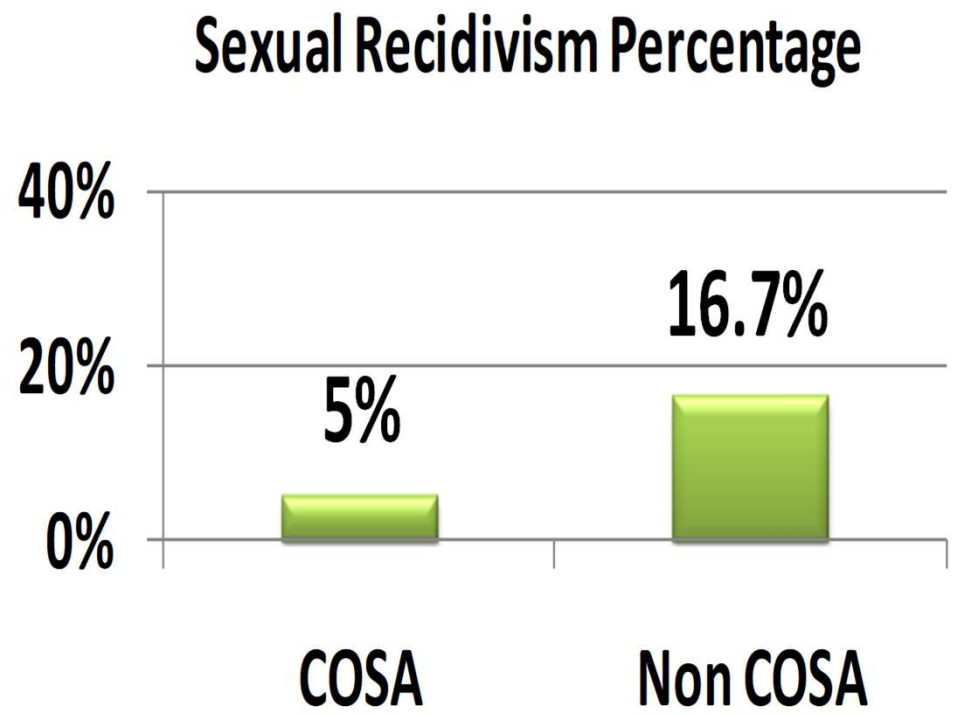
Results:

Statistically Significant

Decrease

11.7% Decrease

70% Reduction



Minnesota CoSA

- First US CoSA outcome study
- Statistically elegant design (RCT)
- 31 CoSA vs. 31 Control
- Significant reductions in hazard ratios noted for 3 of 5 outcome indicators
 - 62% fewer rearrests, 72% fewer technical violation revocations, and 84% fewer “any reincarceration”
- Follow-up times still too short to show differences in sexual reoffending
- Cost-Benefit Analysis = \$1.82 return on investment

Discussion Question:

How Does COSA Meet Interests?

- Community
- Person who offended
- Person who was victimized

COSA Interests

- Community – involved in holding the individual who committed the sexual offense accountable
- Individual who committed the sexual offense – community support and resources available
- Individual who was victimized – can participate to the extent they want to, and meets need of accountability and prevention

Recommendations

Recommendations

- Adopt a harm prevention approach to work regarding developing sex offender management practice and policy
- Consider all interests and perspectives
- Framework for decision-making
 - Balance of interests
 - Weighing out benefits and costs
 - It may not work for everything
 - Some things may take precedence (community and victim danger) and should not be ignored

Let's review popular sex offender management policies through a harm-prevention lens

- Consider interests
 - Community
 - Those who offend
 - Those who are victimized
- Determine optimal level of interests for each
 - Note, interests can include absence of negative impact as well (e.g., a policy that leads to homelessness for those who offend, or lack of safety for those who are victimized)

Discussion Question:

Sex Offender Registration and Notification Interests

- Community
- Person who offended
- Person who was victimized

Discussion Question: Residence Restrictions Interests

- Residence restrictions research is pretty clear that it does not prevent recidivism

Lobanov-Rostovsky, 2017

- Community
- Person who offended
- Person who was victimized

Discussion Question: Good Lives Treatment Approach Interests

- Research suggests that consideration of protective factors is beneficial to the person who offended and reduces recidivism

Heffernan & Ward, 2019

- Community
- Person who offended
- Person who was victimized

Person First Language Interests

- Research suggests benefits in terms of outcomes for those who were previously labeled as delinquent, felon, mentally ill, and learning disabled
- Negative perception of community based on the use of the label “sex offender”
 - Can lead to adverse outcomes

Blais & Forth, 2014; Chiricos, Barrick, Bales, & Bontrager, 2007; Harris & Socia, 2014; Lowe & Willis, 2020; Shifrer, 2013; Szeto, Luong, & Dobson, 2014

Discussion Question:

Person First Language Interests

- Community
- Person who offended
- Person was victimized

Restorative Justice and Victim Clarification Treatment Work

- Blog: The role of restorative justice in the field of sexual offending.
 - McCartan, Gavin, Porter, & Kite, 2022
- Victim clarification routinely used as part of family reunification process
- Historical models
 - Victim restitution model – Jan Hindman
 - Family systems apology model – Madanes, 1990

Restorative Justice Research

- Support in general criminal cases, particularly juveniles
- Limited research regarding sexual offending
- Professional perspectives on benefits
- Victim interests/satisfaction
 - Offender accountability
 - Express impact
 - Prevention future offending
- Offender interests
 - Empathy
 - Family reunification

DeMaio, Davis, & Smith, 2006; Harper, 2012; Julich, Buttle, Cummins, Freeborn, 2010; Koss, 2014; Paige & Thornton, 2015; Silva, 2022; Strang, Sherman, Mayo-Wilson, Woods, & Ariel, 2013

Discussion Question:

Restorative Justice Interests

- Community
- Person who offended
- Person who was victimized

Polygraph and Sexual History Disclosure Interests

- Research suggests that polygraph can support sexual offense history and risk behavior disclosure
- Research is mixed on whether it reduces likelihood of recidivism (*Lobanov-Rostovsky, 2017*)
- Community
- Person who offended
- Person was victimized

Summary and Questions

- Harm prevention approach allows for a broader consideration of sex offender management policy
- Challenges with implementation
- There may be other interests to consider
- Would this calculus also work for case level decisions