Release Decision-Making
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Outline

- Decision-making in context
- The state of the evidence
- Improving current practice
- Our initiatives
- What next?
- Resources
Decision-Making in Context

- Impacts of errors in release decision-making
  - Public Safety: Pre-Disposition
    - US: 58% of pretrial defendants released pending adjudication; 82% appearance rate; 66% no misconduct (FTA, new arrest, violation)  
      (Bureau of Justice Statistics, Felony Defendants in Large Urban Counties, 2006.)
  - Public safety: Post-Disposition
    - US: 1 in 2.3 offenders return to custody within 3 years  
      (Pew Centre on the States, 2012)
    - Canada: 12%-38% of offenders return to custody  
      (PBC, 2012)
Decision-Making in Context

◦ Costs
  • US: $52B spent annually on incarceration (Pew Centre on the States, 2012)
  • Canada: $3.3B spent on corrections (Public Safety Canada, 2013)

◦ Capacity issues
  • U.S.: 61% of Jail population is pretrial (Pretrial Justice Institute, 2012)
  • US: Between 1990-2008, Jail populations doubled from 400,000 to 800,000 (Pretrial Justice Institute, 2012)
  • Many institutions are full or nearly so
Decision-Making in Context, cont’d

- **Who** is released – risk isn’t driving decisions
  - Over-incarceration of low-risk offenders
  - Constitutional rights in conflict with bond schedules, financial terms
  - Risk ≠ policy & legislation
    - Crime types (e.g., sex offences, murder)
    - Victim input
    - Public reaction
Decision-Making in Context, cont’d

- Post-release outcomes
  - Pre-trial
    - The longer a person spends in pretrial detention, the more likely he will be convicted and the more severe the sentence (Goldkamp, 1979 – current BJS data)
  - Post-adjudication
    - Breaches often outnumber new offences (Pew Centre on the States, 2007, PBC, 2011)
    - The proportion of returns which are due to revocations with new offence has been increasing (Pew Centre on the States, 2007, 2008; Van Stelle & Goodrich, 2009)
    - Offence severity
Decision-Making in Context: Conclusion

Both pre-trial and post-adjudication release decision-making offer an avenue for managing correctional populations effectively, but must be approached thoughtfully.

◦ Protect public safety
◦ Protect constitutional rights
◦ Reflect evidence-based practice
The State of the Evidence

- Evidence-based practice an evolving area

- Basics of LEBP
  - Presumption of release
  - Risk-based decision making
  - Appropriate pretrial supervision

- Insight into use of EBP (Holland et al., 1978; Konečni & Ebbesen, 1984)
The State of the Evidence, cont’d

- Evidence-based decision-making strategies
  - Goal is high quality, transparent, defensible, reproducible evidence-based decisions
  - Use an empirically-derived risk assessment tool, validated in your jurisdiction
  - Be explicit on how tool results are to be combined with professional judgement, and what resulting actions will be
  - Train and retrain decision-makers
  - Keep peripheral influences separate from decision-making
The State of the Evidence, cont’d

- Evidence-based supervision strategies
  - Pretrial:
    - most defendants can be released without supervision
    - Supervision can include court reminders, check-ins, voluntary treatment, EM/curfew, drug testing
  - Focus supervision resources (e.g., Burke, 2004; Pew Centre for the States, 2008)
    - On higher risk offenders
    - In the highest-risk periods (e.g., immediately after release)
    - Impose only necessary and appropriate supervision conditions
    - Utilize community resources, if feasible
The State of the Evidence, *cont’d*

- The role of discretion
  - Often reflected in legislation and/or policy
  - Constitutionality requires individualized bail determinations

- Risk and charge information
  - Severity of charge and risk do not necessarily align
  - Bond schedules do not allow for risk consideration or individualized determinations
The State of the Evidence, cont’d

• Imposition of conditions of release
  ◦ Growing number and breadth of conditions imposed (Burke, 2004; Gobeil, in press)
  ◦ Not all conditions risk-relevant (Forrester & Gobeil, in press)
  ◦ “Some criminal justice analysts observe that generally, across the nation [US], the conditions of parole almost guarantee failure.” (Burke, 2004, p. 33)

• Focus becomes violation of conditions
  ◦ Could attention and resources be more fruitfully focused on supporting successful reintegration?
Improving Current Practice

- Coordination of efforts
  - Pre-trial: police, DA, public defender, courts, jails, pretrial authority
  - Post-adjudication: alignment between Correctional Services, release decision-makers, and community supervision agency

- Improvements in decision-making also impact multiple agencies
Improving Current Practice, cont’d

- Setting the stage
  - What current capacity exists?
  - Who is in a position to implement new practices?
  - Where will the funding come from?
  - How to operate efficiently?
Improving Current Practice, cont’d

- Resources and standards
  - Pre-trial
    - American Bar Association: standards on Pretrial Release
    - National Association of Pretrial Services Agencies: program standards and accreditation; practitioner certification
    - Pretrial Justice Institute: extensive resource library, advocacy, topical expertise
    - National Institute of Corrections: resources, training, technical assistance
  - Post-adjudication
    - National Parole Resource Centre: videos, webinars, links, and self-assessment tools – excellent resource
    - Association of Paroling Authorities International: handbooks, resources, annual conference, connection with other professionals
    - National Institute of Corrections: training
Improving Current Practice, cont’d

- Planning for change
  - Financial costs
  - Human resource costs
  - Training
  - Resistance to change
Our Initiatives

• Complexities of enacting change
• Applying system change principles
• New initiatives
  ◦ Pretrial Assistance to California Counties
  ◦ Structured Parole Decision-Making Framework (Serin, Gobeil, & Sutton, 2009)
Pretrial Assistance to California Counties (PACC)

- Pretrial reform in the context of Criminal Justice Realignment
- Comprehensive technical assistance, including:
  - System assessment
  - Population analysis
  - Risk tool selection/validation
  - Staff/stakeholder training & engagement
  - Implementing a supervision continuum
  - Data and quality assurance systems
Structured Parole Decision-Making Framework

• What is it?
  ◦ Research-supported decision-making aide for Board Members that guides (not dictates) pre- and post-release parole decisions
  ◦ Supports high quality, transparent parole decisions that reflect due diligence
  ◦ Reflects a contemporary standard of practice and recognizes decision-makers’ unique expertise and experiences
Understanding the Framework

The Framework is:

- A standardized reflection of policy
- Empirically validated
- Intended to inform and insulate paroling authorities
- Reflective of due diligence (EBP)

The Framework is not:

- Prescriptive
- A numerical scale
- A substitute for a decision
- Specific to a particular type of offender
- Dependent on a particular risk scale as an anchor
The Framework

STATISTICAL RISK ESTIMATE

Criminal/Parole History
Responsivity
Offender Change
Release Plan

Disinhibitors
Institutional / Community
Behaviour
Case-Specific

Interview Impressions
Reconcile Discordant Information

DECISION
Research and Validation

- Extensive and comprehensive literature, policy, and legislation review
- Four exploratory studies with Parole Board members’ decisions (Canada)
- Studies in three American states with different paroling approaches
Key Messages from Validation Exercises

- **Framework recommendations**
  - Align with Board members’ decisions
  - Distinguish between offenders who reoffend after release and those who do not
  - May predict post-release outcome better than do accepted actuarial measures
  - Increase rates of release, without decreasing accuracy
  - Increase transparency and defensibility

- **Staff appreciate the Framework**
  - Greater standardization and improved uniformity
  - Greater perceived insulation in the event of a negative outcome
Lessons Learned

- Ensuring staff/stakeholder comprehension and buy-in
  - Importance cannot be overstated

- Training and verification of training results

- Assessment of fidelity
  - Discretion may contribute to limited success

- Appropriate intervention continuum in place
What Next

What do you do with this information?
What Next: Questions

• Who is in your institution?
• How are decisions to release/detain being made?
• Pre-trial: How are financial bonds and OR bonds used?
• Who are the defendants/offenders who fail? Who is successful?
• What options are available?
What Next: Consider your options

• Incorporate risk information into decision-making

• Develop a continuum of options
  ◦ Diversion and supervision
  ◦ Imposition of conditions and responses to violations

• Identify opportunities for efficiencies

• Reduce reliance on non-risk-relevant mechanisms

• Set realistic expectations
What Next

Discussion and Questions
Resources

- Pretrial Justice Institute
  www.pretrial.org
- National Association of Pretrial Services Agencies
  www.napsa.org
- National Parole Resource Centre:
  www.nationalparoleresourcecentre.org
- Association of Paroling Authorities International:
  www.apaintl.org
- National Institute of Corrections:
  www.nicic.gov
- Crime and Justice Institute at CRJ:
  www.crj.org/cji
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