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On Law and Corrections Practice

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Doing Evidence-Based Policy and Practices Ain't for Sissies

by Frank Domurad

Just before she died, the great American actress Bette Davis was asked what she thought about getting on in years. She retorted, as only the star of movies such as *Jezebel* and *The Little Foxes* could, "growing old ain't for sissies." Without a doubt, many of today's corrections commissioners and directors who have embarked down the path of *evidence-based practices* (EBP) in their agencies know exactly how Davis felt. They have found that trying to provide a research-driven basis for their operations is not for the faint of heart. It involves a level of personal and political courage that few of them probably ever imagined necessary when they started.

Front Page News

Just how much courage might be required to implement EBP was recently made clear on the front page of newspapers across the state of Minnesota. Medicine and health care in this country have been applying research and evidence to their policies and practices for decades. Yet in 1999 a report by the Institute of Medicine (IOM) revealed that in hospitals medical errors killed anywhere from 44,000 to 98,000 people each year. The report demonstrated that these mistakes did not result from individual incompetence, but were primarily systemic in nature. "People working in health care are among the most educated and dedicated workforce in any industry," the authors wrote. "The problem is not bad people; the problem is that the system needs to be made safer." IOM recommended that the most serious events and safety problems occurring in hospitals be publicly identified in periodic mandatory reports so that actions could be taken to redesign entire systems of care (Minnesota Department of Health, 2005).

These findings shook the foundations of medicine. From a profession that had once been secure in its therapeutic practice, it became one whose very core purpose of saving lives had been placed into question. Rather than run and hide from the problem, medicine decided to tackle it directly and in plain view. The National Quality Forum (NQF), a health policy group representing some of the most important stakeholders in the field, reached a consensus on 27 adverse and harmful events that everyone agreed should simply not happen in hospitals. Known colloquially as "never events," this list provided a focus for getting things done. These were the targets where problems were to be identified and fixed and where scarce resources were to be directed. The adverse events on the list were capable of being identified and measured. Moreover their occurrence was greatly influenced by the policies and procedures operative in a health care facility. Following the Institute of Medicine's lead, NQF urged that every state in the union produce an annual "never event" report for its hospitals.

Creating a "Never Event" Report

Minnesota was the first state to pick up NQF's gauntlet. Embracing the notion that "one serious medical error was one too many," a coalition of hospitals, doctors, nurs-

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Implementing Evidence-Based Practices in Community Corrections: Helpful Lessons From Unlikely Places

by William D. Burrell

Potential to Improve

The challenge of implementing *evidence-based practices* in community corrections continues to fascinate and frustrate me. I find it fascinating because *evidence-based practices* (and its companion, the *what works* literature) offer such significant potential to improve probation and parole. I am frustrated because we continue to make half-hearted commitments to implementation, where we try at all.

I recently read Frank Porporino's paper titled, "Revisiting Responsivity", (Porporino, 2005) which was originally presented at the International Community Corrections Association conference in 2003. I was struck by the message when I first heard it and found myself once again pondering the questions that Porporino posed: Why are we, for the most part, still talking about and not implementing the *What Works* literature and *Evidence-Based Practice* models? After more than a decade of widespread professional dialogue on this subject, why are only a handful of correctional organizations committed to this approach in practice, as opposed to rhetoric? As Porporino states:

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es, insurance companies and patients advocates, working with the Department of Health (DOH), supported legislation that became the Adverse Health Event Reporting Law in 2003 (Minnesota Department of Health, 2005). The law fulfilled exactly what NQF had recommended. It required hospitals to report any instance of the 27 "never events," along with a root cause analysis of the incident and an action plan for its correction. DOH was in turn to aggregate the findings for issuance in an annual public document. While the number and type of adverse events at each hospital were to be listed in separate tables, none of the individual root cause analyses or actions plans were to be revealed. DOH made it clear that the purpose of the report was not to punish and assign blame, but to discover potentially dangerous situations in order to enhance patient safety. It wanted to create a learning culture in health care that would allow the identification of systemic problems and their solutions. In effect, it affirmed the state's commitment to having the best possible evidence drive the development of both policy and practice in its hospitals (Dotseth, 2004).

First Annual Public Report

The reaction of the media to the first Annual Public Report, issued in January of this year, was predictable and unpredictable. There were the usual sensationalistic headlines about serious injuries and deaths resulting from surgery being performed on wrong body parts or incorrect medications being given to helpless patients. But the message of state health officials about the adverse events registry acting as an effective tool for correcting deadly error also received significant attention. An editorial in the Minneapolis *Star Tribune,* "Medical errors, Minnesota's promising start," observed that the state's hospitals were pursuing an effective business engineering technique, pioneered by W. Edwards Deming in the Japanese automobile industry and followed with great success by the commercial airlines, of pooling data on mistakes to discover hidden patterns, common causes, and effective solutions. "The report's details on botched incisions and lost surgical clamps will make many readers squeamish," concluded the editors. "But they should also make medicine safer in Minnesota, and the hospitals and the Health Department deserve credit for a courageous and innovative step" (*Star Tribune*, 2005).

Complexity of the Task

For correctional leaders and staff seeking to introduce EBP in their agencies, the Adverse Events Report in Minnesota should be a sobering reminder of the complexity of the task they have undertaken. EBP means a massive shift in the way they conduct their business and even in the way that they conceive of doing business. It is not just another fad or flavor of the month, a way to seek respect and gain legitimacy by being able to tell colleagues over drinks that "my department does that too." Nor is it simply one program among many designed to address a discrete set of case management or supervision problems. Rather, as the example of hospitals and health care has demonstrated, it is a process of learning which of our actions produce benefit for our clients and the public, and which do harm, even deadly harm. It is a method for ensuring that we are doing the right thing.

Great Britain

In Great Britain, doing the right thing means focusing on evidence-based policy just as much as evidence-based practice. This emphasis acknowledges that practice flows from policy and that uninformed policy can easily result in destructive practice. When the Labour Party came to power in 1997, it rode to victory with the slogan "what counts is what works." In a determined strategy to replace political ideology with evidence, it issued a series of reports to ensure that public polices were "strategic, outcome focused, joined-up [cross-functional and cross sectoral], inclusive [involving the public], flexible, innovative and robust [evidence-based]." It established a Centre for Management and Policy Studies and a Strategic Policy Making Team in the Cabinet Office, the highest level of government, and supported numerous academically based applied and basic research entities such as the Centre for Evidence-based Policy in the new Economic and Social Research Council (Nutley and Webb, 2000; Cabinet Office, 1999; National Audit Office, 2001). Labour believed that a rapidly changing and more complex society demanded the use of systematic and well-focused evidence and analysis to meet its challenges (Amann, 2000). It was determined to restructure the relationship of political power to knowledge and information at the policy as well as the practice level of governmental operation.

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Implementation Lags in US

A similar movement towards research-driven policy has not matured in the United States, especially in criminal justice. EBP continues to be tactical and instrumental in nature and virtually ignores the strategic and theoretical supports that must always underpin good public practice. Even the seminal National Institute of Corrections and Crime and Justice Institute's series of documents, "Implementing Effective Correctional Management of Offenders in the Community," makes scant mention of evidence-based policy, focusing instead on the more utilitarian aspects of collaboration and calling for a leadership that will develop a rather nebulous "common vision" for participating stakeholders (February 10, 2004). Some British scholars attribute this American reticence to the fact that in a fragmented and decentralized political economy such as ours, the bulk of our research remains single-issue in nature, focuses on short-run effects and is used more for political ammunition in winning ideological debates than for sound policy planning (Nutley and Web, 2000).

"Muddling Through"

Indeed, criminal justice policy making in this country appears to remain mired in an ideological swamp. While from a normative and prescriptive perspective EBP demands a rational decision-making approach to the policy process, it is more likely that most correctional departments engage in what some scholars call "muddling through". Developed by the social scientist Charles Lindblom in the late 1950s, the theory of "muddling through" argues that given the complexity of policy determination, decisions are not made in light of predetermined goals that are based on a careful analysis of the situation. Rather the process of policy making is piecemeal, with problems addressed a bit at a time. Research becomes less a "rational arbiter between alternative courses of action" and more "a way of exerting control by means of which groups and individuals involved in the policy-making process use knowledge to influence others in the process of political interaction" (Bulmer, 1986).

Incremental Changes Detrimental to Full Scale Change

As Brian Hogwood contends, the temptation to just "muddle through" is strong for public officials. They are accustomed to making only incremental or small changes, trying this and trying that, and never seeking to achieve really big goals. Even more so, they are very comfortable in making policy "by adjusting to others involved in the process," rather than insisting that careful attention be paid to research and analysis (Hogwood, 2001).

The problem with just "muddling through" and letting ideology, expediency and personal and political preferences overwhelm scientific evidence in driving policy is that it may just be a death-sentence to any hope of doing EBP in corrections. "Development of an evidence-based approach in some public policy areas (such as education or criminal justice) may be constrained because key stakeholders (parents, victims) have their own intuitive and strongly held view about what constitutes effective intervention," write three of Britain's foremost experts on evidence-based policy (Davies, Nutley and Smith, 1999).

Gatekeepers

This assessment is especially true of the two key "gatekeepers" for community corrections: judges and prosecutors. Some scholars in Britain have even gone so far as to state that the courts "appear to be the least informed about the results of effectiveness research." (Nutley and Davies, 1999). As for prosecutors, there is little if any evidence that the majority of them have moved beyond the traditional "avenging angel" stance so useful for winning over the public at election time.

Status Quo May be More Harmful Than Change

One stimulus to moving toward the realization of an evidence-based policy process in corrections might be a willingness to admit, as have the hospitals and their stakeholders in Minnesota, that in our ignorance we might very well be doing as much harm as good. As strong as this statement might sound, it is frightening to know that as late as 1991, according to a *British Medical Journal* editorial, only 15% to 20% of medical interventions in that country were supported by solid scientific evidence. Much of the care that patients received was "time-served" [traditionally accepted] rather than "evidence-based." While the *Journal*'s actual numbers have remained in dispute, several studies have revealed that demonstrably useless and even harmful therapies have hung around in practice long after the negative evidence concerning their effectiveness had been made clear. Other research has proven that even when medical interventions are indisputably beneficial, there can be a lag of up to ten years before they become standard practice. It was a case for many doctors, as one medical wag quipped, "not so much that they don't know, but that they know so much that ain't so." It was only when health care recognized the reality of "never events" and affirmed that "too many of the wrong things are done to patients...; too few of the right things are carried out...; and for many common practices we just do not know whether the benefits outweigh the discomfort, side-effects and potential harm," that it was able to move to firmer ground in terms of true evidence-based policy and practice (EBPP) over the last decade (Davies and Nutley, 1999).

"Never Events" in Community Corrections?

If this is the situation in medicine and health care even after two decades of concerted effort to actualize EBPP, what might we expect in our field of endeavor? Do "never events" exist in our profession and organizations? That is difficult to say for a host of reasons, not the least of which is the lack of a research-oriented culture in criminal justice agencies. In 1998 a British House of Commons Select Committee on Home Affairs concluded that "the absence of rigorous assessment of the effectiveness of community sentences is astonishing...when viewed in the context of the overall expenditure on the criminal justice system, and the further costs of crime both to the victims and to society, the figures spent nationally on research are risibly minuscule " (Alternatives to Prison 2). Probation's failure, both in Great Britain and the United States, to establish a clear vision and policy on how effectiveness ought to be judged has, in the eyes of many scholars, fostered a patent disregard for any need to gather and analyze evidence regarding the benefits and harms resulting from offender supervision (Nutley and Davies, 1999).

Nonetheless there are some disturbing indications that what we do might impair rather than improve public safety. Meta-analyses on *what works* have clearly demonstrated that doing anything more than simple risk maintenance with low-risk offenders can actually increase their rates of recidivism (Carey, 2005). Similarly, we know that poor program implementation and the failure to preserve program integrity can also have unanticipated effects. Recent research by the English Prison Service demonstrated that a well-designed program delivered according to the manual produced a one-year reconviction rate for participating offenders of 21% to 23%.

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When that program was delivered badly, reconvictions shot up to 48% of the population, compared to 40% for a matched control group where no intervention was received at all (Furniss and Nutley, 2000).

A Violation of Trust?

As mentioned previously, the standard attack on any "rational" approach to policy-making is that the world is too complex, risky and uncertain a place to allow us to identify possible policy options and their consequences. The most we can do is to "muddle through" and hope for the best. But a strategy of just "keeping our fingers crossed" might very well be viewed by some, especially a public expecting us to protect its safety, as a violation of trust. Hogwood argues that while scientific analysis can never remove risk, defined as "the chance of something occurring within a pattern of probabilities," from the process of setting policy and realizing it in practice, careful evaluation can offer approaches for incorporating it in assessing options. Admittedly, if risk is known and openly stated and the decision goes wrong, the unpleasant political reaction may be greater than if policymakers could hide behind the claim, as they often do, that they were never aware of the potentially adverse effects of their actions. It is a fact that the more complex the problem or the issue to be solved, the greater the risk of failure. It is also a fact, that doing EBPP is one of the most complex and therefore riskiest ventures that corrections has ever undertaken. Yet as Hogwood concludes, "policy-makers might expect to be criticised for taking risks, but policy-making inevitably involves taking decisions in a context of risk and uncertainty. Criticism would more appropriately be directed at decisions taken in ignorance of risk." (Hogwood, 2001, p. 64)

Ethical Dimension to Evaluating Criminal Justice Interventions

Hogwood's statement reminds us that there is an ethical dimension involved in doing (or not doing) EBPP. As Nutley and Davies note, "there is a lack of acceptance of the true experiment as an appropriate, practical and ethical means of evaluating many criminal justice interventions." Two reasons are generally given for rejecting experimentation as unethical. The first contends that when an intervention is believed to be effective, it is not right to withhold it from the control group. The second argues that where treatment is believed to be doubtful, it is not right to test it out on an experimental group and possibly put the public at risk. This attitude has carried over into a justification for poor managerial practice. "The managers of criminal justice services have not always provided good role models," they write. "They continue to make decisions about structure and organizational processes which are not clearly evidence-based" (Nutley and Davies, 1999, p.53).

Unethical Not to Reform a Failing System?

Without a doubt such argumentation for rejecting the very heart and soul of EBPP, namely the search for a scientific foundation for policy and practice, would ring strange to the authors of Minnesota's Adverse Events report and the hospitals which put their reputations on the line by admitting to deadly errors in public. For them it was unethical not to move beyond simple belief and to part the curtains of ignorance, no matter what the political consequences for doing so. In corrections in the United States, Canada and Great Britain there is a growing consensus about *what works* with offenders either in institutions or in the community. While this body of knowledge must always be tested and retested, revised and expanded, and even questioned and rejected, there is little doubt that it forms a much sounder basis for doing corrections than just ideology, politics and personal preference. It might even be contended that corrections has reached a turning point in its development where its leaders must consider whether refusing to do EBPP is in itself an unethical choice for both its clients and the public.

Steps to Ensure Evidence-Based Practice and Policy (EBPP) Becomes Reality

Policy as Well as Practice. So what steps must correctional professionals take, especially those who stand at the top of our agencies and our associations, to ensure the EBPP becomes a reality? First, they must become champions of evidence-based *policy* as well as practice. In the halls of criminal justice they have to take the lead in insisting that analysis and research play a significant role in determining the strategies that guide our actions for protecting the public. In this stance they will assuredly encounter significant political resistance, as entrenched interests, both in government and the community, fight to preserve their domination of the policy-making process.

Fully Funded Research. One tactic that might start this process moving forward is to insist that research be fully funded in all jurisdictions and that the consumers rather than the providers of research set the agenda. British scholars argue that the present state of research is "insufficient to inform many areas of policy" and that the current literature is "more usually research producer-driven than led by research users' needs." They advocate that users develop a strategy for gaining the evidence that they require to inform policy and practice (Nutley, Davies and Walter, 2002). If at this moment in time in our Anglo-American governmental cultural, research is indeed used more as "political ammunition" in winning ideological debates rather than for doing sound policy, then we might as well become the masters of the evidence-based armory.

Systematic Learning. A second step involves systemic learning. Most of the literature on EBPP calls for the establishment of learning organizations. It tells our managers and staff to take risks, to innovate and to try new things based on knowledge and experience. But we all know that when a policy or a program fails, the temptation is to seek a scapegoat, an individual or group of individuals who can be blamed. What the health care profession has recognized is that the sources and causes of errors and mistakes are almost exclusively systemic in nature. The trick is in their discovery and that requires a focus that only the light of day can render. We suspect that what we do in our jails and prisons, in our offices and in the field, might not be as beneficial in their effects on offenders and the community as we might hope. It is time that we venture down the path that a state like Minnesota (and soon Connecticut and New Jersey) has taken for its hospitals and publicly affirm our commitment to EBPP in deed as well as in word. It is indeed ironic that in its list of 27 "never events" medicine's National Quality Forum actually included four criminal adverse incidents that should never occur in a patient care facility:

- Care being provided by anyone impersonating a physician, nurse, pharmacist or other licensed health care provider;
- Abduction of a patient of any age;
- Sexual assault on a patient within or on the grounds of a facility; and
- Death or significant injury of a patient or staff member resulting from a physical assault that occurs within or on the grounds of a facility.

If health care can take responsibility for learning from and preventing criminal events occurring in its operations, can corrections do anything less in its own house?

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Resist the Search for a Silver Bullet. Third, we must not let our efforts to inform our actions with evidence degenerate into yet another search for a silver bullet. As Nutley and Davies caution, "there is an evangelical feel to the present *what works* movement in criminal justice. There is a real danger that the notion of evidence-based practice will be interpreted as implementing a set of treatment principles rather than an ongoing quest to be evidence-based practitioners" (p.52). It is difficult and challenging to be the leader in a quest without end, especially when staff and stakeholders are clamoring for accountability and certitude. We all know how it feels to try to guide our own actions on matters of personal health when medicine seemingly keeps "changing its mind." Yesterday both male and female adults were supposed to be able to reduce the risk of heart attacks by taking a daily, small dose of aspirin. Today only females over 65 receive any benefit, but, by the way, maybe even younger women should still take aspirin because it prevents strokes. Science in government and public policy is a messy business. It involves a careful balance between the need to implement programs based on the knowledge at hand with a commitment to ongoing research that will by definition only change the nature of those very programs. "This balancing act will not prove easy in a criminal justice system that is prone to knee jerk reactions in response to bad news," comment Furniss and Nutley, but it is absolutely necessary "to avoid succumbing to a boom and bust cycle of activity..." (p.27). We have already been through one such cycle with disastrous effects, when Robert Martinson's (soon recanted) declaration in the mid-1970s that "nothing works" was treated by practitioner and politician alike as reality rather than science.

Recommendations Are Rarely Evidence Based. Finally, we must be willing to come to grips with the fact that most of the recommendations being made about how to improve the use of evidence in corrections through EBPP, especially in the realm of policy-making, are themselves rarely evidence-based (Nutley, Davies, Walter, 2002). Under the best of circumstances the conditions for successful implementation will always be less than optimal. As the American scholar Carol Weiss reveals, it takes an extraordinary set of circumstances for evidence directly to influence policy decisions. In most instances the findings have to be non-controversial, the changes have to be small in scale, and the environment relatively stable without big shifts in leadership. The only real exception is "when a programme is in crisis and nobody knows what to do" (Davies, Nutley and Smith, 2000, p.31).

End Note

Given the fact that EBPP is highly controversial among political leaders and correctional "gatekeepers," is extraordinarily complex and extensive in scale, and generally occurs in a rapidly shifting external environment, it will take a lot of professional dedication, commitment and raw courage for any correctional leader to steer her or his organization onto such troubled waters. Images of screaming newspaper headlines, angry telephone calls from elected officials, and shattered careers will result in many a sleepless night. It will be hard in all the commotion to hold tight to a vision of effectiveness in the cause of protecting of the public's safety. But then to paraphrase Bette Davis, "doing evidence-based policy and practices ain't for sissies."

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- Agencies that operate community service programs are highly satisfied with the work offenders complete under their supervision;
- Community service has been used as an alternative to incarceration to only a limited extent and has not reduced the use of incarceration in the U.S.; and
- Community service does not appear to increase offender recidivism and in some cases actually reduces it, but agencies providing community service options consistently find that this work benefits offenders.

As noted, Bazemore and Karp observe that community service as a criminal sanction is only used as an alternative to incarceration to "a limited extent." They modestly note what is really a major problem in the application of community-based sanctions, "Although there is some evidence to show that service programs can reduce the use of incarceration, there has been relatively little demand for such application of service in the U.S. in the past two decades."

The authors' focus on this issue is laudatory, although the topic requires greater attention than space allows in this article. Some 25 years ago, M. Kay Harris, now teaching criminal justice at Temple University but then director of the National Council on Crime & Delinquency's Washington, DC office, wrote that community service is most efficient if used as an alternative to confinement. Harris based her comments partially on the National Advisory Commission on Criminal Justice Standards and Goals emphasis on sanctioning practice that relied on the use of least restrictive

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