Center for Justice Innovation

Sticking the Landing
The High Stakes of Policy Implementation

Every major justice reform is a hard-fought win. Advocates and activists put in countless hours to soften the political ground, build coalitions, tee up legislation, and—if everything aligns—get it passed into law. But this is not where the fight ends. Once reforms become law, the critical work of implementation begins. Too often, though, reformers don't have the time, expertise, or funding to ensure that the law they fought so hard for is actually carried out in the way they envisioned.

The stakes are significant. The history of reform—in the criminal legal space and beyond—is littered with against-the-odds policy victories that died on the vine of implementation. Rather than demonstrating proof-of-concept, innovative legislation that fails at the implementation phase can become "proof" that the status quo was better left untouched and reform is unworkable. In the most extreme instances, the movement ends up further from its goal than when the policy push began.

In this piece, we highlight the key elements of strong, sustainable policy implementation. Implementation is different from advocacy—advocacy gets you airborne; it's implementation that lets you stick the landing. But to succeed, effective implementation must be just as relentless, just as fortified against resistance, and just as rooted in the local context and players as the most effective advocacy campaign.

What Is Implementation?

At its core implementation is preparing for, coordinating, and monitoring over the long-haul how a policy change will actually roll out on the ground. Take the successful campaign in 2021 to pass New York's Less is More Act: *less* use of parole revocations, which were leading to jail for transgressions as minor as missed appointments, would mean *more* safety and justice. But implementing system-wide changes to practice would rely on the buy-in of multiple criminal justice agencies. The Katal Center for Health, Equity, and Justice helped to lead the campaign. The group's co-executive director, gabriel sayegh, says previous experiences meant the bill's advocates knew what they were up against once the bill passed: "We made a decision that we were not going to let implementation float away."

So, how do you keep implementation close to the ground?

- **Ensure what your bill describes is capable of becoming practice.** Focus relentlessly on mechanics: listen to the practitioners you will need to make any policy change real, work to do the most possible good, and ensure you are not introducing fresh harms into the system.
- **Carefully define the roles and responsibilities of each of the agencies and actors required to make your changes real.** If you don't figure this out at the legislative stage, you're leaving a large opening for inertia and infighting. What's left undefined will often be left undone.
- **Estimate the funds needed to make your changes real.** You might not be able to secure all of the funding your bill will need at the policymaking stage, but you're going to need a sense of how big the gap is and a plan for how to bridge it.
- **Monitor compliance and outcomes.** Without mandatory measures of accountability, it will be easy for your changes to be ignored. Related to this: What mechanism is there for course-corrections?

One challenge: good, sustained implementation takes money. Historically, neither governments nor funders have shown much interest in supporting it. "It's the least sexy part," says Joanna Weiss, the co-executive director of the Fines and Fees Justice Center. "Getting the bill passed is what everyone gets the most excited about."

Always Be Implementing

As you start your thinking about implementation, here's the first, somewhat counter-intuitive, point: *It begins before you have anything to implement.* Good policy requires a strong concept, but a concept alone won't allow you to reach the people you're trying to reach. Design your legislation from day one with an eye firmly on implementation.

Even at this early stage, implementation can be a delicate business. Policies can fail both from not being focused *enough* on the nitty-gritty—the "let the counties/agencies figure it out later" approach—and from being *overly* prescriptive. If you set up a policy to divert people with mental health challenges from criminal court, but the bill lays out 16 different criteria for who can access it, that is going to lead to confusion on the ground—too hard to implement, your policy risks going untapped.

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Chidinma Ume, the senior director of community justice for the Center for Justice Innovation, suggests going lighter on restricting the people who can benefit from your policy, "and heavier on the *how*: this is how this should be done." Striking the balance between where to be specific and where to leave flexibility for things to be worked out on the ground will be different in every case—the key is knowing the players and the system you're targeting. Listen to practitioners and

establish credibility with them. They need a measure of agency as to how the new policy becomes practice, rather than feeling they're only being told how to "comply."

Everything Is Political

This all assumes a political process in which you can secure everything you know that your bill needs. That utopia doesn't exist. Inevitably, there will be challenges you will have to address after your bill's passage. "You deal with the practical realities of the legislature," says sayegh. "Anything that goes through it is going to get pared down, that's just how that place works."

The Fines and Fees Justice Center, for example, recently helped to pass a bill significantly decreasing the collateral consequences of unpaid justice-system charges. The hitch in implementation was the government agency in charge declined to follow up with what would have been thought to be a common-sense measure, blunting the bill's impact. Weiss says the decision to omit from the bill an obligation for the agency to do so was intentional: "because if we did, we were going to be met with resistance and pushback from an agency with power." Ultimately, she says, including it could have killed the bill.

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So, you take the policy victory—in this case an important rule-change going forward—and where the outcomes remain less than desirable, you scramble as part of implementation to clean things up. Sometimes policy gets passed by *avoiding* the nitty-gritty, but this only raises the stakes of implementation: the policy may have outlined a new space for action, but it's only an outline; it's the work of implementation to fill in the space.

Where the Map Meets the Land

Filling in the space between possibility and reality is going to require the cooperation of actors on the ground. This is where the limits of policymaking can be in sharpest relief. "We can't legislate the day-to-day behavior of system-actors," explains Sam Schaeffer, the executive director of Center for Employment Opportunities, which works to support and find jobs for people leaving incarceration. As one person who works on implementation describes it, the process can feel like a lot of meetings with grumpy people with conflicting priorities.

"They're not always delighted to work with us," Weiss concedes of agencies affected by new policies. "It's going to force them to make changes to how they operate." Sayegh is even more blunt: if your policy impacts core tenets of the status quo, "anticipate massive bureaucratic resistance at every turn."

Getting the buy-in of the agencies involved in implementing your policy is going to require a lot of listening, a lot of planning, and a lot of investigation—ongoing work that builds on the research you already carried out as part of drawing up your policy. There can be an enormous gulf between the well-intentioned goals of legislation and the realities of implementation. Practitioners are the only people who can bridge that gulf.

Map out the process your policy is trying to change: What are each of the touchpoints? Who is making decisions at those points and why? Do the same, prospectively, for the process you're trying to create. Meet with everyone. And make sure you have someone in the room who can speak the language of the people you're meeting with.

"That's a mojo that we add," says Ume of her work in Los Angeles for the Center for Justice Innovation. "I can't tell you how often folks ask us, 'hey, can you come to this meeting with us?' Or, 'can you do the talking, because we don't know what to say to that person?'" People you need to win over can run the gamut: from judges to service providers to community members. You need to understand each group's interests and concerns and have the credibility to be able to translate among them.

> It's incredibly complicated not to step in it.

Correcting Course

Agencies can go through the motions when it comes to implementing policies they might not like—the performative strategy. Another obstacle is in the transition from policy to implementation. As Weiss puts it: "how these things look when you actually try to get them done—the reality is different than you anticipate."

The best way to short-circuit both dynamics is to be prepared for course corrections, and that means pushing for reporting requirements in your policy and putting data benchmarks at the center of implementation. "What would it look like if from day one we set up the infrastructure for transparent and clear reporting?" asks Schaffer.

When L.A. County experimented with bail reform in 2020, Ume points out it led to a significant rise in the number of people being placed on electronic monitoring—an unintended consequence of the legislation. But that information only came to light because of a freedom of information request; there was no obligation for the county to report publicly on outcomes as part of the policy.

"Course correction, to me, is the harder part of policy implementation," says Ume, "because typically government has committed to doing what they want already." It's a hard sell to tell them what they've set up isn't working. This is where mandatory data reporting is key: who is this policy reaching (and missing) and what are the outcomes? When things aren't working, having evidence makes it easier during implementation to make the case for real changes.

Antiquated technology can make effective reporting requirements a challenge. To the extent political realities allow, push for flexible funding as part of your policy to improve data-gathering and evaluation.

Your Narrative, Contested

Implementation is about the long-haul, but it doesn't last forever. Vigilance remains the watchword for the implementation of the Less Is More legislation targeting parole in New York, says sayegh, but this year has been much better than the last, and agency staff have begun to stabilize around the changes. Once that takes hold, things nor-

malize. "On the mechanics side," he says, "a lot of Less Is More is in place and set. But it's still volatile politically."

It's an important distinction. The opponents of your bill won't drop their campaign against it simply because it's passed out of the legislature. You need to continue to battle for control of your narrative in the public square and think of that effort as a critical part of implementation. That is going to take coordination, partners, and, ideally, funding. If you cede the terrain, your opponents' narrative can fill the vacuum; not only will this make implementation even more of an uphill struggle, it could also lead to rollbacks of your legislation, as recently took place with Oregon's pioneering drug decriminalization measure.

Putting It All Together

At every stage, design and implement your policies with those you're trying to reach foremost in mind. For an organization such as Center for Employment Opportunities, policy ideas are often generated by those directly impacted by the criminal legal system, but Schaeffer says, "as a field, we have not thought deeply enough about their role in implementation. Having justice-impacted people guide implementation and developing career pathways for them to play an ongoing role would be good next steps."

For Ume, designing with the under-served in mind means asking where the people you want to reach are and then going there. People from areas with high rates of police contact and incarceration tend to avoid courthouses. If you need to identify a touchpoint for people to access the opportunity your policy has created, how about a resource the community already uses, like a library? And then think about community engagement: how will people find out about this opportunity?

That kind of successful implementation requires deep local knowledge and credibility. "The closer we are to the people on the ground the better," says Ume of her implementation work. For Weiss, whose organization works on policies across the country, good implementation is always going to require a co-pilot: "The key thing is to have a local partner who really understands the political situation in a very nuanced way. Because it's incredibly complicated not to step in it."

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Large systems are frequently opaque, always complex, and driven as much by inertia as anything else. That means genuine system-change will always be a struggle, and getting your legislation passed is only the beginning of your fight.

These are the high stakes of implementation. But with the right preparation and support, a good idea can make it from policy to practice—and change systems and lives for the better.

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