



THE CRIME AND JUSTICE INSTITUTE AT COMMUNITY RESOURCES FOR JUSTICE

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WEDNESDAY SERIES II: APRIL 14, 2010

EVIDENCE-BASED PRACTICES TO REDUCE RECIDIVISM: IMPLICATIONS FOR STATE JUDICIARIES

FREQUENTLY ASKED QUESTIONS

We were unable to respond to all audience questions during the webinar due to time constraint. The Crime and Justice Institute (CJI) at Community Resources for Justice (CRJ) is pleased to post responses to those questions in this document. These responses have been provided by the Wednesday Series II panelists as well as representatives of CJI.

Please visit <http://cjinstitute.org/projects/webinars/seriesII> for the audio and visual recording of the webinar.

Q: **I know it's difficult to accomplish in the short amount of time available, but I'd like to see more details on "how they got there". I'm aware of collaborating with the stakeholders, but I'm not sure about is how to motivate them to work together. We're not there yet. How did they get everyone to the table? How did they deal with the resistance? Were strategic plans developed? Project management people brought in?**

A: ***Chief Justice Christine Durham, Utah Supreme Court***

My state is in the process of building consensus and doing stakeholder education. The original impetus came from a group of trial judges who have seen the positive impact of problem-solving courts on recidivism and who are frustrated with the narrow range of sentencing options in our mixed mandatory minimum/indeterminate sentencing scheme. They secured grant monies to conduct a one-day, statewide conference, to which they invited legislative staff, corrections and probation officials and workers, judges, law enforcement, prosecutors, Sentencing Commission members, local political and policy people, and others. National experts presented the research and emphasized the human and economic costs of the current system.

After the conference, our Sentencing Commission and courts have formed a partnership to advance this effort. At present, they are dealing with some "push-back" from Adult Probation and Parole, which they will work through. We see this as a project whose time has come, but expect that patience will be required to persuade some of the other players in the criminal justice system. The judicial leadership involved has made significant inroads in getting people's attention and, as Chief Justice, I have offered to do whatever I can to help with that.

A: ***Chairman Catherine McVey, Pennsylvania Board of Probation and Parole***

Despite the substantial efforts that the PBPP has made, the agency is "on its way there" as opposed to "having gotten there." Implementing Evidence Based Practices is no small task and requires most agencies to engage in planning that includes an examination of every single process. This often leads to the implementation of new practices and at least minor altering of existing practices. Moreover, the very nature of EBP requires agencies to continuously adapt practices according to emerging correctional research and ongoing internal evaluation. As such, even the most advanced EBP agencies consider implementation of EBP an ongoing process.

The strategic plan to move the PBPP toward greater adherence to EBP included creating the Bureau of Offender Reentry Coordination to carry out new initiatives focused on improving offender reentry and utilizing a more evidence based approach to supervision. This bureau works directly with the DOC and PBPP institutional and field staff to develop policies and procedures that are both practical and consistent with EBP. One such change involved the creation of specialized agents: the Transitional Coordinators who supervise offenders during the critical early release periods to assure that appropriate, stabilizing interventions are in place; and the Assessment, Sanctioning and Community Resource Agents who do not carry caseloads so that they can focus on developing resources (both internal and in the community) needed for case management. As training is an important feature of EBP implementation, the bureau also conducts and/or coordinates agency training sessions to advance the skills needed to engage in evidence based supervision. These sessions are conducted by either in-house staff or external experts such as Mark Carey, Michael Clark, David Simourd, or William Burrell. Other experts such as Peggy Burke, James Austin, and Richard Berk were hired to serve as consultants for specific applications of EBP (IE: decisional instruments, risk/need assessment, violation sanctioning, etc.). The Center for Effective Public Policy was instrumental in providing both initial training and ongoing technical support.

Collaborating with external stakeholders is also an important part of any strategic plan. Early on in the process, the PBPP was fortunate to have the backing of the Governor's Task Force on Offender Reentry which is a multi-disciplinary group comprised of state agencies, including the Board, that examine offender reentry issues from a statewide perspective. Establishing the Governor's Task Force was an important first step that placed reentry at the forefront of correctional planning. This group is influential in promoting positive reentry initiatives and directing resources to areas of need. The task force also suggests legislation to address identified programmatic gaps (funding for education and vocation programs, substance abuse counseling and mental health treatment), and assists in further developing criminal justice and social policies by collaborating with federal agencies that oversee reentry initiatives. The PBPP has sought opportunities to educate stakeholders on topics in reentry, EBP, and parole in general. Recently, the PBPP conducted parole symposiums in Pittsburgh, Harrisburg, and Philadelphia which were attended by a wide variety of external stakeholders.

With regard to resistance, this is a substantial hurdle for any agency to overcome. It's unlikely that there is a "quick fix" to transforming agency culture. In every agency, there are going to be staff in favor of EBP, absolutely oppose it, and many more who are not quite sold either way. The PBPP makes concerted efforts to hire new staff who appear to be amenable to EBP skills as well make every effort to fill vacancies in leadership positions with staff who will reinforce EBP with their subordinates. It's important that the favorable staff are appropriately reinforced and attempts are made to reach out to those staff members who appear to be open to EBP.

The following article is a nice resource for any agency seriously contemplating EBP implementation. It addresses many of these topics. <http://www.cepp.com/documents/EBP%20Coaching%20Packet%201-22-10.pdf>

Q: How effective can any entity be at implementing evidence based practices when other entities in the system are unwilling to come to the table?

A: *Meghan Guevara, Senior Project Manager, The Crime and Justice Institute at CRJ*

A collaborative approach to evidence-based practices is most effective because it facilitates alignment among stakeholders and systemic change, which is likely to maximize the reduction in recidivism. That being said, most jurisdictions have a least one, if not many, stakeholders who do not wish to collaborate. If that is the case, there are few strategies to consider:

- 1) Provide education and share data: share information on evidence-based practices, data from other jurisdictions that demonstrate the benefit of EBP, and data from your own jurisdiction that creates a sense of urgency for changing practice (e.g. prison overcrowding rates). Consider the message that will be most compelling to each stakeholder group, and try to find multiple venues to share that message.
- 2) Listen to other perspectives: make sure that your efforts at collaboration aren't seen as "my way or the highway." Allow stakeholders to discuss their approaches and rationale. For example, treatment providers may be using practices that are evidence-based from a public health perspective to address substance abuse, and a true collaborative approach is needed to incorporate recidivism reduction strategies.
- 3) Recruit additional champions: if you are not able to bring all stakeholders to the table, find other EBP champions who can encourage participation.
- 4) Consider what you can accomplish independently: As a stopgap measure, start at home. Consider what changes you can make without collaboration and move forward. Collect data to show the benefit of those changes. Continue to reach out to partners even as you move forward.

Q: It seems like a big undertaking to find out which empirically which sentences actually reduce recidivism. How do you get started?

A: *Chief Justice Christine Durham, Utah Supreme Court*

A good place to start in identifying empirical bases for sentencing reform is with the research summarized in "Evidence-based Practice to Reduce Recidivism," the paper distributed as part of the Webinar, particularly in pages 28-58. Because doing the research from scratch is not feasible for many jurisdictions, looking to the data from other states and courts around the country can help. Locating a jurisdiction that is doing the work and is similar to your own can offer effective shortcuts to getting your own system up and running. The Crime and Justice Institute, the National Institute of Corrections, and the National Center for State Courts can help in identifying suitable courts.

Q: Earlier, you mentioned you managed to divert 2% of your system's criminal justice expenditures to institute Evidence-Based Practices. What were the specific line items you included in determining the overall criminal justice expenditures, and how did you arrive at a 2% diversion figure?

A: *Mr. Stephen Bouch, Court Executive Officer, Napa County, California Superior Court*

The 2% figure was arrived at by comparing the estimated costs of the pilot project against the operating budgets of the several county criminal justice agency budgets. We used that calculation (which ended up as roughly 2%) as a "talking point" to sell the idea of investing in innovative and proven technologies to improve the outcomes in the criminal justice field. It has served us well in our budget discussions with the County Board of Supervisors, and also with the general public and other city and county stakeholders.

Q: What Pre-Trial Release tool is used in Oregon?

A: Judge Jean Maurer, Presiding Judge, Multnomah County, Oregon

Copy of the Multnomah County, Oregon Release Interview and Assessment Form can be accessed [here](#).

a. Is a score used as a tool to determine release and conditions of release? Are there certain charges that require the Pretrial Instrument to be completed?

There is no statewide Pretrial Release Instrument in Oregon. However, in Multnomah County, the courts, through the Department of Community Justice (DCJ) use a structured decision-making pre-trial release tool abbreviated to the “the Recog instrument” to assist in making decisions related to the release or detention of defendants pending trial. This type of instrument, in which each defendant is evaluated using an identical set of criteria, brings greater consistency and transparency to pretrial release decisions, which have profound consequences for both public safety and defendants’ liberty. The overall purpose of the Recog tool is to properly classify defendants into risk levels that reflect their risk of a negative outcome (i.e., failing to appear in court (FTA) or being re-arrested for a new offense). Except for defendants who are arrested for minor non-violent misdemeanor offenses, whose release is expedited after screening for warrants and holds, all defendants brought to the jail who are eligible for release are assessed based on the factors in the Recog instrument.

The first four risk factors on the Recog instrument describe serious, violent or chronic criminal histories. In other words, defendants who are charged with very serious offenses or who have a chronic history of person offenses are routinely denied release on their own recognizance. Many of these offenses are ineligible for release prior to arraignment before a judge, however, the recognizance officers will complete the form to provide the judge with information at the time of the release hearing.

To be eligible for release, defendants must score less than 10 points on the Recog instrument. Those with violent or chronic criminal offenses are scored at 10, which results in their denial of release. A copy of the pretrial release instrument is included.

The tool has been validated. A link to the evaluation can be accessed [here](#).

b. How is the pre-trial tool different from the assessment tool used by field probation department? Is it available for review? Is it available for use by others or review by someone outside that county/state?

The assessment tool used by the field probation department differs from the pre-trial release instrument. The field probation department uses the LS/CMI (level of service case management inventory) tool which is a comprehensive measure of risk and need. That tool can be obtained on-line.

Q: According to data presented at the Judicial College, community support programs are effective evidence based treatment models for substance abuse offenders and in certain circumstances, sex offenders. 12 step programs are effective (and cost free) especially when ordered by a judge. Given the belief in a higher power component of these programs, it is problematic for a court to order an offender into AA and NA. Are you aware of secular-based community support programs that are as effective as NA and AA?

A: *Judge Jean Maurer, Presiding Judge, Multnomah County, Oregon*

According to the decisions in number of states and federal courts, most particularly in Inouye v. Kemna, 504 F. 3d 705 - 2007, an opinion from the 9th Circuit, a direct order into NA or AA violates the Establishment Clause of the First Amendment. Our court and the Multnomah County Department of Community Justice provide to the offenders programs appropriate to their risk and needs, including secular-based community programs. To obtain a list of such programs, please contact the Multnomah County Department of Community Justice.

Q: Perhaps we'll get to this, but how is EBP utilized in the context of plea bargaining?

The court has attempted to take EBP out of the plea bargaining process and keep it as a rehabilitation tool in probation where we feel it belongs. The court, probation and the county have partnered to establish a local Community Service Resource Center where EBP programming that meets the criminogenic needs of medium high and high risk defendants is provided for defendants that have been placed on probation (or are incarcerated) and meet the eligibility criteria for entry into the program.

A: *Mr. Stephen Bouch, Court Executive Officer, Napa County, California Superior Court*

The results of both the risk assessment (in our case the LS/CMI) and the alcohol and substance abuse assessment are included in the presentence report provided to the judges and counsel prior to sentencing. Neither is provided prior to the entry of plea. Over time it has become a topic of conversation between prosecution and defense, and is sometimes argued at sentencing, but it is all speculative on their part. In order for a specific defendant to be admitted into the program, they must be on formal probation or be sentenced to jail and have a risk score in the medium high or high risk category.

Q: How often are LSI-R's/Risk & Needs Assessments conducted prior to sentencing?

A: *Mr. Roger Warren Scholar-in-Residence, Judicial Council of California, Administrative Office of the Courts*

The use of actuarial risk/needs information at sentencing is an emerging promising practice. Risk/needs assessment information such as that generated by the LSI-R is currently used at sentencing in jurisdictions in Arizona, Illinois, Iowa, Michigan, Texas, Virginia, and Wisconsin, and is also being explored in jurisdictions in California, Idaho, Indiana, Massachusetts, Missouri, Utah, and Washington.

A: *Mr. Stephen Bouch, Court Executive Officer, Napa County, California Superior Court*

In our county, the assessment is done only once prior to sentencing. If the defendant returns to the system for any reason, they are reassessed to capture the current level of risk and need.

Q: Is any other state utilizing COMPAS or Northpointe as a tool to determine risk scores for offenders?

A. Michael Kane, Project Manager, The Crime and Justice Institute at CRJ

Questions about the COMPAS or are perhaps better answered by the developers, Northpointe.
(<http://www.northpointeinc.com/>)

The assessment and its supporting materials do recommend cutoff scores for the various risk levels, which can be used to determine level of supervision. However, it is neither the intent of any risk/need tool to make determinations about the number of visits an offender should have or recommend the various other components of supervision, nor will the cutoff scores work for all agencies. Every agency is different in terms of the risk profile of their population, their staffing levels, and the policies that it follows. The information collected in the risk/need instrument should be used by agency leaders to determine how to focus their resources on those offenders that need it most – high-risk offenders –through ways they find it most appropriate. It is important to conduct validation and norming analyses when implementing a new tool assist the agency in determining where to set their cutoff scores and how frequently to meet with their offenders. It is also important to realize that the objective of supervision is not to require a certain number of visits with offenders per month, but to reduce recidivism and increase public safety. The way to do that is to engage offenders, increase their intrinsic motivation, and provide programming and services that match their needs.

Q: What are your thoughts on courts of limited jurisdiction and some specifically in rural areas? Some of us who simply do not have the resources that urban courts have.

A: Chief Justice Christine Durham, Utah Supreme Court

In the end, the principles underlying evidence-based sentencing don't require major infrastructure to incorporate, at least on the judge's end. Reliable risk and needs assessment instruments are now relatively easy to find and adapt. The problems arise with the lack of community and corrections resources that often characterize rural settings. On the other hand, the ability to mobilize a "team" approach that seeks creative solutions from local government, law enforcement, corrections, and prosecution and defense attorneys may be more feasible than in larger settings. The key is persuading all of these people that there's something in it for them (increased public safety, reduced jail costs, better managed caseloads, better outcomes for offenders).

Q: How does restorative justice fit in with this model?

A: Meghan Guevara, Senior Project Manager, The Crime and Justice Institute at CRJ

Restorative justice is not explicitly included in this model, and the question of the role of restorative justice in evidence-based practices is a valid one. The current Integrated Model focuses on the goal of reducing recidivism, and this is not the primary goal of restorative justice (though some argue that it is a secondary goal). There is certainly intrinsic value to repairing harm done to victims and the community, and to increasing victims' satisfaction with the justice system. To bring restorative justice into the realm of EBP, the desired outcomes of the model must be clearly defined, and the effectiveness of restorative justice models need more research support.

Q. What about reference/citation materials? Where do we go now?

A: *Chairman Catherine McVey, Pennsylvania Board of Probation and Parole*

Please see the following information referred in our webinar broadcast regarding Pennsylvania’s Comprehensive Corrections Reform Package which may be accessed [here](#).

Q: Education, education, education ...I would like to encourage focusing on difference between dissemination of information and addressing paradigm needed to use EBP, for example, build knowledge base, develop skill set, and address attitude is not the same as dissemination of information. Any comment on how to encourage this mind-set?

A: *Meghan Guevara, Senior Project Manager, The Crime and Justice Institute at CRJ*

Literature on organizational development and adult learning theory support your point: for change to occur, individuals must have the knowledge, skills, and attitudes needed to do business in a new way. Simply providing didactic presentations or traditional training is insufficient to bring about this change. To encourage that mind-set in your organization, try to MEASURE and MODEL.

- If possible, start by measuring your organizational climate or readiness for change. (Several validated tools are available for this purpose.) This may give an indication of employee's concerns about communication, decision-making, stress, etc. that need to be addressed to create a climate for change.
- When planning training initiatives, structure them according to adult learning principles. Provide many opportunities to practice skills and receive feedback. (For example, supplement classroom training with field observations and feedback, and offer booster sessions at regular intervals.)
- Implement quality assurance measures to determine if people are applying new information to their work. It is highly likely that those who are just exposed to didactic materials will show less mastery than those who are truly engaged in learning and skill development, and this will make a case for a more comprehensive approach.