Expert Attitudes Towards Digitization in the Penal Landscape:

Ethical and Moral Considerations

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Our invitation to the 3rd Technology in Corrections Conference in Lisbon (ICPA/EuroPris 2019) was warmly welcomed. Our research and scholarly collaboration have arrived at an interesting juncture- to assess and evaluate the ethical and moral implications of digitization in the correctional landscape. Our presentation looked to the conference delegates for their responses to a number of ethical and moral challenges. Using the interactive Menti software we invited delegates to record their responses to a series of statements that we designed to illicit a deeper understanding of what they considered to be of importance, value and priority. The findings of this interactive survey are reported here. We recognize the limitations of this, but we hope that this will begin important conversations about how we should collectively respond to the correctional digital revolution without creating further harm to people within penal institutions. In fact, we hope digital technology will help to reduce harm altogether.

Our considerations are timely. Central organisations like the Council of Europe are striving to adopt an ethical charter for digital solutions[1]. We have challenged and now tasked ourselves to develop future research on digital maturity of prison services as well as refine our previous work on digital strategies.

Our presentation introduced a framework for developing ethical and moral principles to digitization. Based on Cesare Becarria's theory (????), we applied his principles to the digital landscape of corrections. In summary these included:

- **Normality**-the concept of normalizing the correctional experience where it brings no further harm or disruption to the offender
- **Legality**- that we can place trust in processes and procedures and there is no bias
- **Publicity**- that these processes are transparent, and we know how they are applied
- **Proportionality**- that information is in proportion with need
- **Equality**- that no stakeholders are discriminated against
- **Personality**- limiting further harm beyond the offender and we recognize the consequences

We used these themes to develop a series of short statements for delegates at TIC 2019 to respond to. Our findings are presented here:

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[1] **Council of Europe** *CEPEJ European Ethical Charter on the use of artificial intelligence (AI) in judicial systems and their environment* <**https://www.coe.int/en/web/cepej/cepej-european-ethical-charter-on-the-use-of-artificial-intelligence-ai-in-judicial-systems-and-their-environment**> (accessed 17.4.19)
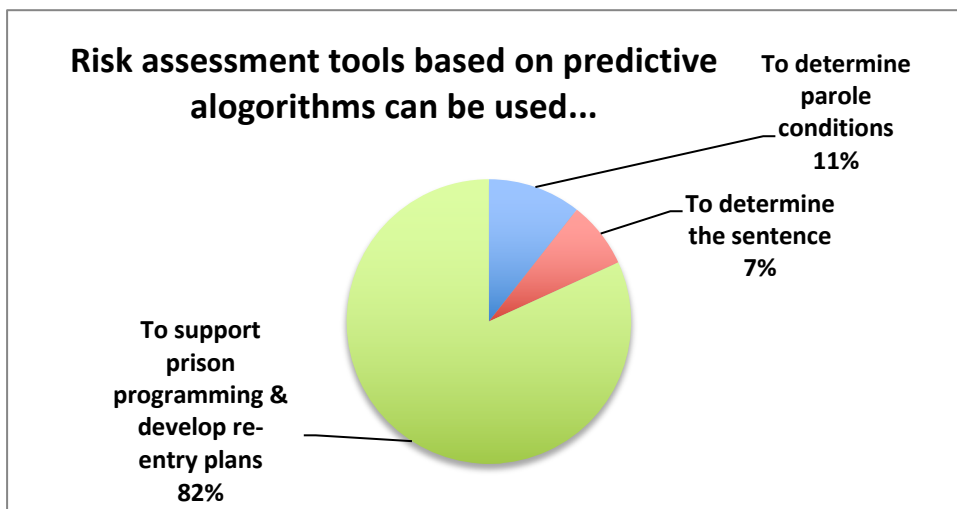
Based on the **principle of normality** the delegates mainly perceived that there is a *need* (43%) to give prisoners-controlled access to the internet. A further 40% stated that is was *useful*. 7% thought that it is a *legal requirement* and 10% stated that prisoners *should not* be given access. (see Chart 1).

Chart 1

We should give prisoners (controlled) access to the internet

- We should not give internet access 10%
- It is a legal requirement 7%
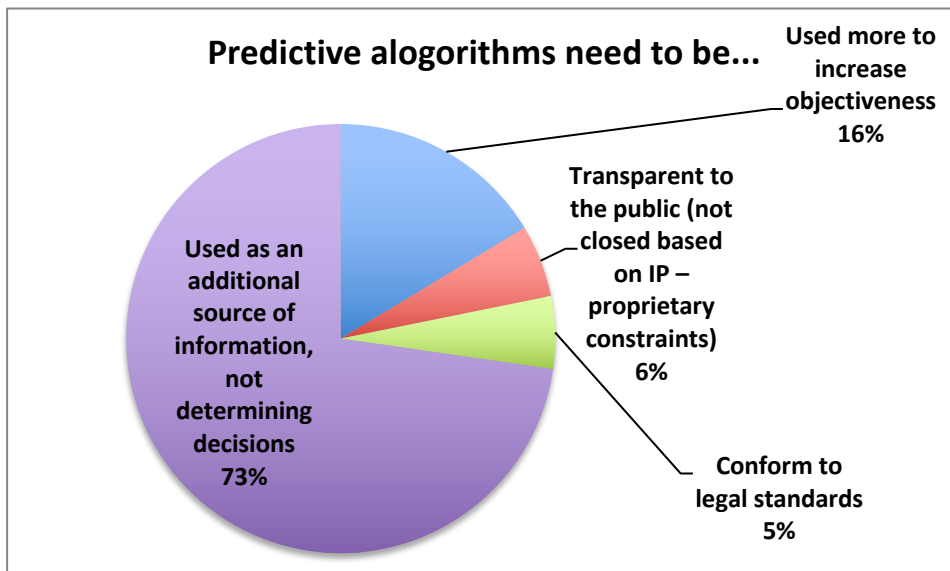- There is a need 43%
- It is useful 40%
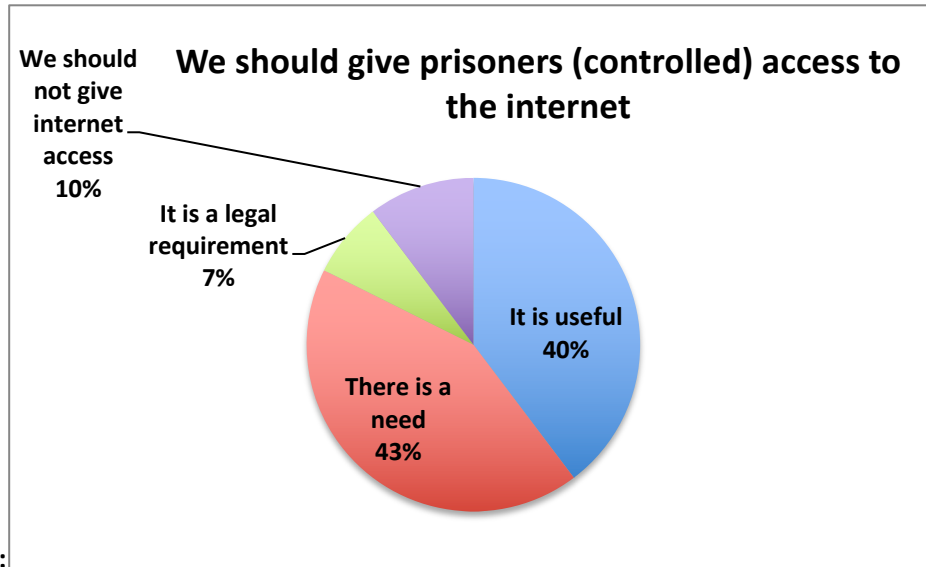
Based on the **principle of legality** delegates chose three responses. Most significantly 82% believe that risk assessment tools based on predictive outcomes should be used *prison programmes and re-entry plans*. A much fewer proportion saw the value of predictive outcomes for determining *parole decisions* (11%) and determining the *sentence* (7%) (see Chart 2).

Chart 2:

Risk assessment tools based on predictive alogorithms can be used...

- To determine parole conditions 11%
- To determine the sentence 7%
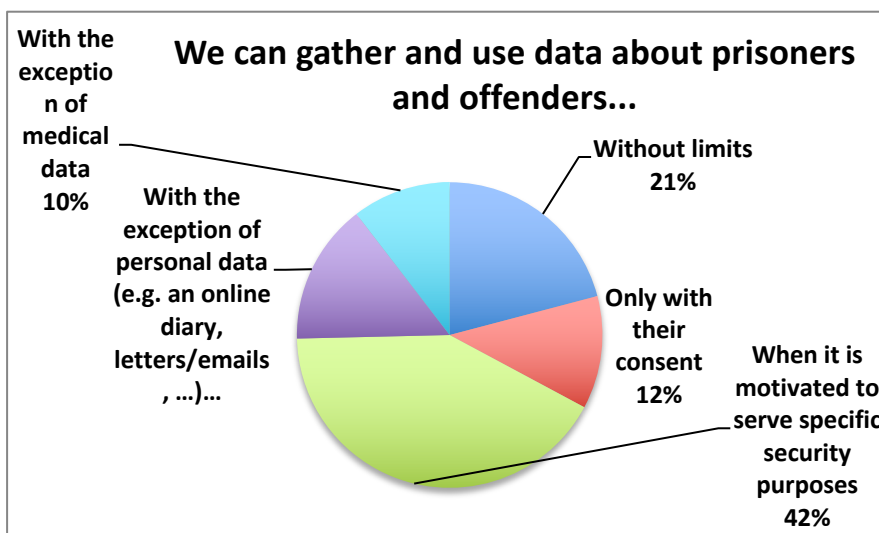- To support prison programming & develop re-entry plans 82%

In extending legal implications to **the publicity principle**, delegates were invited to identify what predictive algorithms need to be. The largest proportion (73%) recorded that algorithms should be used as an *additional source and not determining decisions.* A much fewer proportion (16%) thought it should be used to *increase objectiveness.* A smaller proportion (6%) believes that predictive algorithms should *be transparent.* Legal standards were less popular at 5% (see Chart 3).

Chart 3:

Predictive alogorithms need to be...

- Used more to increase objectiveness 16%
- Transparent to the public (not closed based on IP – proprietary constraints) 6%
- Conform to legal standards 5%
- Used as an additional source of information, not determining decisions 73%

based on the **principle on proportionality** delegates' responses were more diverse. The largest proportion (42%) believe that we can gather and use data about prisoners and offenders when it is *motivated to serve specific security purposes.* 21% of the cohort believe we should gather data *without limits.* With respect to limits, 15% of the respondents believe that this should exclude *personal data* and 10% thought *medical data* should be excluded also. Only 12% perceived data collection should be subject to client *consent* (see Chart 4).

Chart 4:

We can gather and use data about prisoners and offenders...

- With the exception of medical data 10%
- With the exception of personal data (e.g. an online diary, letters/emails, ...)...
- Without limits 21%
- Only with their consent 12%
- When it is motivated to serve specific security purposes 42%

Based on the **principle of equality** access to technology should be mainly determined by *needs* (79%). 16% perceived *risk* to be a determining factor. Less of the delegates were much concerned about *competence and ability* (3%) and what *families can pay for* (2%). See Chart 5.

Chart 5:

Access to technology should mainly be determined by....
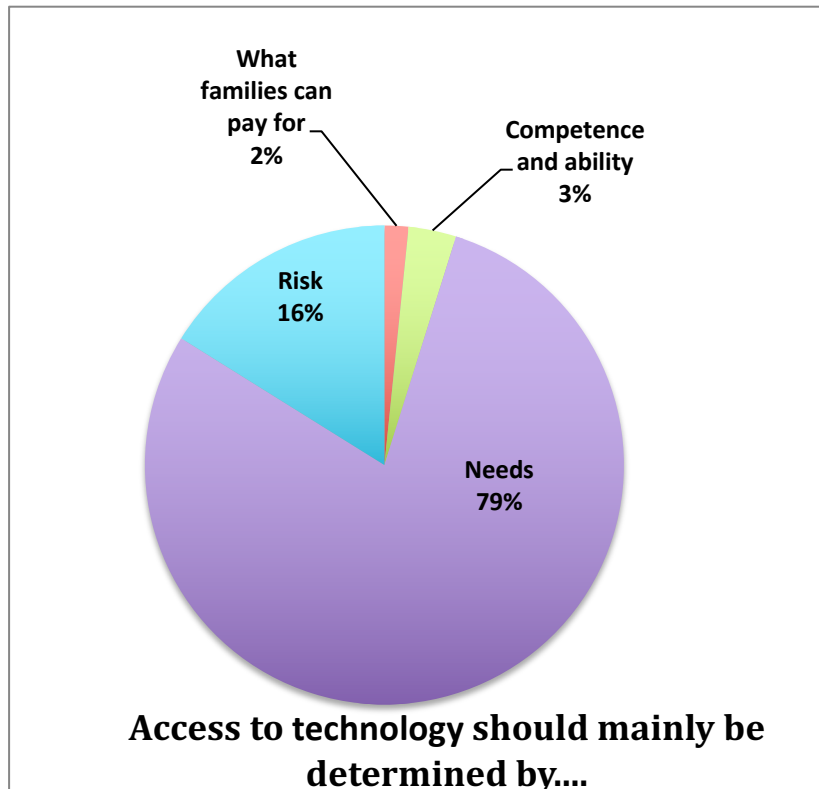
In listening to this specific international audience, we can make a series of suggestions about how professional digital stakeholders are conceiving the ethical and moral implications of digitization within corrections. Our proposed framework is useful but, in our view, requires further refinement to ensure digitization is sensitive to stakeholder (users, staff etc.) needs. The results of this survey raise some valuable areas for further discussion, and we would like to further explore how digitization is being managed. Do these views, values and opinions shape how services are responding to the inevitability of the digital revolution?

Some take home messages from this exercise can be summarized....
- Rehabilitation is a priority for most expert respondents and that much value is placed on the potential that digitization can have.
- Digitization is also a priority and experts are motivated towards a digital trajectory.
- Data privacy is problematic in this landscape and experts have different ideas about the role that privacy has in correctional settings.
- Security for some experts seems to override the needs of end users.

We recognize the limitations of this survey. However, it is satisfying to capture how correctional experts are feeling about the advent of digitization in this context. Riesdorf and Rikard (2018) have already highlighted the importance of digital rehabilitation and how the needs of end users like serving prisoners are complex and multifaceted. It is evident correctional experts have some knowledge and sensitivity about the role of digital use and rehabilitation. However, the landscape of data privacy has a peculiar meaning in the context of corrections. As we highlighted in our presentation (Knight and Van De Steene forthcoming publication) there is a need to respond with the correctional context in mind. In doing so we have previously recommended how correctional settings can develop an ethical and moral response to digitization in preparing digital strategies that center user needs throughout. Whilst correctional service grapple with the digital problem advances in technological services and solutions continue to be developed at light speed. The role for example of artificial intelligence brings further ethical and moral dilemmas to correctional experts. We welcome guidance and frameworks to instruct and guide correctional decision makers. However, these can sometimes only seek to reinforce ethical and moral tensions and legitimate the use of technology to, for example, replace decision making and make systems cheaper to run. We worry that without user engagement technology can enhance harm. Our knowledge of this remains limited and our plans to develop an evidence base on how correctional contexts are preparing and delivering digitization are forthcoming. We would welcome your responses to this article and if your prison service would like to participate in our forthcoming international survey then please do get in touch.

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