

Prosecutors

Prosecutors' primary duty is to seek justice.¹ They do so by exercising discretion in prosecuting cases, ensuring the protection of victims' rights, and respecting each person's legal and constitutional rights. Applying an evidence-based framework can help prosecutors fulfill these duties more effectively and efficiently. The following are some evidence-based practices that prosecutors can use and encourage to increase community well-being and safety and to reduce risk.

EVIDENCE-BASED PRACTICE (EBP):

The use of scientific research to guide and inform efficient and effective justice services

1 Support Appropriate Diversion

People who are at low risk of being rearrested are likely to self-correct. The imposition of a sentence is often unnecessary and can increase their risk of recidivism.

Alternatives to prosecution have demonstrated good outcomes, hold people accountable, and provide the added benefit of reduced court time and resources. Prosecutors should ensure these programs are structured to target the right people (those at low risk) and produce the desired results.

2 Utilize Information from Risk/Needs Assessments to Guide Decisions

Risk/needs tools can aid in sentencing. People at low risk may need minimal to no supervision and conditions; people at medium to high risk may need more time on supervision and targeted programming and conditions; and people at very high risk may not be appropriate for community supervision.

Prosecutors should collaborate with probation and other key stakeholders to obtain the results of a validated risk/needs assessment as early in the justice process as possible. The information can aid in plea negotiations by identifying appropriateness for community supervision as well as supervision needs and intensity. Using results from risk/needs assessments informs decision making and reduces the likelihood of bias.

3 Recommend Conditions and Programming That Target Criminogenic Needs

Community well-being and safety are enhanced when conditions and programming focus on criminogenic needs (factors associated with future law violations such as thoughts, values, and attitudes supportive of illegal behavior; poor coping and problem solving skills; and antisocial associates).

Criminogenic needs must be addressed to reduce the risk of recidivism; therefore, court conditions and programming should target and address these needs. Prosecutors should avoid overloading a person with unnecessary conditions and programs and, instead, seek those that are appropriate for the person's level of risk and needs.

¹ https://www.americanbar.org/groups/criminal_justice/standards/ProsecutionFunctionFourthEdition

1
Develop
Appropriate
Responses to
Noncompliant
Behaviors

Responses to noncompliant behaviors need to be swift, certain, and proportionate. When possible, they should also encourage the desired behavior.

Structured methods to address noncompliance are effective in holding people accountable and in increasing their likelihood of future compliance and/or new prosocial behaviors. Prosecutors and local stakeholders should work together to develop a process for responding appropriately and proportionately to noncompliance (e.g., a matrix).

5
Support Early
Termination

Positive reinforcement (incentives) is more powerful than punishment when it comes to changing behavior.

Prosecutors should support early discharge for people who have demonstrated compliance, reduced risk, and progress while under supervision. In these instances, early termination has not been found to negatively impact community well-being and safety. The process and time frames for early termination should be clearly defined.

6
Improve Victim
Satisfaction

Evidence-based practices can help address victims' needs, such as the need to feel safe, actively participate, and be heard.

All justice system stakeholders, victim service providers, and victims share a common goal of fewer victims and safer communities. Prosecutors can help victims understand how evidence-based practices inform sentencing and support the goals of long-term behavior change and community safety.

7
Measure
Outcomes

Collecting, analyzing, and sharing data promotes consistent, relevant, research-supported decision making and increases the likelihood of successful outcomes.

Data is necessary to enhance and improve existing practices and programs or to identify gaps and needs. Prosecutors should establish clear performance indicators and routinely collect and evaluate outcomes.

TWO THINGS PROSECUTORS CAN DO NOW

1 SEEK TRAINING ON EBP

To fully understand and implement evidence-based practices, ongoing training is necessary. Prosecutors should stay abreast of the most current EBP research and literature, including studies on diversion, assessments, sentencing alternatives, reentry practices, and probation conditions.

2 COLLABORATE WITH KEY STAKEHOLDERS

Experience has shown that the collective commitment of key stakeholders is necessary for EBP to have the optimum impact. Prosecutors should not merely be case processors but also problem-solvers improving the justice system. They should collaborate with key stakeholders such as the courts, probation, jail, defense attorneys, and community providers and actively participate in and advocate for the implementation of EBP.