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## Introduction

### The Problem

After several decades in which an ever-wider array of new and costly policies has emerged, America’s criminal justice system stands at a crossroads. On the one hand, the United States can continue to invest billions of dollars in policies that may not be needed and may not work. On the other, it can heed recent calls for increased government accountability and reliance on evidence-based strategies. The latter path holds the promise of helping to place criminal justice policy on a solid foundation that cost-effectively reduces crime, helps offenders become contributing members of society, increases justice, and assists victims and the families and communities affected by crime.

Some signs suggest that the country is pursuing accountability and evidence-based policy, and thus indicate grounds for optimism. Many states, for example, are increasingly committed to identifying and implementing “best practices” for working with offenders.<sup>1</sup> Also, the very fact that the terms *accountability* and *evidence-based policy* frequently turn up in policy discussions underscores that policy makers and the public want the criminal justice system to be held to a high bar.

Even so, significant cause for alarm exists. Consider the rapid expansion of the U.S. prison population, which grew by more than 370 percent between 1980 and 2008<sup>2</sup> and far exceeded growth in the general population or in crime. This growth has generated increased costs for the correctional system, with expenditures that have increased 7.5 percent annually since 1990.<sup>3</sup> Such growth may have been warranted and may have produced, or will produce, dramatic returns, but to date there is little research to support such assertions. Much the same can be said of many other popular crime policies, including “get tough” sentencing laws, the spate of recent sex crime

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laws, the widespread adoption of specialized courts, the proliferation of super-maximum (“supermax”) security prisons, and the emergence of a range of faith-based prisoner reentry programs. These constitute but a few of the policies that have ascended into prominence in recent decades and yet remain largely unevaluated or, if evaluated, enjoy little or questionable empirical support.

Against that backdrop stands the fact that, even as calls for accountability and effective policy have increased, the bulk of what falls under the umbrella of the criminal justice system occurs within a “black box.” We know little, for example, about many different facets of this system and the policies, programs, and practices that constitute it. That includes the day-to-day activities and decisions within criminal justice that directly affect the lives of millions of individual offenders and, ultimately, society.

This state of affairs is the motivation for this book, which argues for the systematic use and institutionalization of an evaluation research approach to assessing and improving criminal justice policy. By policy, I mean not only the various and sundry laws designed to guide sentencing decisions. I also mean the many crime-prevention and treatment programs, and the diverse set of court, law enforcement, and correctional system rules, protocols, and practices that collectively constitute the criminal justice system.<sup>4</sup> In short, *policy* is used here as a shorthand reference for characterizing a wide range of approaches aimed at achieving the goals of the criminal justice system.

The broad focus is purposeful. Discussions of criminal justice frequently center on particulars – a particular law or Supreme Court decision, a particular drug treatment program, a particular policing initiative, and so on. Whatever the merits of such discussions, and they are many, a downside is that we often lose sight of the forest because we are so preoccupied with the trees. By contrast, when we look across a range of policies, we may be better able to discern the forest – in this case, the state of criminal justice policy nationally. We can see certain patterns, for example, that may be cause for concern or for comfort. I believe that applying an evaluation research framework to many of today’s most prominent criminal justice policies reveals two patterns of special importance. First, there is not a systematic, evidence-based foundation for many, if not most, of these policies; indeed, research all too frequently does not exist concerning a specific policy or reveals minimal to no positive effects. Second, many opportunities exist for increasing the accountability and effectiveness of the criminal justice system.

One opportunity bears mention at the outset. Increasingly, policy makers, criminal justice officials and practitioners, and the public have expressed interest in identifying and implementing cost-effective policies.<sup>5</sup> Corresponding with that interest is an increased emphasis in criminology and

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criminal justice and in university and college programs nationally on policy-focused research.<sup>6</sup> As but one example, in 2004 the American Society of Criminology created a special journal called *Criminology and Public Policy* aimed explicitly at forging a stronger link between research and policy. Perhaps more telling is the fact that, in recent decades, public policy has featured prominently as a theme in the society's annual presidential addresses.<sup>7</sup> Along a parallel track, the other prominent organization of American criminologists and criminal justice scholars, the Academy of Criminal Justice Sciences, has focused on forging ties between research and policy since 1963.<sup>8</sup> In short, a unique opportunity exists to improve criminal justice policy by capitalizing on the interest and willingness of these different groups to advance the goals of increasing accountability and evidence-based policy and, more generally, the effectiveness and efficiency of the criminal justice system.

Unfortunately, few sources exist that show how research and, in particular, evaluation research, can be used to inform and improve criminal justice policy. Certainly, textbooks on criminal justice research methods exist,<sup>9</sup> and so, too, do textbooks on evaluation research.<sup>10</sup> Books on policy development and planning also exist.<sup>11</sup> But there is little in the way of guidance about using an evaluation research approach to assess the most prominent criminal justice policies in use today.<sup>12</sup>

### The Goals of This Book

One goal of this book is to fill this void and, in particular, to show how evaluation research can be used to contribute to efforts by policy makers, criminal justice officials and practitioners, researchers, students, and the public at large to improve criminal justice policy. To this end, the book is designed to be accessible to researchers and nonresearchers alike. As will become clear throughout this book, the art of evaluation research does not require extensive research or statistical skills, but rather an ability to ask relevant questions. Put differently, evaluation research involves asking good questions more than it does understanding or using sophisticated statistical techniques or research designs. For example, the first type of evaluation the book covers is a needs evaluation. To wit, is there a need for a given policy? Answering that question can be tricky, but not necessarily because of difficulties related to research design and methodology. Rather, the question itself raises a host of additional questions. For starters, consider this question: how much incarceration does a given state "need"? One might think that it depends on the amount of crime. That certainly is part of the equation. But other factors come into play as well. For example, presumably incarceration

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should be reserved for those who commit serious or violent crimes. What, therefore, is the prevalence of such crime? And how many years of incarceration are appropriate for a given offense, such as assault? Any assessment of need requires answering these and other questions, ones that anybody, not just researchers, can conceptualize if not answer. Indeed, researchers frequently do not know enough about a particular social problem or policy to ask the right questions, whereas others frequently do.

A second goal of the book is to make the argument that, in fact, many of our most prominent criminal justice policies lack a solid, evidence-based foundation.<sup>13</sup> Certainly, examples of effective criminal justice policy exist. However, I believe that, when viewed through the prism of an evaluation research perspective, far too much criminal justice policy fails to receive a passing grade. At the same time, I see a considerable basis for optimism in the fact that even small improvements in policy and practice could generate large returns to society in the form of reduced crime and more justice. The returns also include the potential for improving the life chances of individuals at risk of involvement in the criminal justice system or who are already in it, as well as for improving the lives of their families and the members of the communities from which they come or to which they will return.

A third and final goal of the book is to make the case that evaluation research should be much more and better integrated into criminal justice policy making and practice.<sup>14</sup> Indeed, without such a change, it is difficult to see how the accountability and increasing reliance on evidence-based policy and practice promoted nationally can emerge in criminal justice. Other factors besides research clearly must be in place for these goals to be achieved. As I discuss in Chapter 2, political dynamics alone play a critical role in which policies get adopted and which do not.<sup>15</sup> Even so, research constitutes an important part of any effort to improve criminal justice, especially if the goal is to increase the evidence-based foundation of policy. In the conclusion, I will highlight promising avenues for putting policy on a stronger research footing and end the book on what I believe is an optimistic note. Here, however, I will note that, at the most general level, there exists a unique juncture of pressures for institutionalizing evaluation research into all aspects of criminal justice policy and practice.

### Organization of This Book

The organization of this book is as follows. Chapter 2 briefly introduces the evaluation hierarchy and provides an overview of the current crime and policy landscape nationally. It focuses particular attention on recent crime

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trends and the growth in all parts of the criminal justice system. The chapter emphasizes that there is little research to support current policies and, as importantly, that little is known about the implementation and effects of many of them. That situation, I argue, is irrational given the stakes involved and the opportunities for improving the effectiveness and evidence-based foundation of the criminal justice system. The chapter then discusses critical factors that can influence policy and also undermine accountability and effectiveness. These discussions set the stage for the argument that we need an institutionalized foundation for incorporating research into criminal justice policy design, implementation, monitoring, and assessment. This chapter, as with the others, includes discussion questions that can be used to review the material or to stimulate debate about particular issues.

Chapter 3 describes the evaluation hierarchy in detail, including its logic and benefits. It argues that the hierarchy provides a useful framework for conceptualizing what it means to have accountability or evidence-based policy and practice. The hierarchy creates the structure for the book. Thus, this chapter provides the cornerstone for understanding how the subsequent chapters relate to one another, how the different types of evaluation can be used to take stock of the state of criminal justice policy today, and how they can improve the accountability and effectiveness of the criminal justice system.

Chapters 4 through 8 apply and illustrate the five types of evaluation to some of the most prominent “hot topic” policies nationally. Chapter 4 focuses on needs evaluation, Chapter 5 on theory evaluation, Chapter 6 on implementation (or process) evaluation, Chapter 7 on outcome and impact evaluations, and Chapter 8 on cost-efficiency evaluation. In each chapter, the focus is on answering three questions. First, what is the particular type of evaluation? For example, what is a needs evaluation? A theory evaluation? Implementation or process evaluation? An outcome or impact evaluation? A cost-efficiency evaluation? Second, why is the particular type of evaluation important? For example, what exactly are the benefits of conducting needs, theory, implementation, impact, or cost-efficiency evaluations? Third, from the perspective of a particular type of evaluation, are the policies that currently feature prominently in national criminal justice systems warranted? For example, do the policies rest on a clear establishment of need? Are they well grounded theoretically? Are they implemented well? Have they been shown to have demonstrable impacts on critical outcomes? And are they cost-efficient?

To illustrate each of the types of evaluation, each chapter includes two case studies per type of evaluation: mass incarceration and sex crime laws

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(Chapter 4), supermax prisons and faith-based reentry programs (Chapter 5), juvenile transfer and domestic violence mandatory arrest laws (Chapter 6), drug courts and gun laws (Chapter 7), and community policing and private prisons (Chapter 8). Throughout the chapters, I provide many examples of how the different types of evaluation could be or have been applied to a range of other criminal justice policies.

The case studies and examples serve to illustrate each of the types of evaluation and the need to tailor evaluations to the specific characteristics and nuances of particular policies. They also serve to highlight that little evidence exists for many of the most prominent policies on the criminal justice landscape today and, in turn, to highlight the need and room for improvement. My main criteria in selecting the policies were timeliness, prominence, and range. That is, the policies are widespread or are becoming so, and they collectively convey a sense of the contours of American criminal justice. Certainly, additional policies could have been included. In the end, though, the goal of the book is to show how an evaluation research framework can be used to improve criminal justice policy and to make an argument about the need for more systematic reliance on such a framework. In that respect, it is not necessary, much less possible, to discuss every major criminal justice policy.

Finally, Chapter 9 concludes by briefly summarizing some of the critical problems that largely preclude the systematic emergence of accountability and evidence-based policy in criminal justice systems throughout the country. It then turns to a discussion of concrete recommendations through which criminal justice policy could be improved.

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## 2

## Irrational Criminal Justice Policy

A CENTRAL GOAL OF THIS BOOK IS TO CONTRIBUTE TO EFFORTS TO improve criminal justice policy and to do so by showing how the systematic use of evaluation research can lead to less bad policy and more good policy. The ultimate aim is to help place criminal justice policy on a more rational footing, one where it has a chance of providing the accountability and the effectiveness that the public expects of it. At present, and as detailed in subsequent chapters, too many criminal justice policies are ill founded, ineffective, or inefficient, or they lack sufficient evidence to support them. Put differently, we have too much irrational criminal justice policy. I argue that increased reliance on the evaluation hierarchy in all parts of the criminal justice system and in the development and assessment of policy provides one critical platform for correcting this situation and fulfilling the public's desire for effective government.

This chapter sets the stage for this argument and the subsequent chapters in several ways. First, it briefly introduces the evaluation hierarchy as a framework for critiquing current policy. The details of the hierarchy are discussed in Chapter 3, but a discussion here provides a foothold for understanding the context – in particular, the lack of accountability and effective criminal justice policies – that motivates this book. Second, it provides a portrait of national crime and justice system trends, and, specifically, the dramatic increase in criminal justice populations and expenditures. This discussion serves to illustrate the stakes involved and to highlight the need for creating the types of research that can allow for accountability and evidence-based policy. Third, it describes some of the prominent factors that have been argued to influence criminal justice policy. This discussion highlights the fact that many barriers to research-based policy exist. In so doing, it underscores the importance of institutionalizing

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evaluation research as a critical part of an effort to place the criminal justice system on a more rational – that is, a more accountable and effective – foundation.

### The Evaluation Hierarchy and the Irrationality of Criminal Justice Policy

Imagine someone tries to sell you a used car. Before responding, you may well ask yourself five questions. The first question is, “Do I actually need a car?” Perhaps you do. But perhaps you do not. In some areas, having a car is practically a requirement for getting to and from work. In others, especially metropolitan areas, public transportation may suffice.

Assuming that you do need a car, the second question presents itself: “Is this the *kind* of car I need?” For example, if you have a daily two-hour commute, you likely would want a car with good gas mileage, so a large pickup truck might not be the best option, all else being equal. Even so, gas mileage may not be the only relevant consideration. If you are more than six feet tall, some gas-efficient cars may feel uncomfortable. In addition, your work may involve shorter trips and carting large equipment from one place to another. A compact vehicle may not be the best option in such cases.

If you determine that the car indeed is appropriate for your purposes, you then likely will ask a third question, namely, “What is its condition?” That is, how has it been used and how well has it been maintained? For example, if it is a manual-shift vehicle, did the person shift in a way that wore the clutch down? If so, you may need to pay for a new clutch soon. Was the car ever in an accident? If so, there may be problems not immediately evident that could surface and lead to many costly repairs. Conversely, if the owner supplies detailed records, including regular tune-ups, oil changes, and the like, you may have more trust that the car will be reliable and that it will perform in the way you expect.

Should you determine, upon inspection of the car, that it passes muster, you might well entertain a fourth question: “What do reviews about this type of car say about its performance?” For instance, are claims about the car’s gas mileage supported? How often are repairs typically needed? Put differently, how much can you trust that the car will get you where you want to go on a regular basis with minimal maintenance?

In the event that all of the preceding questions lead you to believe that the car is indeed worth purchasing, you typically will ask a final question: “Do the benefits of this car outweigh the costs, especially as compared to other cars or to other pressing needs that I may have?” Presumably, if another



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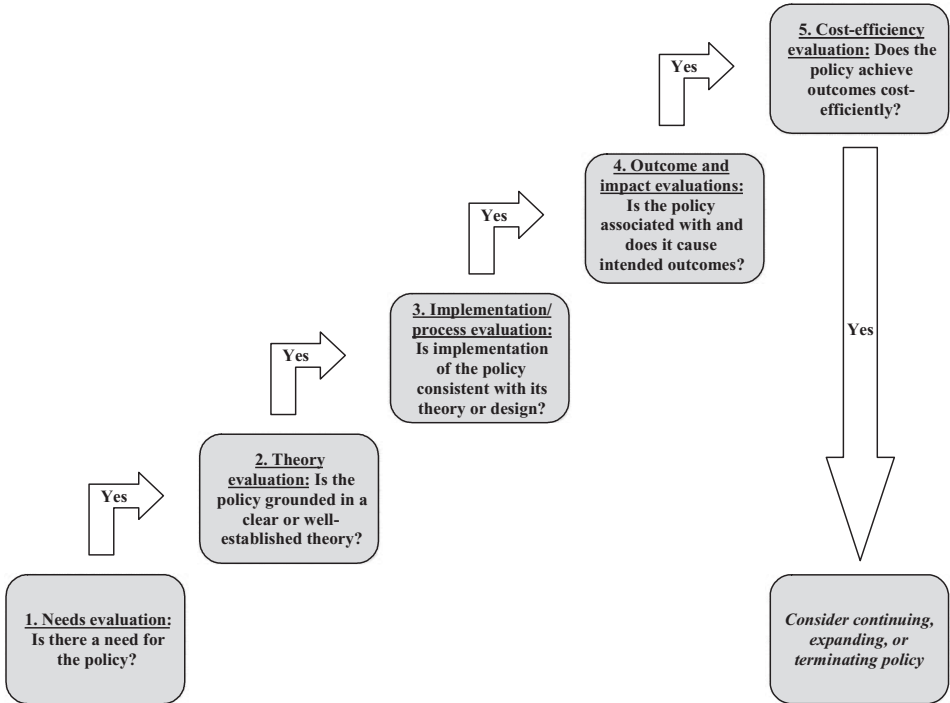
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car passed all of the previously mentioned criteria comparably well but cost less, you would go with it. Similarly, if you determined that some other pressing need was more important – say, payment for a medical procedure not covered by insurance – you might well pass on what otherwise seems to be a good deal.

This example is by no means accidental. Car ownership is widespread in America, and so such questions are far from academic. Even so, the reality is that most of us make similar sets of calculations about many decisions in our everyday lives. I work in a university setting and students typically need to take classes to graduate. But they do not need to take all of them. Rather, they will want to select those courses best suited to help them complete their major. They also will want courses that are taught well, and they will want to learn something as a result of taking them. At a more general level, by attending a university, they, or their parents, are proceeding on the assumption that the benefits of additional years of schooling offset the costs of not immediately entering the workforce.

Such calculations are the stuff of life and affect even our most mundane decisions. Each week, my son and I go grocery shopping and must select from what seems to be about fifty or more different types of toothpaste. We have determined (or, really, I have) that we definitely need toothpaste. We are not entirely clear why toothpaste helps, but we proceed on faith. We are pretty clear that we need to put the toothpaste on the toothbrush for it to have any chance of having an effect. However, we have not the foggiest idea which toothpaste produces the best effects. Does brand X produce fewer cavities? How about brand Y? Even if brand X is better at reducing cavities, perhaps it is not as good at preventing tartar buildup, which seems like a good thing to avoid. Perhaps it is a draw when it comes to whitening teeth. Is one brand better at reducing tooth sensitivity? Then there is the whole question of how well it freshens your breath. After making many assumptions about the relative benefits of one brand versus another, we then consider the cost of the toothpaste. Some toothpastes seem to do everything at once, but they also tend to cost more, and there is the concern that perhaps they do some things (e.g., cavity prevention) less well than others (e.g., tartar reduction). In the end, I am not at all sure we end up making the best choice. But, the steps we go through – that all of us go through in making decisions throughout the course of every day – involve a logic and sequence highly relevant to policy debates.

In particular, most of us employ an evaluation hierarchy in our decision making, especially if it involves serious financial investments. Indeed, viewing our everyday decisions as policies, and the evaluation hierarchy, as depicted



**Figure 2.1.** The evaluation hierarchy. Adapted from *Evaluation: A Systematic Approach*, by Peter H. Rossi, Mark W. Lipsey, and Howard E. Freeman, 7th edition, 2004, p. 80. Used with permission from Sage Publications.

in Figure 2.1, proceeds as follows. First, we assess whether a need for a policy exists; this is a *needs evaluation*. Second, we then assess whether the theory underlying the policy is logical; coherent; and, ideally, supported by research; this is a *theory evaluation*. Third, we assess how well a policy is implemented; this is typically termed an *implementation* or a *process evaluation*. Fourth, we assess (1) whether the policy actually is associated with intended outcomes (this is typically termed an *outcome evaluation*) and (2) whether it likely causes the outcomes (this is typically termed an *impact evaluation*). Fifth, we assess whether the policy's benefits outweigh its costs and whether the benefits, relative to costs, are substantially greater than those of another policy; this is a *cost-efficiency evaluation*. The first type of cost-efficiency evaluation is a cost-effectiveness analysis, which compares the costs of two or more policies aimed at achieving the same goals. The second type is a cost-benefit analysis, which compares the costs and benefits of two or more policies that have different goals. In a cost-benefit analysis, the impacts on goals are monetized (i.e., we assign monetary values to them) so that we can make apples-to-apples comparisons between two or more policies.