

# Judge VOICES FROM THE FIELD

## Improving Judicial Decision Making



**Honorable Nancy L. Butts**  
**President Judge**  
**Lycoming County Court of Common Pleas**

As an elected judge with over 26 years of experience, I have a distinctive role and a unique perspective on the justice system. I can be a driver of change and am often sought out as a leader to identify solutions to the problems facing our communities. I recognize that with my system partners (judges, commissioners, probation, district attorney, defense, and other community agencies), we can create a justice system that is more efficient with its resources, consistent in its policies and practices, and effective in its outcomes.

Evidence-based practices (EBP) are based on science and data. EBP provides the court and the justice system with a framework for making research-informed decisions and improving community well-being and safety. As a result, I'm able to do my job better.

**Informed Decisions.** Judges often incorrectly believe we know who is standing before us and what they need. That's rarely the case. EBP provides us with tools, based on decades of research, to help determine the person's risk of recidivism and the criminogenic factors influencing their behavior. This information can be very compelling when determining who is most appropriate for diversion from jail or a candidate for

community supervision. The results can also inform supervision levels and interventions most likely to result in behavior change. Instead of overloading an individual with too many conditions, I can now order conditions and interventions that will target behavior change and reduce the likelihood of the person engaging in future illegal behavior. Assessment results also allow me to adjust programming so I can avoid mixing populations. Research has taught us that mixing populations who are at low and high risk can have significant adverse outcomes.

As a system, we are often quick to incarcerate, especially as a response to noncompliant behavior (violation of probation or treatment courts). Even though jail may be appropriate in some circumstances, we need to assess and consider the negative impacts that may result from incarcerating the individual. Are we interfering with the positive work that the person has done recently (employment, treatment, relationships, etc.), and are there interventions that will have better long-term outcomes and hold the person more accountable for their behaviors? We have alternative programs such as GEO or our treatment court, which will soon be celebrating its 25th year.



**Improved Communication.** EBP has made me a better listener and has provided me with tools to achieve better outcomes in the courtroom. I take the time to explore with the person before me why they are engaging in illegal or undesired behaviors and what they need to remain law-abiding. The sentence I impose is no longer just based on the criminal charge or the prior record but on additional information gathered in the courtroom and from assessment results.

I find it beneficial to have the person explore the thoughts and feelings associated with their behaviors or relapse. This discussion helps them become mindful and understand why they committed certain behaviors in the past. It also allows them to recognize what they

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need to do to stop those same behaviors in the future and be accountable for their actions.

I use techniques such as motivational interviewing to tease out change talk. When I hear a person express change, I reflect their own words back to them. Sometimes this is the first time they have thought about why they do certain things or have recognized a desire to change. These discussions help move them from thinking that change is not necessary (precontemplation) to considering how to make a change (contemplation). People who are motivated to change are more likely to follow through on the change process.

**Improved Outcomes.** EBP is providing us with the tools and structure to help people understand and address the factors contributing to their illegal behavior and to build the skills they need to be successful in the long term. Using EBP, we have seen reductions in recidivism and in our jail population. The latter is significant since our jail is currently facing crowding issues. In short, EBP is helping us improve the lives of those under justice system supervision and increase community well-being and safety.

**The Future.** I am consistently evaluating where we are as a system. My next project is to assist our adult probation office in becoming compliant with the operational standards recently adopted by the Pennsylvania Commission on Crime and Delinquency.



Additionally, I want to explore ways we can implement the use of evidence-based practices during the pretrial stage. My goal is to use a validated pretrial assessment to

drive release decisions, which includes implementing impactful conditions on an individual basis. Overall, this should reduce our jail population and increase the

number of people engaged in services during the pretrial stage. This change would also result in an increased use of diversion, improved plea agreements, and fewer cases coming before the court.

**Change Is Not Easy.** I recognize that some of my colleagues and others may not “buy in” to the EBP model. I would highlight for them the importance of using interventions that research has found lead to long-term behavior change, of a collaborative staff–client relationship marked by trust and respect, and of an approach that helps a person recognize the importance of change rather than one that forces change on them. I would say to my colleagues, “Think about a time in your life when change might have been in your best interest, but you were not quite ready. How would you have responded if someone had told you that you had to change immediately? How would you have responded if, in contrast, the person had explored with you the reason for change and offered to assist?” I’m fairly certain they would reply that they would respond better in the second scenario—the one that incorporates evidence-based practices.

**Conclusion.** I encourage jurisdictions to implement evidence-based practices. In addition, I encourage my colleagues to seek out training and other resources so they can gain a better understanding of how the implementation of EBP can improve outcomes and, as I have discovered, make their role more rewarding.

I would be happy to speak with my colleagues from other counties if they would like to explore how to implement or better use EBP in their decision-making processes.