

## **BJS/JRSA 2008 National Conference**

### **Keynote Address**

#### **Max Williams, Director of the Oregon Department of Corrections**

*(This is an abridged version of the keynote address delivered on October 16, 2008, in Portland, Oregon..)*

I want to thank you for allowing me to speak on a topic that I spent much of the last five years of my time as the Director of the Oregon Department of Corrections thinking about, and that's evidence-based programs, specifically, a piece of legislation that I had a hand in authoring in 2003, which we refer to in Oregon as Senate Bill 267. It is perhaps, the best example of the old adage, "Be careful what you wish for," because at the time that I authored and helped pass Senate Bill 267 I had no idea, literally no idea, that I would then become the head of the Department of Corrections, one of the five agencies that was charged in the bill with implementing the legislation. So, it has, in fact, given me an opportunity to see this both from the perspective of a policy maker passing legislation and as an agency head in the executive branch of government attempting to implement something that we hoped would make a difference.

My plan this morning is to share a little bit with you about the history of the bill, some of what our original intent was, to speak frankly about what I think the bill has actually accomplished, and what I think it hasn't accomplished, where it has fallen short of our expectations—and to share some thoughts about what I think the future holds for Oregon in our efforts to develop a more effective approach to how we manage public safety resources, investments, and our interventions that work, and to provide policy makers the tools that they need to make informed choices.

So I'll take you back to 2003. I was a state representative and at that time chairing the House Judiciary Committee—and some of you may remember that we had economic challenges in that 2001–2003 time frame. It felt a lot like it does today, just without the bank failures and global economic panic. But nonetheless, we were in significant budget-challenged environments in a significant number of states and particularly here in Oregon.

Oregon has a biannual state legislature and so we met here every two years. Between 2001 and 2003, we were called back into special session on five separate occasions, each time to rebalance the state's budget. Revenue forecasts would come out, we would think we got it right, we would go away, the economy would worsen, our budget would get worse, we would come back into special session, and make the next round of cuts in order to try to balance the state's budget. Each time public safety was asked to make its fair contribution to those cuts, and my colleagues and I were left with the unenviable task of cutting budgets and programs with little methodology for choosing between those competing interests. Everyone would obviously come in and extol the virtues of their

program and why it shouldn't be cut, but they had little ability to suggest that their program was even based on a design that was intended to accomplish its objectives.

Likewise, we also knew that eventually, the economy would improve. We hoped it would have improved for longer than it did, but we knew that it would improve and that once those resources would become available again, requests would be made for a restoration of those funds and we would be in no better position at that point to make decisions about investments based on the information that we had.

At the very same time we were going through this budget management process, we had been engaged for a number of years, probably two to four years, in being subjected to numerous programs and presentations about what works from a variety of experts, offered by the National Institute of Justice and the Bureau of Justice Statistics, and the Council of State Governments and the National Council of States Legislatures, universities, consultants, etc. The question became, for those of us who were involved fairly actively in this process, if we know so much about "what works", why do we keep, in Oregon, investing in "maybe works" programming. So our basic intent with the law was to ensure that investments in treatment and prevention programs in Oregon be based on research that shows that programs, like those we were investigating, were effective in changing both criminal behavior and cost-effective in the use of our limited public safety resources.

We looked at the numerous studies and research, all the meta-analysis work that had been done in this body of work primarily funded by government and foundation grants, and we believed that the research could identify the risk factors that increase a person's likelihood to commit crime, at the same time the research could identify appropriate treatment interventions and strategies that could break this cycle. In short, it was research and program evaluators like you who convinced us that the science and the data were strong enough to allow us to start making data-driven policy decisions and investment decisions with our limited public safety resources. Again, I'll just remind you again of the old adage, "Be careful what you wish for."

The concept was simple—some would say simplistic. Senate Bill 267 requires that the Oregon Department of Corrections, the Oregon Youth Authority, the State Commission on Children and Families, the Criminal Justice Commission, and that part of our Department of Human Services that has responsibility for mental health and addictions treatment, spend at least, in the initial period of time, 25% of their budget on evidence-based programs that are targeted to either prevent or reduce crime or recidivism. The first 25% had to be achieved by July of 2005. The bill then required that it rise to 50% in 2007, and it tops out in July of 2009 at 75% of those resources.

The bill defines evidence-based programs as programs relying on scientifically based research. It requires that the agency prove cost-effectiveness and also requires that the named agencies regularly report to the legislature with an assessment of each program, including the determination of whether the program reviewed is an evidence-based program.

Sounds simple, right? Well, for a couple of people who worked on this, who were kind of lawyer/politicians who didn't know a lot about statistical models, academia, or the politics surrounding research, it seemed simple enough. You are probably not surprised that it wasn't universally supported. It wasn't the agencies in fact, that resisted the law. In fact, all of the agencies were independently moving down a path of evidence-based programming at some level. It was actually the program operators and the contractors and providers who didn't warmly embrace the idea. Perhaps the most common comment I received was, "We can't afford to run an evidence-based program," to which I commonly responded, "I can't afford to fund you to run a program that isn't evidence-based."

Evidence-based programs quickly became the shorthand for "what works", whether rightly or wrongly. Our theory, and I think it's still a theory that holds up, was that the state would never have the resources available, and probably never will have the resources available, to do a longitudinal, outcome measure-based study on every single program that we were investing in. So knowing that a program was designed around and implemented with sufficient fidelity to other similarly designed programs that had been studied as evidence-based programs gave us at least some sense of confidence that we would be investing in something more likely to work and more likely to produce the results that we were seeking.

Well, it's been five years since Senate Bill 267 was implemented in Oregon, and so the question is, how have we been doing? First, I think it's safe to say that Senate Bill 267 in Oregon has raised the profile of program design and fidelity evaluation in a way that only tying it to legislative funding and reporting could have accomplished. Few things speak louder to a state agency than a budget and reporting requirement. At the time of its passage, I had one of the affected agency heads privately suggest to me that although they had been making efforts in their own agency to move towards a more rigorous approach to evidence-based programs, they had difficulty getting their own program staff, their stakeholders, and their contractors to move with them. This agency actually believed that by placing this obligation in statute, it gave the agency both operational and political leverage that they needed to make more timely progress. At the same time others suggested that the agencies could do this without the law. And while that's true, "could" and "would" are obviously two different things. I remain certain that without the law, we wouldn't be having the kinds of conversations we're having today in Oregon around evidence-based programs. By raising the profile of evidence-based programs and evaluations, agencies are now changing the way they write their RFPs, the way they enter into contracts with program providers, which I believe are ultimately resulting in better designs and over time will lead to better outcomes as they become more of our standard operating procedure.

Second, while still far from perfect, Senate Bill 267 created a common framework for discussion among the five impacted agencies whose programs are designed to either prevent or intervene to reform criminal behavior. While each of these agencies was moving down a path, it wasn't necessarily a path that leads in the same direction—

helpful certainly to the agencies but not particularly helpful to the policy makers that ultimately have to make the budget cutting and investment decisions. Senate Bill 267 provided these agencies with a stake in Oregon's public safety efforts and a starting point to begin to move in a more unified approach about how these different delivery systems with many different funding streams play a common role as it relates to the investment of Oregon's limited public safety resources.

Third, Senate Bill 267 put into action, however slowly, the state's efforts to move to a program evaluation model that allows for policy makers, in the legislature and in the executive branch, to make more informed decisions in investments. Prior to Senate Bill 267 few, if any agencies, evaluated program design and fidelity or implementation, let alone quantified the effectiveness of programs. Quantifying the effectiveness of programs is ultimately necessary, obviously, to do any sort of cost-benefit analysis. But by forcing agencies to perform the difficult task of program evaluation, it has forced agencies again to collaborate. This collaboration has encouraged, for example, among the Department of Corrections, the Oregon Youth Authority, and our community corrections partners the use of the same evaluation tool throughout the state. The efforts have also encouraged collaboration with national experts like the Washington State Institute for Public Policy, the Oregon Social Learning Center, and other folks in a number of universities. And, I would suggest to you that Senate Bill 267 has been the impetus for our continued development in further research-oriented approaches to addressing these public safety questions. As an example, I point to our friend Mike [Wilson] down here at the end of the table. Without his efforts to work with us towards a cost-benefit analysis of programs, we would not have an economist, frankly, working in our Criminal Justice Commission, working with us to answer those questions. So, Mike is a tangible outcome of the efforts of Senate Bill 267 and the requirements imposed on all of us by the legislature.

Specific actions by the Department of Corrections have included efforts around what we call the correctional program checklist, or the CPC, which is the model we use for program evaluation not only for all the internal programs in the Department of Corrections, but for those programs funded by the state in our community corrections agencies around the state, as well as the Oregon Youth Authority. These teams have trained together, we've cross-trained among those agencies, and we do these common evaluations on these programs around Oregon where we have invested these dollars.

Now, you might not be surprised and certainly we weren't surprised, that initially most of our programs that we did the CPC evaluation on actually were determined to need improvement, or were determined to be unsatisfactory. We worked with the contractors delivering those programs to develop an improvement plan, and the same held true of many of the community programs that we also evaluated. In the Department of Corrections, we had one particular program that we evaluated that scored so poorly on our CPC that we ultimately terminated the program, retooled it using an evidence-based model, and reinitiated the program to address the needs of that targeted population. So, I can say specifically within the Department of Corrections, SB 267 led to us actually eliminating a program that was not designed or in its implementation was delivering

anything that we would hope to actually achieve with the program and the use of those resources.

So now I'm going to talk just a minute about the shortcomings and limitations that I think this bill has. I'm the first to tell you it's not a panacea. It was as much an aspirational direction set out by the legislature to try to move us down a path as it was a specific methodological approach. First and foremost SB 267 is a fidelity-based model. It isn't doing the analysis nor is it a permanent substitute for measuring a program's effectiveness. And we know that to get to the cost-effectiveness of this model specifically tied to Oregon-based programs, that's a place that we need to continue to move towards. We struggle, I'm sure like many of you, to get where we need to be on quantifying the effectiveness of specific programs just based on the lack of resources to do that research.

Secondly, I think the impact that the bill has had has required us obviously to go in and evaluate a program and to see that a program isn't being successful, and then to implement changes. I actually think that's a good thing. If you know the program isn't either being implemented effectively or it wasn't designed appropriately and fails to meet the requirements of the CPC, it's probably a good thing to make those changes. But in a pure research model, what that means is if we're consistently changing the program, it's hard to do that outcome-based research over time. Yet on balance I think if we trust the meta-analysis type of approach that we've used to evaluate programs and that have been built up over these last few decades, we already know a program isn't going to work and to wait to be told the results of a program that you know fails in its implementation and design, seems like a bad economic decision. It is certainly one I can't afford as the person who runs an agency with limited budget for these kinds of programs. It's not an issue I can afford to let just happen so we can figure out what the research ultimately tells us about our program we know is already likely failing.

Third, I'm concerned about branding. This is one that I've had a lot of concern about since we've passed the law. "Evidence-based" has become to programs what low-fat or zero-trans fat has become to the snack food industry. And I'm sure you all experience and see that. Senate Bill 267's definition of evidence-based was by design a pretty low threshold. We didn't want to start out being too restrictive about what we defined as an evidence-based program. The time may come when, like the FDA, we may need to improve our truth-in-labeling law. "Evidence-based" is becoming overused in this context and this even puts greater pressure, I think, on agencies to focus on our evaluation tools and to ensure the program really is evidence-based as we make those evaluations. The Oregon legislature hasn't yet removed funding from any agency making the honest effort to improve programming. Agencies and their stakeholders will naturally continue to report the most optimistic results. So for this to really work, a greater degree of independent evaluation is going to become necessary to ensure that what we're getting is what we've actually asked for – and paid for.

Fourth, the law is weak with respect to accountability. Limitations in the process include a lack of ability to hold some programs accountable that refuse to follow through with the

CPC recommendations that we issue when we've gone out and evaluated the program. We're growing out of this stage in part because more and more, the folks that we work with at the community level are including the right kinds of standards in their RFPs and in the contracts they enter into. But we continue to have some that resist our efforts to move down a path, particularly in areas like batterers' intervention programs and sex offender programs. There are some who refuse to recognize evidence-based practice research and the CPC criteria as applying to their intervention strategies. And community agencies as a primary referral and funding source are not necessarily following through to hold those programs accountable. That's a weakness in the law and one that we continue to struggle with, but I think we're making progress on that front as well.

There is a lack of consistency at times across agencies. We often contract as the Department of Corrections, and our community agencies' contract, with alcohol and drug treatment providers for community alcohol and drug treatment for offenders who have been released from prison. At the same time, our Office of Mental Health and Addictions treatment with the DHS folks are contracting with those very same providers in the community and are providing a different set of standards as it relates to the delivery of evidence-based programs. So, that inconsistency among the agency bureaucracies is certainly challenging, I think, for those program providers in the community and that's another issue we have to address through our interagency collaboration.

We have limitations with respect to automation, as I'm sure many of you do. We're pretty good about being able to track outcomes and the research that we need to do the evaluations of programs in the Department of Corrections, but it's much, much more difficult as people get into the field in Oregon, which has a very sort of fragmented delivery of community corrections programs. Thirty-six counties, all of them doing it differently, a number of them using different program providers, and so we fail by way of automation to some degree.

And then finally, one size doesn't fit all. When we forged Senate Bill 267 in the heat of the legislation, we believed we knew a lot about what works. But we also know, and I know now, that there are some things we don't know about specific populations that need to be addressed. Programs that are focused on a risk-based model, with responsivity issues, must be tuned to the specific challenges of the offender populations that they are trying to address. These programs recognize that issues of cultural competency and lack of sufficient research in program evaluations create a challenge with a one-size-fits-all approach to evidence-based programs, and I think the doctor [Dr. Jeffrey Sedgwick] mentioned that even in his own remarks at the beginning of the meeting.

So, our future—here's what I'd say about Oregon. We are on a good path, I think, to moving further down the road of implementing what our hope was, which was a unified approach to evaluating Oregon's investment in these kinds of programs across a spectrum of agencies that do things differently and address different populations. It's a very challenging situation, for example, to compare a Department of Corrections intervention program with a program done by our Commission on Children and Families that's doing

early childhood intervention and to do that dollars and cents comparison between those two models. And yet we believe that over time, we can get to a point where we can achieve the ability to give policy makers at least a snapshot of what those investment decisions may be if they want to ultimately both make Oregon safer and lower the cost of corrections over time.

We hope to develop a more specific Washington Public Policy Institute approach that's focused on Oregon-based programs, so we're not borrowing all of the research of everyone else for their meta-analysis and then coming in and applying it, as a general rule, as to the affect sizes that we think we can capture. But, we want to move to a point in our efforts through Craig's office [Craig Prins, Executive Director of the Oregon Criminal Justice Commission] and the joint collaboration that we've managed to establish among public safety agencies, where we are sharing our research staff and our data in a way that we can get program-specific in Oregon to target our own specific programs and know the cost-benefit analysis of that specific program in our investment. We're making progress on that front, but it remains in some ways, perhaps, the most elusive piece of this after five years on that path.

I just want to close with just a cautionary tale if I could. I was invited several years ago—and I have to tell you that I've spent most of my life as a lawyer, and part of that in the legislature, and now running a prison system, and I'm relatively comfortable speaking to virtually all groups of people—the one group of people who make me the most nervous are a bunch of you Ph.D. types and academics in a room. And so this is relevant to the story I'm going to tell you, because a few years back I was invited to be on a panel discussion at the NIJ Research and Evaluation Conference in Washington, DC. I don't know if some of you were there, because you kind of hang out in that group like a herd, I think. And I was the lone non-Ph. D. on the panel, so everyone else on the panel but me had a Ph.D., or was some fellow at a university doing something. And the conversation was about Senate Bill 267 or generally evidence-based programs and I was on there because of my involvement in this bill. One of the researchers, one of the Ph.D.'s on the program, who (I don't remember his name, so I don't feel bad talking about him in front of you) went on to sort of say, "Well, you know, really we don't know much about anything." And I looked at the room, and it was a room at least two or three times the size of this one in their plenary session, literally full of hundreds and hundreds of people who were being paid primarily to know "stuff" about "something". And I looked at the people and at the back table and there were monographs stacked to the ceiling, literally, of "stuff" that was supposed to tell us "stuff" about "something". And I thought about the millions and millions of dollars we're spending on research at the state and federal level and the billions and billions and billions of dollars that we're spending sometimes on uninformed policy choices.

As a policy maker, I had been told, you know, as a fresh, brand new legislator who got sucked into a National Conference of State Legislatures (NCSL) meeting on criminal justice policy, I'd been told, "look at the research", "use data to make decisions", "what you think your gut tells you is probably wrong", "don't knee jerk". And yet in the face of

Senate Bill 267 I was being told by a panel of Ph. D. researchers that we didn't really know "much" about "anything".

I was astounded, and frankly, grateful, that my legislative colleagues that I cajoled into passing Senate Bill 267 weren't in the room with me for fear that they might have wanted to hang me from the ceiling. Well, today I will tell you that policy makers, particularly in Oregon, by me and many others are being told, and this includes foundations and legislative staff and national organizations like NCSL and CSG, to look at the research and look at the data in making criminal justice policy decisions. And I believe that we should continue to do so. But there is a great danger, and I offer this as the cautionary tale. There is a great danger by suggesting, in the face of these challenges that when it comes time to actually trying to tell a policy maker what the research and the data tell you, to want to shy away from potentially being held accountable, or at least being held responsible for that data—to start to say, "Well, we really don't know much about anything." I often tease Mike [Wilson] about the Harry Truman quote about the economist— "Well, on the one hand and the other hand." Truman always wanted a one-handed economist because then you didn't have the other hand.

I know that there is a lot that we don't know, obviously because we haven't invested the time or the effort or the energy in doing all of the research and evaluation that's necessary. But what we do know and what we have been able to learn and what we can determine, through the, literally, millions and millions of dollars of investment in research, we should be able to then quantify and provide to policy makers to help them—whether they're elected policy makers or appointed policy makers—to help them make informed choices about how to invest these very limited sets of resources in trying to make the communities we live in ultimately safer.

You have a tremendous ability to influence good public policy and improve public safety outcomes. With that ability or that responsibility -- (I'm trying to remember the Spiderman quote) -- "With great power comes great responsibility," and it's true. So I guess what I would close by saying is that while I've certainly had my "Be careful what you wish for" moment, I would tell you that I think we're moving into, from a research and an evaluator's standpoint, a "Be careful what we wish for" moment. We're at the point now where we're relying on you to tell us what we need to know in order to make those good decisions. So your time has now come. Thank you.