



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 \neq 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*

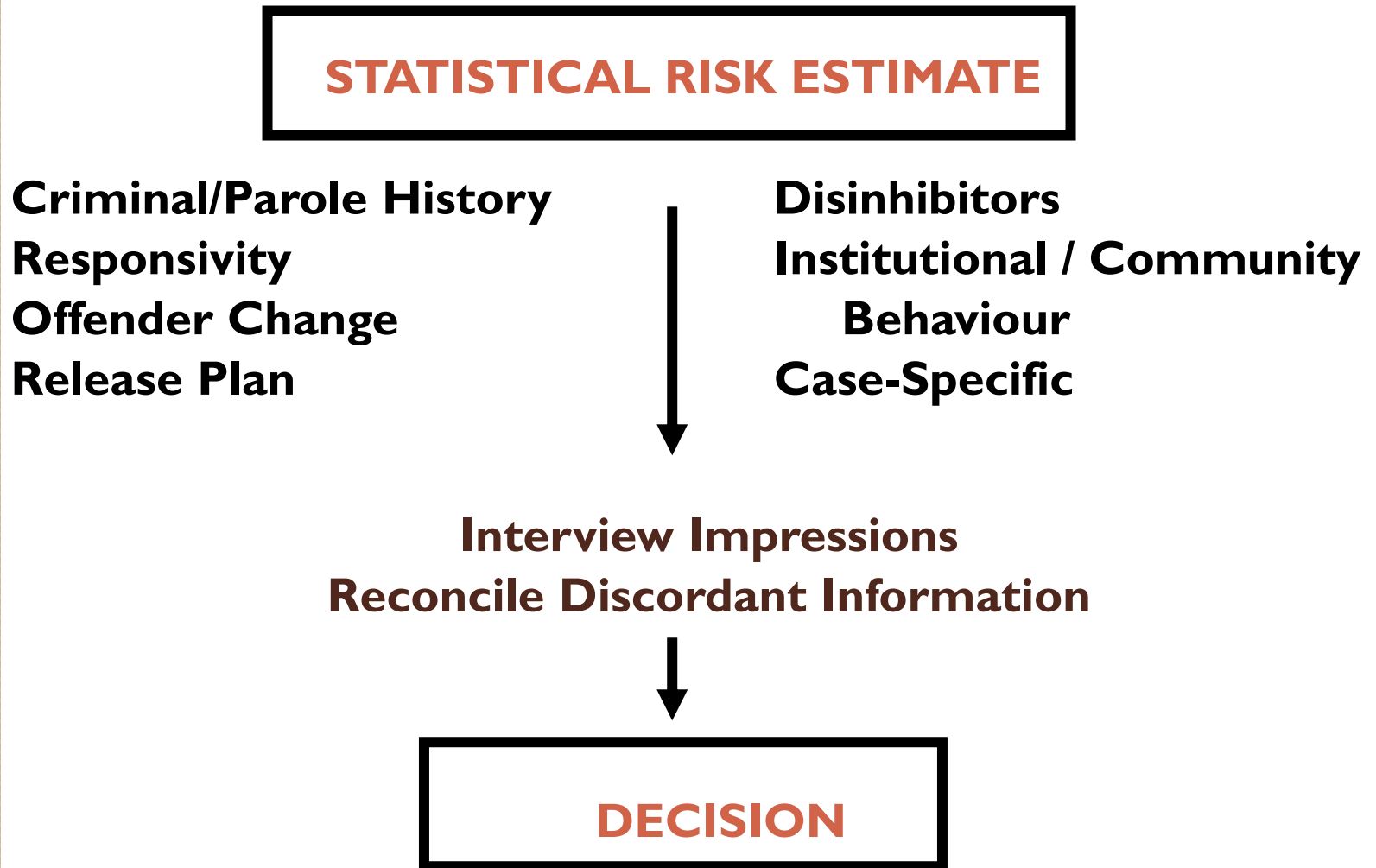
The *Framework* is:

- 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



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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