

Public Defender VOICES FROM THE FIELD

Advocating for My Clients



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As a defense attorney with over 26 years of experience, I have always wanted the same thing: for my clients to do better and to not have to come back before the judge.

When I was first introduced to evidence-based practice (EBP), I felt that it supported my belief that our goal is not to punish but to get results. EBP offers a holistic way to work toward this goal: an approach that addresses the factors that lead to a person's illegal behavior and that is based on the specific needs of the individual.

Using assessments. One evidence-based practice that we adopted is the use of validated actuarial assessments to help determine a person's risk of recidivism and the factors that contribute to their illegal behavior. This information is included in presentence investigation (PSI) reports. Adopting assessments has resulted in reports that present a more accurate picture of a person, including their

strengths. In addition, the reports often list mitigating factors or arguments to support a more treatment-focused approach.

Seeing these reports, judges, prosecutors, and probation may be more open to diversion or treatment options and less reliant on jail. Although the courts will sometimes determine that jail is the only way to ensure community well-being and safety, jail can also be very detrimental to many. The consequences of stopping or changing medication and treatment (which often happens upon entering jail) and losing funding and housing can have a significant impact on my clients. I always advise them to be proactive. For example, I encourage them to complete their CRN and, if appropriate, I get them engaged in treatment. They understand that they will look better in the eyes of the judge and the district attorney. More importantly, taking these proactive steps will increase their likelihood of success.

I have heard some resistance from my peers with regard to assessments. Their concerns are very legitimate but, in my opinion, the use of a validated, objective tool decreases the possibility of bias and subjectivity in decision making. It should also be noted that the use of assessments does not preclude us as public defenders from arguing information that was not included in the assessments or PSI reports; we are free to do so.

Doing what's in the best interest of my clients. As a defense attorney, one of the biggest challenges that I face is when clients do not want to do what may be in their best interest. For example, some clients state that they would rather spend time in jail than participate in treatment. I try to help them understand that if they do not address the factors underlying their behavior, their involvement with the justice system will likely continue. In addition, I ask them to consider their

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decision from other points of view: “What would you think if you were the judge or the DA and someone told you that they’d rather go to jail than to treatment?” Finally, I clearly explain the possible consequences of their decisions, including the fact that they will likely need to participate in treatment even if they choose to go to jail. At the end of the day, even though I may not agree with their decision, I need to advocate for what they want.

Together at the table. EBP creates an environment where all parties share the common goal of helping people change their behavior. This goal benefits our clients, their families, and our community. Relationships among justice system stakeholders can sometimes be adversarial and marked by a lack of trust; however, working toward a common goal helps us shift toward open dialogue, with all parties trying to find an appropriate solution. Even though there is rarely full agreement, there is more open communication, and everyone is more receptive to other views or solutions.

With EBP, we work together not only in court; we are “together at the table” in cross-system trainings and in meetings focused on developing new processes and programs. In the long term, these benefit the community and my clients.

Unfortunately, culture change is hard for some justice system stakeholders; there will always be those who struggle. I recommend sitting down with those individuals or agencies and trying to understand each other’s perspective—sharing not only what we are doing but why we are doing it, and, more importantly, finding mutual goals. The key is to not take opposition or hesitation personally. We are all trying to assist clients, promote public safety, and reduce recidivism.

Power of data. As a newer chief public defender, I quickly learned the power of data. Data helps show what is and is not working, and our data shows that using EBP is resulting in reduced recidivism, increased overall safety for the community, and, often, decreased costs.

The use of data has helped me gain the support of the commissioners and others on several projects. For example, by demonstrating the number of people with mental health conditions who become involved in the justice system, I was able to obtain a PCCD grant to hire a social worker and contract with a psychologist to work with people at the pretrial stage. Data has also enabled me to identify gaps in our system. I have started discussing with our treatment funders and providers ways to address these gaps and improve services for all. My next step is to partner with a local university to do a deeper analysis of the current needs of Carbon County and my clients.

The Future. Like the majority of public defenders in Pennsylvania, I was introduced to EBP only within the last few years. As a chief and as an advocate for my clients, it is important that I become an educated consumer of EBP. I am currently signing up for all available trainings and webinars. I am asking questions. I encourage my peers and other key stakeholders to do the same. My hope is that more people will start to understand that following the science will improve our system and, ultimately, our outcomes.

EBP is the future of our system. We can either get on the train now or later. Remember, though, that if we get on the train later, the journey will be so much more difficult.