

RED
PRACTICE
MANUAL

Chapter 5: Reducing Racial and Ethnic Disparities at Disposition

CENTER FOR
Children's
Law and Policy

Table of Contents

I. Introduction.....	4
A. Starting with the Data	5
B. The Issues.....	10
II. Making Objective Disposition Decisions.....	12
A. The Issue.....	12
B. The Problems	13
C. The Solutions.....	15
D. Practice Tips	21
E. Resources	21
F. For More Information	22
III. Tailoring Terms and Conditions	23
A. The Issue.....	23
B. The Problems	24
C. The Solutions.....	26
D. Practice Tips	31
E. Resources	31
F. For More Information	32
G. Appendix - Connecticut Judicial Branch Juvenile Order of Probation.....	33
IV. Ensuring Access to and Availability of Alternatives to Out-of-Home Placement	34
A. The Issue.....	34
B. The Problems	35
C. The Solutions.....	39
D. Practice Tips	45
E. Resources	45
F. For More Information	46
V. Implementing an Effective Graduated Responses System.....	47
A. The Issue.....	47
B. The Problems	47

- C. Graduated Responses - A Solution 49
- D. Steps for Creating or Strengthening an Effective Graduated Responses System 52
- E. Practice Tips 60
- F. Resources 61
- G. For More Information 61

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Reducing Racial and Ethnic Disparities at Disposition

I. Introduction

One effective way to reduce racial and ethnic disparities is to identify or strengthen early pathways out of the juvenile justice system for youth of color. Many of the strategies discussed in this Practice Manual focus on doing just that. However, in many juvenile justice systems the most significant point of racial and ethnic disparities is not at the front end of the system. Rather, it is at the “deep end” - the point at which youth have either been adjudicated delinquent or pled to a charge and are awaiting the disposition of their case.

For some youth, disposition can mean a short time on probation. For others, it can mean a lengthy stay in a secure facility, followed by months or years of supervision and services. State data suggest that youth of color disproportionately see their cases end with an out-of-home placement or incarceration in a secure facility (see figure 1 below). And federal data reveal that while youth of color represent only one-third of the youth population in the country, they represent two-thirds of the youth confined in out-of-home placements.¹ This means that youth of color are more likely to experience the negative outcomes associated with incarceration than white youth: severed connections with family members and other supportive relationships, higher recidivism rates, reduced education and employment prospects, and exposure to opportunities for abuse by other youth or staff.²

For example, a 2015 report on juvenile justice reform in Texas found that youth who had been incarcerated in state institutions were 21% more likely to be re-arrested within one year of their release than youth of similar backgrounds who were placed under county probation supervision. Additionally, those youth released from state institutions were three times more likely to be arrested for felony charges than youth under county probation supervision.³ A study in Illinois just a few years earlier reported similar findings: even after controlling for a range of demographic and background characteristics such as history of prior offending, youth who were confined in an out-of-home placement were 13% less likely to graduate from high school and 22% more likely to be incarcerated as an adult than youth who had not been so confined.⁴

Why are youth of color more likely to end up in out-of-home placements or confined in secure facilities at disposition? Some believe that it is because youth of color are charged with more serious crimes than white youth. However, studies of racial and

ethnic disparities that control for severity of the offense and other factors still find differences between white youth and youth of color in the outcomes of their cases.⁵ Systemic biases can lead to the development of policies and practices that have a disparate impact on youth of color. The reality is that disparities can exist for a number of reasons ranging from a lack of diversion opportunities earlier in the juvenile justice process to inadequate or ineffective community-based programming to biases within the dispositional decision-making process.

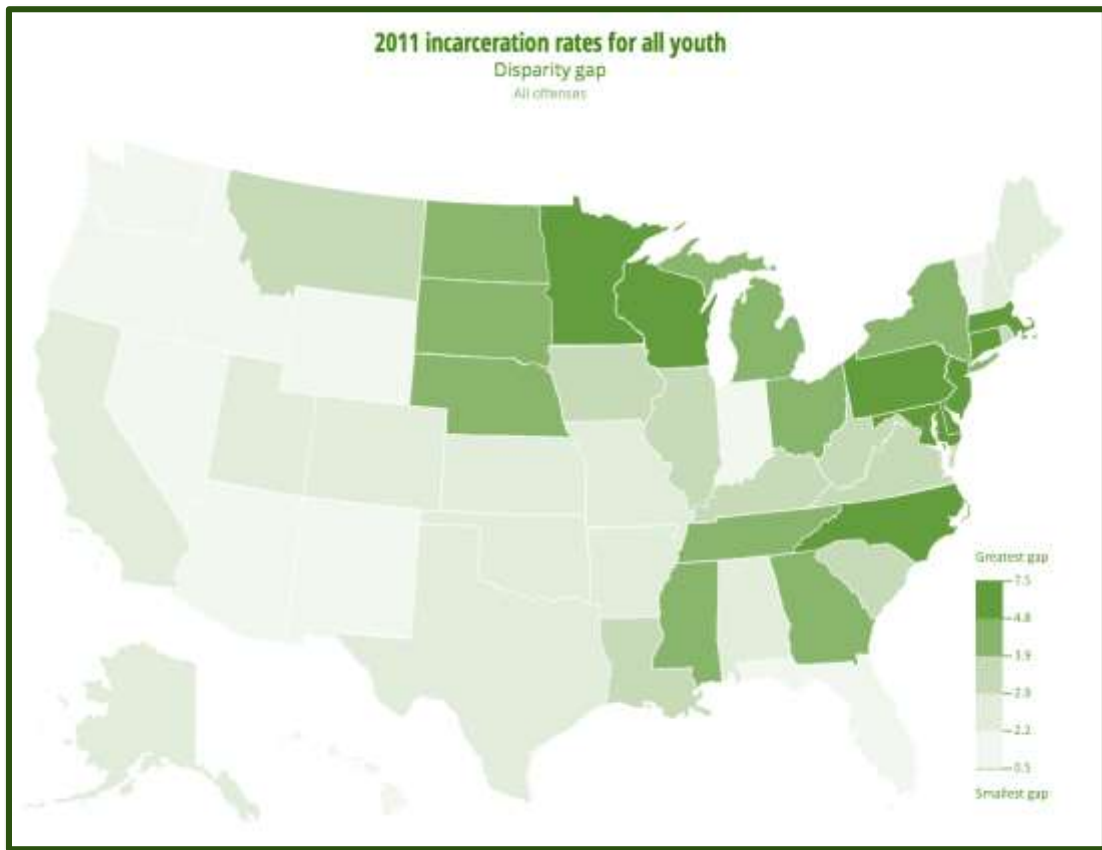


Figure 1 - Source: [W. Haywood Burns Institute, National Data Map](#)

The range of potential causes of racial and ethnic disparities at disposition might suggest that the work to level the playing field at this stage is too complex or challenging to tackle. However, by beginning with a careful analysis of the data and understanding some of the most common contributors to overrepresentation and disparate treatment at this decision point, officials can implement policies and practices that provide opportunities to youth of color that are equitable with those available to white youth.

A. Starting with the Data

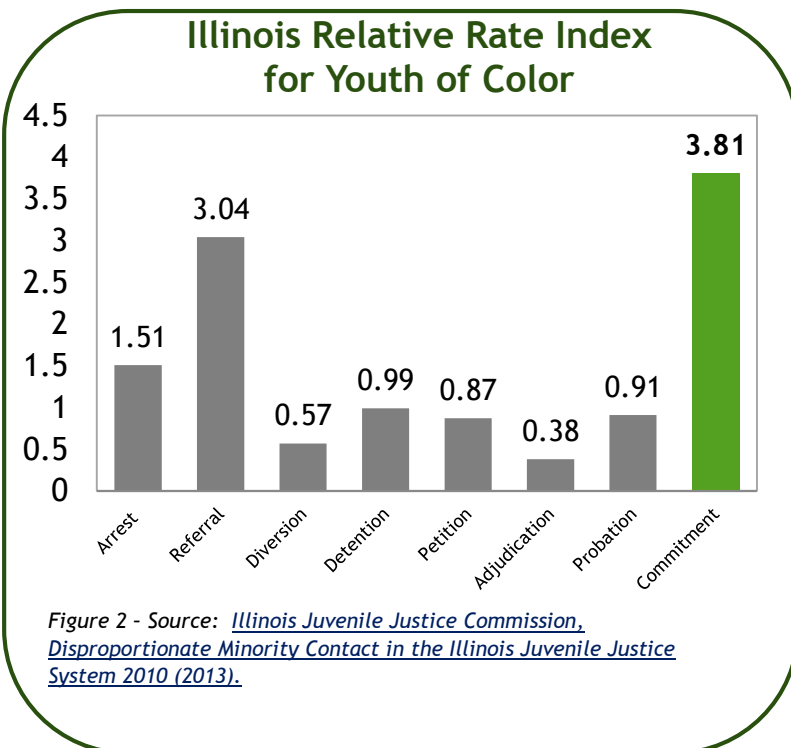
In order to begin effective work to reduce racial and ethnic disparities at disposition,

stakeholders must first gather the data - both quantitative and qualitative - that allows them to diagnose the problems that may be contributing to overrepresentation, disparate treatment, or unnecessary movement of youth of color deeper into the system.

1. Gathering and Analyzing Quantitative Data

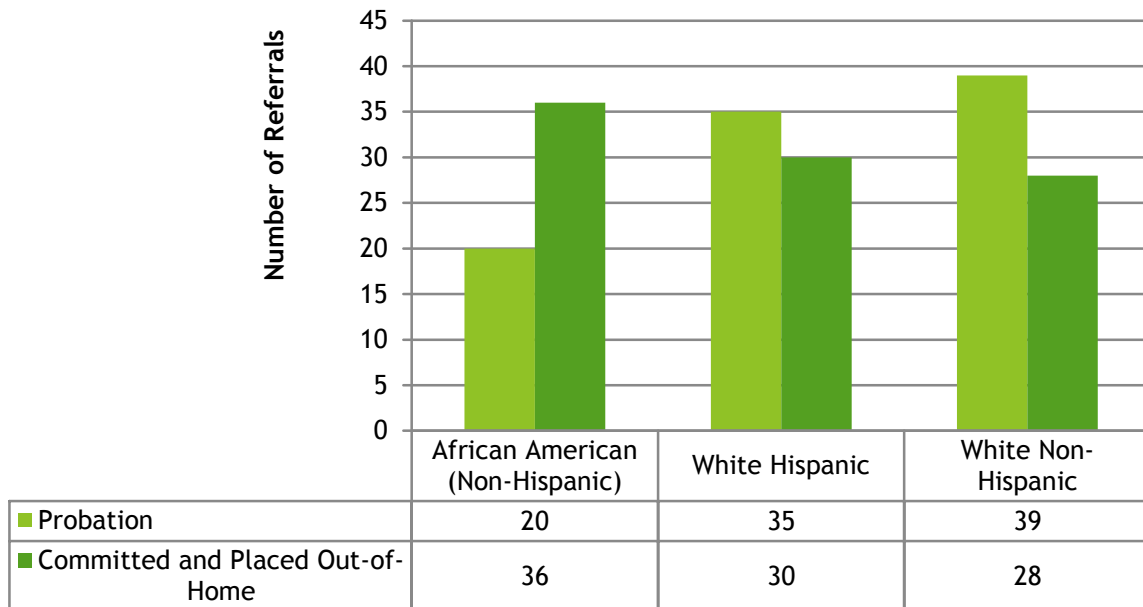
Officials may already have some sense of racial and ethnic disparities at the disposition decision point. Many jurisdictions regularly produce [Relative Rate Index \(RRI\)](#) data to a state agency for federal reporting purposes under the [Juvenile Justice and Delinquency Prevention Act \(JJDP\)](#). In some places, such as Illinois, the point of greatest disparity as measured by the RRI is commitment to a secure juvenile facility.

Although the RRI is one aggregate measure of overrepresentation, there are a number of other data points that can provide more useful information about the scope and nature of racial and ethnic disparities in a jurisdiction. One of the most helpful data points is disposition outcomes for similarly situated youth. For example, of youth adjudicated delinquent for assault, what were the dispositions of those cases broken down by race and ethnicity, gender, and geography (e.g., location of the youth's residence)?



If officials find that a majority of African American youth spend time in an out-of-home placement for this reason whereas most white youth simply serve a term of probation as the chart below with hypothetical data demonstrates, the data suggest that this should be a target population that officials should investigate more closely.

Sample Analysis: Youth Adjudicated Delinquent for Third-Degree Assault Placed on Probation or Sent to an Out-of-Home Placement



If faced with the data above, some questions to ask could include:

- Who makes recommendations about whether a youth should be placed on probation or committed? What is the process for arriving at those recommendations? Do family members have input in these recommendations?
- If tools are used to make recommendations at dispositions, have they been validated for youth of different races and ethnicities, as well as by gender? Are there questions or factors in those tools that may make it more likely that youth of color receive a recommendation for an out-of-home placement?
- How often are recommendations made by objective tools overridden, why, and for which youth?
- Do youth of color have the same access to community-based services that other youth have while on probation?

- If youth of color who are committed and placed out of home were previously unsuccessful on probation, what led them to be unsuccessful? Do the reasons suggest necessary adjustments to the process of referring youth to services or the services themselves?

Other dispositional decision points that may be useful to analyze by race and ethnicity include:

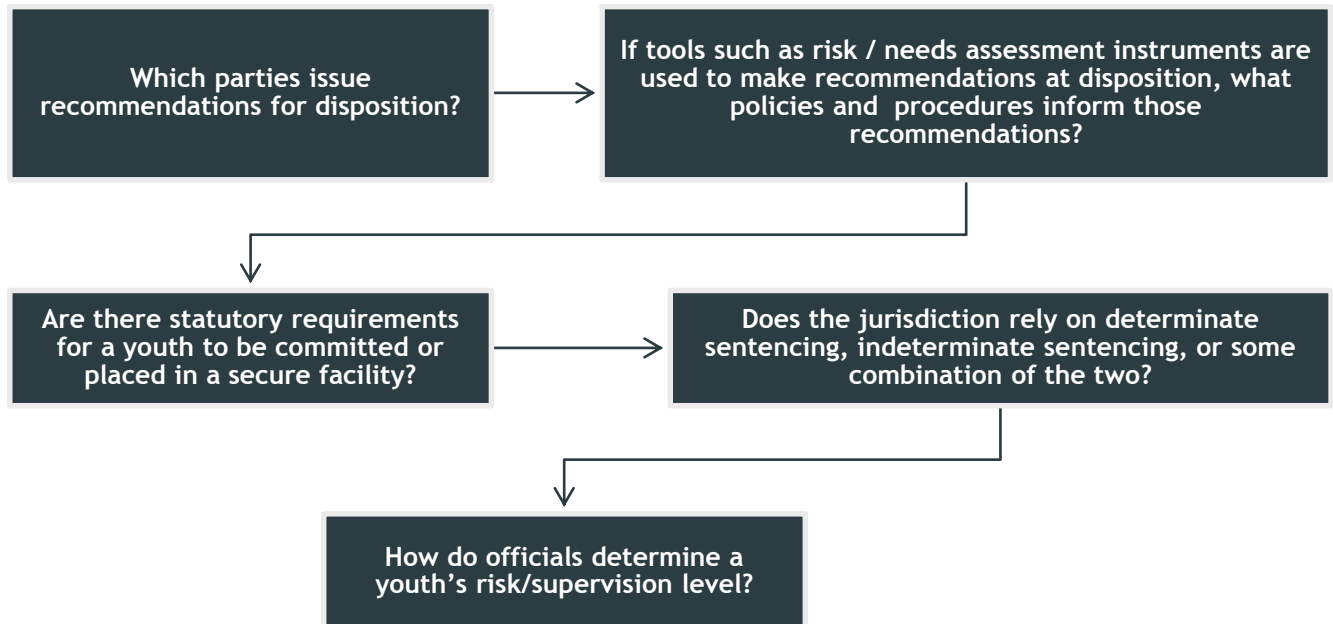
- **Supervision and Risk Levels.** Of youth adjudicated delinquent, how many youth are classified as low, medium, or high risk? Similarly, how many youth are assigned to low, medium, or high intensity supervision? Disparities may suggest a need to standardize how officials make determinations. It may also indicate that certain components of the instrument lead to biased outcomes for youth of color. This is a particular concern if the instrument has not been validated for youth of different races and ethnicities.
- **Focusing on Risk vs. Identifying Needs.** Another related question is whether a tool or instrument focuses more on a youth's needs as opposed to the risk factors or behaviors related to the youth's underlying offense. Tools that attempt to inventory all of the areas of a youth's life that might warrant attention run the risk of driving all youth - especially youth of color - deeper into the system, as officials attempt to address what may be many different challenges in a youth's life. Youth who are noncompliant with services put in place and designed to meet all of these needs may end up in an out-of-home placement for violations, when they should not have been eligible placement to begin with based on the underlying charge.
- **Length of Supervision and Commitment.** Of youth who are committed, what is the average amount of time that white youth and youth of color spend under supervision? If youth of color spend longer amounts of time under supervision than similarly situated white youth, this could suggest the need for more structured dispositional planning. Longer terms of supervision make it more likely that youth will, at some point, violate the terms of their supervision, which can result in movement deeper into the juvenile justice system.
- **Referrals to, and Successful Completion of, Community-Based Services.** Access to effective and culturally responsive community-based services allow youth to be supervised close to their home while building the skills to become successful members of the community. However, if youth of color are underrepresented in referrals to such programs or less likely to engage with or complete these services, these youth and their families may see higher rates of placement in out-of-home settings.

Data may not be readily accessible for one or more of the decision points described above. In that case, officials should plan to conduct a file review of a representative sample of cases using a standardized set of questions. Alternatively, officials can gather data prospectively for a period of time to help obtain some information about these trends. The drawback on prospective data collection is that it can delay reform work while the data is gathered. Officials should consider how to obtain assistance with data collection and analysis activities that may be burdensome for those who already have full-time jobs. For example, some sites have relied on student interns or collaborations with graduate students at academic institutions for such assistance. Individual sections within this chapter of the Practice Manual contain additional suggestions on data collection analysis that can inform stakeholders' activities in these areas.

2. Gathering and Analyzing Qualitative Data

Dispositional decisions are not made in a vacuum. Officials should gather qualitative data on the decision-making process to understand how certain policies or practices may contribute to overrepresentation, disparate treatment, or unnecessary movement through the system. Stakeholders can begin by asking the basic questions included in the diagram below to help understand what documents they may need to gather and whom they need to interview.

Officials may also want to explore additional details with respect to particular aspects of disposition. If stakeholders have identified probation violations leading to out-of-home placement as an area of significant overrepresentation of youth of color, it would be helpful to know how a youth's terms and conditions are developed. Are they boilerplate (i.e., the same for all youth) or tailored to an individual youth's needs? Moreover, can youth and families understand them? Are there terms or conditions that youth and families commonly struggle with, and if so, why? What is the length of time that youth are under supervision for different types of offenses or risk levels?



Understanding the jurisdiction’s continuum of alternatives to out-of-home placement is also important to determining the causes of, and solutions to, racial and ethnic disparities at disposition. For example, what services are available as alternatives to out-of-home placement? Are they located in communities of color or are they a significant distance away from most youth and families? Are the services culturally and linguistically responsive to their clients? Do the programs have eligibility criteria? Do they have the ability to reject referrals? Do stakeholders know about all of these resources? Are certain resources under- or over-used? What evidence do stakeholders have of these programs’ effectiveness? Has the jurisdiction invested in building community capacity to reduce out-of-home placements?

These questions are meant to be a starting point for a qualitative analysis of key considerations at disposition. Other factors may be relevant depending on how dispositional decision-making occurs in a particular jurisdiction. Regardless of the process, though, officials should take the time to undertake a qualitative analysis that will complement the quantitative data collected and place it in the appropriate context.

B. The Issues

The subsequent sections of this chapter outline some of the strategies that can help reduce or eliminate racial and ethnic disparities at disposition.

- **Making Objective Disposition Decisions.** Youth of color are often overrepresented in secure facilities or other out-of-home placements, and many of these youth

have not been adjudicated for the types of offenses that would necessarily warrant placement in these types of settings. Standardizing the way jurisdictions make disposition decisions can help reduce disparities and reserve incarceration for the cases for which it is truly necessary.

- **Ensuring Access to and Availability of Alternatives to Out-of-Home Placement.** Youth at the “deep end” of the juvenile justice system are those who are at the highest risk of out-of-home placement. Ensuring that all youth, particularly youth of color, have access to effective and culturally responsive alternatives to out-of-home placement is another strategy that can help agencies limit the use of incarceration and residential facilities as a dispositional outcome. However, many jurisdictions have yet to invest fully in communities of color in a thoughtful and intentional way.
- **Tailoring Terms and Conditions.** In many juvenile justice systems, officials apply a set of standard terms and conditions to all youth who come into contact with the system - drug testing, curfew, no unexcused absences from school, etc. - regardless of whether those areas were responsible for the youth’s contact with the system. These requirements often reflect a certain set of values and beliefs that create opportunities for bias against youth of color and their families. Narrowly tailoring terms and conditions to address the most significant contributors to delinquent behavior can help avoid this problem.
- **Developing an Effective Graduated Responses System.** A major reason for incarceration of young people in this country, particularly youth of color, is to sanction the youth for violating probation or other court orders. This section outlines how a strong system of graduated responses - both sanctions for negative behavior and incentives for positive behavior - can help reduce racial and ethnic disparities stemming from violations of probation.

II. Making Objective Disposition Decisions

A. The Issue

Ask any juvenile justice professional when he or she thinks it is appropriate to send youth to a secure or out-of-home placement as a disposition, and the response will almost always be “only in cases involving very serious offenses,” or “only as a last resort after we’ve tried everything else.” This stems from a belief that officials should reserve the most restrictive and resource-intensive options for the small number of youth who warrant extended involvement with the juvenile justice system.

Although these views may be widely held among juvenile justice officials, the data tell us that they may not always drive disposition decisions. A [2013 federal survey of youth in residential placement](#) revealed that juvenile facilities were holding over 9,300 youth for technical violations during a single day that year.⁶ In many jurisdictions, youth of color are overrepresented among the group of youth incarcerated for these reasons.

The number of youth in out-of-home placement is a concern in and of itself. Removal of a youth from his or her home represents the most disruptive and extreme intervention into a youth’s life and the life of his or her family. Placement in residential settings also severs positive connections with supportive individuals and organizations in a youth’s community. Juvenile justice officials often recognize these consequences, but they see them as relatively short-term costs that are outweighed by longer-term benefits to public safety and an increased likelihood of helping youth avoid future involvement with the justice system.

However, a large body of research documents significant and negative long-term consequences of out-of-home placement and incarceration. Youth who are placed in out-of-home secure settings commit more offenses after their release than similarly situated youth who receive community-based services.⁷ Other studies demonstrate that incarceration worsens outcomes most significantly for low- and medium-risk youth,⁸ highlighting the dangers of overreliance on out-of-home placements as a disposition. There is also evidence that secure out-of-home placements may worsen outcomes more significantly than other types of out-of-home placements. A 2015 study of juvenile justice reform in Texas found that youth incarcerated in state-run secure facilities had a higher one-year re-arrest rate (41%) than youth who were placed in non-secure programs (35%) or youth supervised in the community and connected with a skill-based program (27%).⁹

Recent research also reveals the harmful impact of incarceration on a youth’s education and employment prospects. A 2013 study of 35,000 youth in Chicago found that incarceration as a youth decreased the likelihood of graduating from high school

by 13 percent and increased the likelihood of incarceration as an adult by 22 percent, even after controlling for a range of demographic and other factors.¹⁰ On one level, these studies suggest that incarceration of youth does not help public safety in the long term. For this reason, many jurisdictions have worked successfully to reduce their overall use of incarceration and out-of-home placements.¹¹ Advocates and juvenile justice officials rightfully view these reductions as significant achievements.

Few jurisdictions have made reducing racial and ethnic disparities an explicit priority of these reform efforts. As a result, youth of color continue to be overrepresented in secure facilities and other out-of-home placements. In some cases, the overrepresentation of youth of color may have actually *increased* after implementation of reforms, even though the total number of youth in these facilities has fallen.

This ongoing overrepresentation underscores a second important takeaway from the studies on the harms of incarceration. It is youth of color who are most likely to bear the burden of the negative effects of incarceration on education, employment, and likelihood of future involvement in the criminal justice system, as they are the youth who are most likely to be sent to these placements. This fact has profoundly negative and long-lasting implications for the ability of youth of color to become successful and productive citizens.

B. The Problems

Understanding how systems determine which youth require incarceration - and under what circumstances - is crucial to understanding why youth of color are overrepresented in out-of-home placements and secure juvenile facilities. In most jurisdictions, dispositional decisions rest on a combination of factors, including a youth's current and prior offenses, his or her family situation and social history, and recommendations from a number of different parties in juvenile court. In theory, this decision making process could benefit youth by allowing judges and juvenile justice professionals to consider a range of mitigating and protective factors instead of rigidly applying a disposition based on the type of offense involved. In practice, though, this process has led to racial and ethnic disparities.

Why do youth of color continue to remain overrepresented in out-of-home placements in spite of significant overall reductions in the use of those placements? The first problem is that some jurisdictions do not place clear and consistent limits on the types of dispositions that youth may receive. Even if a majority of officials share the belief that out-of-home placement and incarceration should be reserved for a small number of situations, a lack of limits in law or policy allows stakeholders to make decisions that are contrary to this belief. This wide degree of discretion can lead to the overrepresentation of youth of color in out-of-home placements. Conversely, statutes or policies that *require* an out-of-home placement for certain offenses or

that call for a fixed amount of time away from home may also disproportionately impact on youth of color and should receive careful analysis.

Another problem relates to the type of information used to make a decision about the disposition of a youth's case. In many jurisdictions, multiple stakeholders make recommendations to the judge, who then decides on an appropriate intervention. Often times, the recommendation of a particular party, such as a probation officer or case manager, will carry substantial weight. However, in some jurisdictions, probation officers or case managers may not rely on the same set of factors when generating their recommendations. They may describe similar crimes in a different way, or they may assign the same factors a different level of importance among different youth.

Researchers [George Bridges and Sara Steen examined written probation pre-disposition reports from three different jurisdictions](#), analyzing trends in the probation officers' descriptions of youth and their recommendations to the court.¹² They found marked differences in these reports depending on the youth's race and ethnicity, even when they matched reports to the youth's background characteristics and his or her charges.

Bridges and Steen provided examples of pre-disposition reports for two 17-year-old boys. Both youth were charged with first-degree robbery with a firearm. Neither incident involved any injury to a victim, and neither youth had any prior history of involvement with the juvenile or criminal court. The only difference was that one youth was African American and the other was white. Read the descriptions below, which came from actual case files, and decide which youth is African American and which youth is white.

Ed

"This robbery was very dangerous as Ed confronted the victim with a loaded shotgun . . . In talking with Ed, what was evident was the relaxed and open way he discussed his lifestyle. There didn't seem to be any desire to change. There was no expression of remorse from the young man. There was no moral content to his comment."

Lou

"Lou is the victim of a broken home. He is trying to be his own man, but . . . is seemingly easily misled and follows other delinquents against his better judgment. Lou is a tall, emaciated little boy who is terrified by his present predicament. It appears that he is in need of drug/alcohol evaluation and treatment."

If you are like most readers, you will have immediately identified Ed as the African American youth and Lou as the white youth. Why?

The researchers found marked differences in reports between white youth and youth of color. Bridges and Steen found that probation officers were more likely to describe offending behavior as a product of a youth's innate, personal characteristics when making recommendations for African American youth (Ed), but they were more likely to describe that same offending behavior as a product of external factors, such as a youth's home situation or peer group, when making recommendations for white youth (Lou). This translated into probation officers assigning African American youth a much higher risk of reoffending and recommendations for harsher and longer dispositions for youth of color than for white youth charged with the same offenses.

The research reinforces the point that, absent objective decision making criteria, individuals can draw sharply different conclusions even when presented with the same information. These differences may stem from explicit or implicit biases against youth of color, the application of stereotypes to individual cases, or the imposition of a specific set of personal beliefs or values. Readers can question why they were able to determine the race of Ed and Lou so quickly and think about whether the same patterns would appear in their own case files.

Some of the key questions raised by this research are: (1) How can we structure dispositional decisions to determine which youth require an out-of-home placement so that they are fair, objective, and consistent with a philosophy that out-of-home placement should be used as a last resort?, and (2) Regardless of the disposition, how can we build upon a youth's strengths and criminogenic needs in a way that will give youth the supports and services that are most likely to help them stay out of trouble in the future? A number of jurisdictions have implemented reforms that help strike that balance by placing limits on the use of secure confinement as a dispositional option and adopting research-based risk and needs assessment instruments.

C. The Solutions

Officials have recognized that variability in dispositions -- based on a youth's race and ethnicity, where the youth lives, or his or her judge -- undercuts the juvenile justice system's cardinal tenet of fair treatment. In an effort to standardize disposition decisions and limit the use of out-of-home placements and secure confinement, jurisdictions have pursued two types of reforms that can help to reduce racial and ethnic disparities at disposition.

1. Placing Limits on Commitment and the Use of Secure Confinement

In recent years, several states have taken steps to codify in their state codes the belief that commitment and out-of-home placement should be a last resort. Reforms in two jurisdictions - Georgia and Illinois - illustrate two alternatives to this approach.

In Georgia, advocates, officials, and lawmakers reviewed data on commitments to the state's Department of Juvenile Justice and out-of-home placements. The numbers revealed a high number of low risk youth in out-of-home placements: almost one in four youth had been adjudicated for a low-level offense such as a status offense or misdemeanor, and approximately 40% were judged to be a low risk to reoffend.¹³

The Special Council on Criminal Justice Reform for Georgians, a multidisciplinary task force charged with making recommendations for the state's juvenile justice system, reviewed these data and recommended limits on the use of commitment as a dispositional option to address these trends. The Council recommended prohibiting out-of-home placement for all status offenders and misdemeanor offenders who did not have at least four prior adjudications, at least one of which was for a felony. This proposal, which was part of a major overhaul of Georgia's juvenile code, earned the support of a broad range of stakeholders within the state. These included the Prosecuting Attorneys' Council of Georgia, the Georgia Association of Criminal Defense Lawyers, and the Council of Juvenile Court Judges of Georgia. The Georgia General Assembly lowered the minimum number of prior adjudications from four to three, but unanimously accepted the modified limit. Georgia Governor Nathan Deal signed the requirement into law on May 2, 2013.¹⁴

Officials in the state of Illinois took a slightly different approach to limiting the use of commitment and secure confinement. There, a coalition of advocacy groups marshaled research showing that out-of-home placements had no advantage over community-based services and supervision in reducing rates of re-arrest or self-reported reoffending behavior. Advocates drew upon findings from the Pathways to Desistance study, a long-term evaluation of more than 1,300 juvenile justice-involved youth.¹⁵ Funded by the MacArthur Foundation, the Pathways to Desistance study is the largest longitudinal study of youth who have committed serious offenses.

The Illinois law, which was signed into law in 2012, incorporates these findings from the research by permitting commitment only when "it is the least restrictive alternative based on evidence that efforts were made to locate less restrictive alternatives to secure confinement and the reasons why efforts were unsuccessful in locating a less restrictive alternative to secure confinement."¹⁶ The law's goal was to ensure that judges consider treatment opportunities in a youth's own community before resorting to commitment to the state.

The law also requires judges to make written findings describing the reasons why secure confinement is necessary after considering a range of individualized factors. These include the results of behavioral assessments using a standardized assessment

tool; the youth's educational background, including any assessment of learning disabilities; the physical, mental, and emotional health of the youth; the youth's history of involvement with the juvenile court; and whether the state can provide the services necessary to meet the needs of the youth.¹⁷

This requirement for written justification of a commitment decision is more than just a formality. It ensures that judges have to consider the range of factors that are likely to suggest that a youth is more likely to succeed in a community-based placement. As Illinois Representative Karen Yarbrough, the chief sponsor of the Illinois law, noted, "removing children from their homes and committing them to the custody of the [state] is a serious decision with far-reaching ramifications, which is why it is critical that our justice system better examine other alternatives."¹⁸

The reforms in Georgia and Illinois add objectivity to decisions to send youth to out-of-home placements. In doing so, they reduced the opportunity for bias of any kind to influence the decision about whether to commit youth or send them to a secure facility. Although officials in Georgia and Illinois adopted these limits as part of state law, cities and counties can adopt the same type of limits as a matter of local court or juvenile justice agency policy or administrative rules.

2. Adopting Objective Risk and Needs Assessments to Guide Dispositional Decisionmaking

Juvenile justice officials want to identify the most effective services and supports to help youth succeed and avoid future involvement with the criminal justice system. Yet the many competing demands placed upon professionals can make it difficult for individuals to spend the time necessary to assess the strengths and needs of each youth and his or her family.

Under this pressure, professionals may make assumptions based on past experiences with other clients to help inform case planning. Drawing upon this history may not seem like a problem in and of itself. After all, the juvenile justice field - as any other profession - values experience. However, letting intuition or gut feeling drive case planning presents an opportunity for bias to enter the decision making process. Not only that, research shows that implicit biases are more likely to impact decision making when individuals are overburdened and do not have adequate time or resources to complete a task.¹⁹ Even in small jurisdictions, a lack of structure around dispositional planning can lead to wide variability among staff in terms of recommendations. Without a common set of objective criteria, staff may inject their own personal biases, values, and beliefs into the process, which can undercut the fairness of the process.

Fortunately, researchers have recognized the need to develop tools that can help guide decisions about needed services and supports. A number of evidence-based instruments, known generally as "risk assessment instruments" or "risk and needs assessments," exist to help juvenile justice professionals apply objective, research-

based criteria to make evidence-based case planning decisions. They do so by examining the likelihood of reoffending or engaging in continued delinquent acts over a period of time. The instruments use a standardized set of questions that have been shown to have a demonstrated relationship to engaging in or avoiding future delinquency.²⁰

Because risk assessments rely on the same set of factors for all youth, they represent an important opportunity to make disposition decisions more equitable. To be clear, these tools do not remove all discretion from the decision making process. They do, however, try to ensure that juvenile justice officials rely on the same set of information - and inferences about that information - for all youth.

Risk assessments also guard against a tendency to include items unrelated to future offending into dispositional decision making. Some juvenile justice officials are tempted to use the juvenile justice system to meet all of the many needs that a youth and his or her family may have. These may be real needs, but they are often unrelated or tangentially related to the underlying cause or causes of offending behavior. The desire to try to “fix” everything that is wrong with a youth’s life, while often the product of good intentions, often results in more extensive involvement with the juvenile justice system than is actually necessary (*see also* “Tailoring Terms and Conditions”).

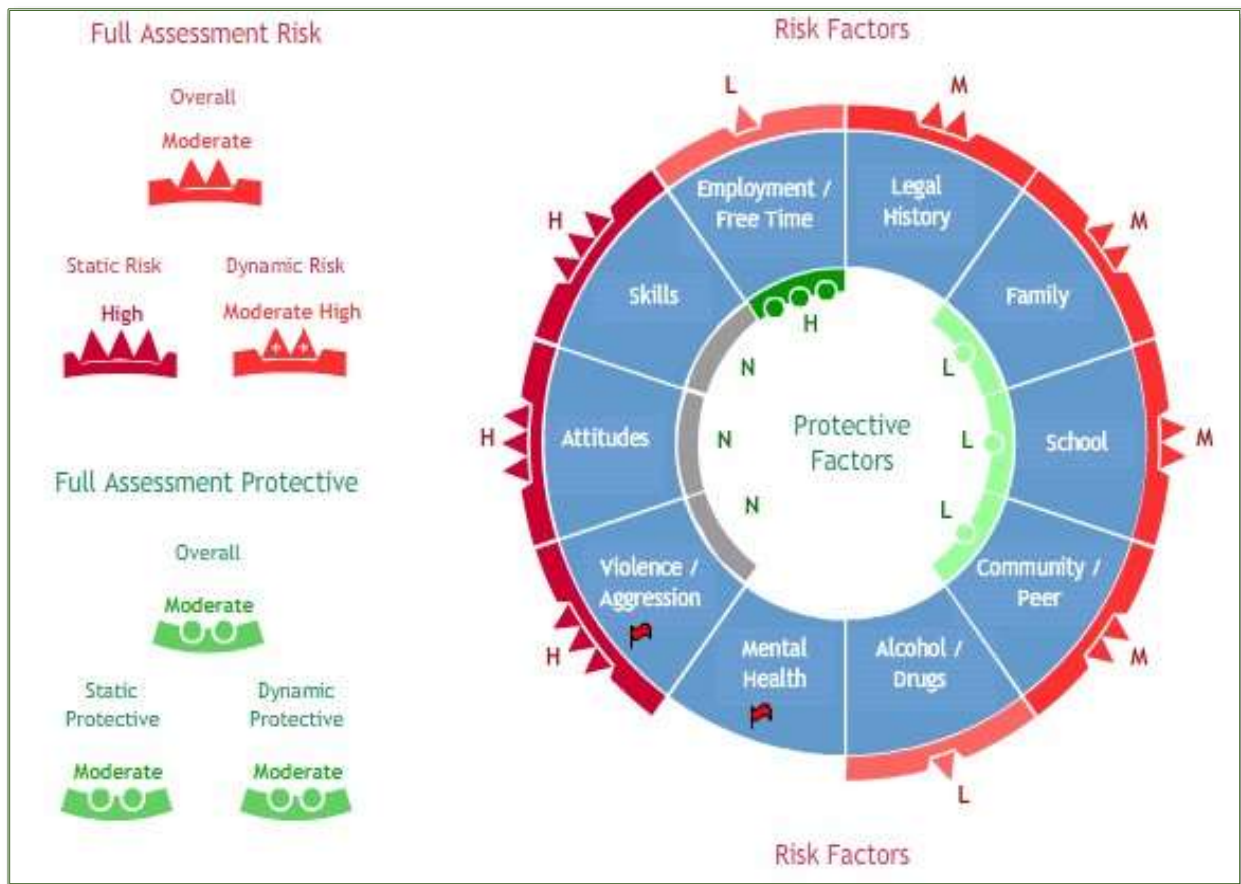
For all of the advantages of risk assessment tools, not all such instruments are created equal. Just because an instrument contains a list of standard questions does not mean that it will eliminate racial and ethnic disparities. To the contrary, some tools may include factors or considerations that are not evidence-based, and some of those factors may actually exacerbate racial and ethnic disparities. For example, one instrument from a jurisdiction that participated in the Models for Change initiative relied on a tool that increased a youth’s risk level if he or she had unrealistic career aspirations. The instrument noted that an interest in a future career in rap or hip-hop music constituted an unrealistic career aspiration. This item, with a questionable relationship to any criminogenic or protective factors, could be used to assign youth of color higher risk levels than their peers.

Other tools may rely heavily on factors or items that officials know will reflect racial and ethnic disparities. For example, a tool that assigns great weight to prior law enforcement contacts may generate biased recommendations for youth of color, particularly where youth of color are significantly overrepresented in arrests in school and in the community (as is the case in many jurisdictions).

Although researchers have validated most major risk assessments, officials should ensure that the instrument has been validated by race, ethnicity, gender, and age. One popular instrument, the Youth Level of Service/Case Management Inventory (YLS/CMI) contains norm tables specifically for African American youth. Officials must be careful to ensure that experts have examined validated instruments from the lens of race and ethnicity. Some validated instruments rely heavily on variables that may

be somewhat predictive of future offending but that may result in youth of color receiving higher risk levels (e.g., number of prior referrals to juvenile court).

Additionally, some instruments focus solely or more heavily on criminogenic risk factors, whereas other instruments balance those risk factors with protective factors. One example of an instrument that focuses on both risk and protective factors is the Youth Assessment and Screening Instrument (YASI). The YASI identifies a youth's strengths and weaknesses, allowing probation officers to focus on specific factors underlying risky behavior. The instrument generates written recommendations, as well as visual representations, shown below, to help case managers and probation officers more easily identify areas of concern.



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Rock County, Wisconsin, a [DMC Action Network](#) site, implemented the YASI in 2008 as a way of helping standardize case planning decisions and implement strengths-based decision making. Rock County's juvenile justice officials saw the YASI as one important component of their work to reduce racial and ethnic disparities in violations of probation and placement for those violations. Lance Horozewski, Director of the Rock County Department of Human Services, notes that the YASI transformed case planning in his jurisdiction.

Previously, all youth would receive substance abuse services regardless of whether they had demonstrated any need for them. Now, we're looking at each youth and developing plans that put resources where they are needed most. Staff target the underlying factors driving delinquent behavior, such as antisocial thinking or anger management problems, instead of just trying to correct the delinquent behavior itself.

-- Lance Horozewski

Implementation of the YASI, along with the development of a system of graduated responses for youth on probation (see also “Implementing an Effective Graduated Responses System”) and a broader array of community-based services, helped lead to a 30% reduction in the average daily population of African American youth in secure detention and a 35% reduction in the number of adjudicated youth of color admitted to detention for probation violations.²¹ These reforms also contributed to a more than 80% drop in placements in state-run secure juvenile facilities from 2007 to 2010.²²

Risk assessment instruments, while useful tools, work best when juvenile justice officials think about how they fit within the broader process of dispositional planning. What type of training is necessary to ensure that officials are able to accurately administer and interpret results from the instrument? How will the tool’s recommendations match available services and supports? How will probation officers and case managers tailor case plans to recommendations?

Fortunately, as part of the Models for Change initiative, experts from the field developed the first comprehensive guidebook on implementation of risk assessment instruments in juvenile justice systems. In the publication, [*Risk Assessment in Juvenile Justice: A Guidebook for Implementation*](#), Drs. Gina Vincent, Laura Guy, and Thomas Grisso of the National Youth Screening and Assessment Project provide a step-by-step roadmap to selecting, implementing, and refining practices related to risk assessment.²³ This document should be the starting point for any official looking to implement a tool in his or her jurisdiction.

In recent years, many jurisdictions have reduced their overall reliance on out-of-home placements for youth in the juvenile justice system. That is a significant achievement. However, in many communities, youth of color continue to remain overrepresented in these placements - and in some cases, are even more overrepresented following those reform efforts. Implementing objective disposition decision making practices such as the ones outlined above can help ensure that youth of color receive the same opportunity as white youth to benefit from alternatives to out-of-home placement.

D. Practice Tips

- ✓ Analyze data on whether similarly situated youth of different races and ethnicities receive different dispositional outcomes. For example, are youth of color committed and sent to out-of-home placements more frequently than white youth with similar offense histories? Do youth of color stay longer in those placements than similarly situated white youth?
- ✓ Identify the different parties that make dispositional recommendations to the court and the tools that they rely upon to generate those recommendations.
- ✓ Examine existing risk assessment instruments for items that may have a disproportionately negative impact on youth of color and eliminate or adjust items that do not relate to factors identified in the research as predictive of future offending behavior.
- ✓ Adopt an evidence-based risk assessment instrument that researchers have validated for youth of color. When considering different risk assessment tools, ask specifically about predictive validity for youth of different races and ethnicities, as well as gender and age.
- ✓ Consider how the introduction of a risk assessment instrument will fit within the broader context of an agency's culture and the case planning process. Consult the Models for Change Practice Guide Risk Assessment in Juvenile Justice: A Guidebook for Implementation for clear, step-by-step guidance.
- ✓ Adopt limits on the use of commitment and secure confinement through the use of objective criteria, either through state law or local court or agency policy.

E. Resources

[National Juvenile Justice Network and the Texas Public Policy Foundation, The Comeback States: Reducing Youth Incarceration in the United States \(2013\).](#)

This report examines reforms in nine states that have led to a significant decrease in youth incarceration, contributing to a 40% nationwide drop in youth incarceration from 2000 to 2010.

[Gina Vincent et al., John D. and Catherine T. MacArthur Foundation Models for Change Initiative, Risk Assessment in Juvenile Justice: A Guidebook for Implementation \(2012\).](#)

The primary purpose of this comprehensive guide is to provide a structure for jurisdictions, juvenile probation or centralized statewide agencies striving to implement risk assessment or to improve their current risk assessment practices.

Gina Vincent & Laura Guy, John D. and Catherine T. MacArthur Foundation Models for Change Initiative, Innovation Brief: Using Risk Assessment to Meet Needs and Reduce Recidivism (2012).

This issue brief describes how most of the county-based juvenile probation offices in Pennsylvania adopted the Youth Level of Service/Case Management Inventory (YLS) in order to evaluate a youth's risk of reoffending and match services to his or her specific risk factors. The near-statewide adoption was a significant accomplishment in a state without a centralized juvenile probation system.

F. For More Information

Jason Szanyi

Director of Institutional Reform
Center for Children's Law and Policy
202-637-0377 x108
jszanyi@cclp.org

Dr. Gina M. Vincent

Associate Professor of Psychiatry
University of Massachusetts Medical School
508-856-8727
gina.vincent@umassmed.edu

Lance Horozewski

Juvenile Justice Division Services Manager
Human Services Department
Rock County, Wisconsin
608-758-8430
Horozews@co.rock.wi.us

III. Tailoring Terms and Conditions

A. The Issue

At disposition, juvenile justice officials make a number of decisions of great importance for a youth and his or her family. How long will the youth be under the supervision of the juvenile justice system? Will a youth remain in the home or be sent to an out-of-home placement? The answers to these questions can depend on many factors - a youth's prior involvement with the juvenile justice system, the nature of the current charges, the results of assessments and social histories, and the advocacy of different parties appearing before the court. One thing is certain, however: all youth will leave their disposition hearing with a set of rules to follow and expectations to meet.

Working with youth on ways to avoid the things that got them into trouble is certainly a worthwhile goal. For example, if a youth is charged with domestic assault, helping that youth develop anger management skills can help defuse situations that might otherwise lead to a call to the police. Thus, it may be reasonable to require that youth attend anger management sessions as part of the terms of his or her disposition. In a world of limited resources, focusing time and energy on developing this type of skill makes sense and fits with the juvenile court's mandate to provide rehabilitative programs and services.

In some juvenile justice systems, however, key decision makers have expanded this mandate beyond addressing what led to the youth's involvement with juvenile court. In such situations, officials see the youth's contact with the system as an opportunity to examine all of the dynamics in a youth's life - family, peer group, progress in school, ability to find a job - and attempt to "fix" anything perceived to be deficient or problematic in all of these areas. A common practice is to apply a set of standard terms and conditions - drug testing, curfew, no unexcused absences from school, stay away from "negative peers" - to all youth who come into the system, regardless of whether those areas were directly involved with the youth's delinquent behavior.

Many of these terms and conditions bear little relationship to public safety. Instead, they often reflect the beliefs and values of a particular decision maker or set of decision makers as to what youth should be doing and how families should be raising their children. Decision makers may not have considered whether and how the imposition of these terms and conditions will impact communities of color. However, these requirements can drive youth deeper into the system and ultimately are counter-productive. This is particularly true when terms and conditions are vague, complicated, confusing, or simply unrealistic.

The weight of these terms and conditions falls disproportionately on youth charged with low level offenses and youth of color. As described elsewhere in this chapter, recent federal surveys have found that only 25% of youth in residential facilities are

there for violent felonies.²⁴ The majority of youth are in out-of-home placements for other reasons, such as misdemeanor offenses and probation violations. And although youth of color represent only one-third of the youth population in the United States, they represent two-thirds of the youth confined in out-of-home placements.²⁵

The terms and conditions that officials set for youth should be meaningful, understandable, achievable, and related to public safety and the youth's underlying offense. This is important in reducing overrepresentation of youth of color for technical violations of probation or other court orders (i.e., where there is no new delinquency charge) and for ensuring that jurisdictions reserve incarceration and out-of-home placement for the small number of cases where it is truly necessary.

B. The Problems

To understand some of the main drivers of high incarceration rates for technical violations of probation, it is helpful to start by looking at probation orders or case plans for youth under the supervision of the juvenile justice system.

Common Standard Terms and Conditions

- ✓ Abide by a curfew.
- ✓ Follow all rules of the house.
- ✓ Attend school every day.
- ✓ Do not break any school rules.
- ✓ Do not use illegal drugs and submit to drug testing every 2 weeks.
- ✓ Do not associate with negative peers.
- ✓ Obey all laws, ordinances, and regulations of the jurisdiction.

Many jurisdictions include some or all of the requirements in list at the left in every supervision order, regardless of a youth's risk or supervision level. Violation of any single term or condition is grounds for removing the youth from placement and returning the youth to lockup. A youth who is referred to court for an altercation with a peer at school may be required to attend anger management classes once a week and stay away from the other party involved in the incident. Following those two directives will hopefully help the youth avoid future involvement with the system, as they are related to the reason for involvement with juvenile court. However, the youth must also do the seven other things listed.

Anyone who has spent time with adolescents (or who has ever been an adolescent) knows that youth test limits, challenge authority, and occasionally break the rules. By applying so many different terms and conditions that do not relate to the underlying issues that officials are hoping to address, officials may very well be setting youth up to fail. And in the juvenile justice system, failure to comply often leads to longer or more extensive involvement with probation or the courts.

Setting an extensive list of terms and conditions can also have unintended consequences. Family members may perceive an order with extensive terms and conditions as an attempt to usurp the parents and assume their role. Consequently, family members may feel alienated, or may disengage from the process because they feel that probation and the court have taken over.

A related question is whether youth and family members can understand the expectations and obligations that have been set for them. In many jurisdictions, court orders and probation case plans use overly complex and formal language to convey simple ideas. A court order may require a youth to “complete a urinalysis on a biweekly schedule and randomly upon the directive of the probation officer or a judicial official” or “adhere to all rules surrounding the use of an electronic monitor and maintain the device in proper functioning condition.”

Examples of Overly Complex, Formal Language

“complete a urinalysis on a biweekly schedule and randomly upon the directive of the probation officer or a judicial official”

“adhere to all rules surrounding the use of an electronic monitor and maintain the device in proper functioning condition”

Other terms may be so vague or broad that youth and family members do not know -- or cannot know -- what they mean. As an example, what is meant by the term “obey all rules at home”? Does this mean that a youth can be violated for not cleaning up his or her room or for failing to take out the trash? Such terms and conditions may be interpreted differently, and inconsistently, by different judges and probation officers. They may also lead to court involvement in matters that are not appropriate. Officials in many jurisdictions have raised concerns that some parents, out of frustration, begin to rely on probation officers to enforce house rules: “He won’t listen to me. Go ahead and teach him a lesson.” That approach is unlikely to resolve underlying issues or to promote effective parental supervision over their children.

For youth or family members with limited literacy, the wording of these terms and conditions may be very difficult to understand. Individuals with limited English proficiency may struggle to understand both the literal terms and the underlying expectations, particularly where the language in the order is poorly translated or not translated at all.

How to Limit Standard Terms and Conditions

- ✓ Use individualized, targeted terms and conditions relevant to behavior change and skill development.
- ✓ Recognize the challenges of the youth and families involved in the juvenile justice system.
- ✓ Consider intermediate goals that are achievable.
- ✓ Convene a committee of stakeholders to review court orders and case plans.

Further, in many jurisdictions terms and conditions only focus on avoiding negative behaviors and the consequences for failing to abide by the rules. For example: failure to abide by curfew will lead to a hearing before the judge and the possibility of a weekend in detention. However, research makes clear that individuals learn best when officials use a combination of incentives for positive behaviors alongside sanctions for negative behaviors.²⁶ The following chapter on developing a system of graduated responses outlines how best to integrate positive goals into terms of supervision and case plans.

Finally, probation officers also struggle with vague or over-inclusive terms and conditions. They are responsible for monitoring a host of different issues for each client. Instead of being able to focus

on the ones that matter most for the individual youth, they have to look out for every possible violation of the order. Tracking, documenting, and reporting compliance and non-compliance in so many different areas makes the probation officer's job very difficult, if not impossible, to do well.

C. The Solutions

Although the problems outlined above are common, officials can pursue a number of strategies to address them. The strategies listed below will help juvenile justice professionals set understandable and meaningful expectations for youth and family members while avoiding unnecessary incarceration.

1. Limit Standard Terms and Conditions

No youth should receive a free pass for flouting court orders or probation directives. Just the opposite: youth should be held accountable when they do not meet reasonable expectations. However, officials are best served by focusing on the terms and conditions that matter for individual youth.

For example, for a youth referred to court for an assault who otherwise screens as low risk, probation may require the youth to attend anger management classes and stay away from the other youth involved in the altercation. However, if the youth has no history of illegal drug use and there is no information that substance abuse

contributed to the fight, requiring bi-weekly drug tests may not be the best use of the juvenile justice system's resources. The same applies to terms and conditions related to school attendance, so long as truancy was not a cause of the altercation. Similarly, setting a curfew may be unnecessary if there is no issue of a youth engaging in illegal or dangerous activities in the evenings. Requiring a youth to be home at an early hour just because it is standard practice will simply create new opportunities for violations that can drive the youth deeper into the system.

Focusing on a smaller number of terms and conditions can also help youth to understand the things that matter most in terms of behaviors to avoid and skills to build. Overloading youth with a large number of requirements can lead youth to forget the reason for their original involvement with the juvenile justice system, which can be counterproductive to officials' efforts at rehabilitation.

Finally, extensive and unrelated terms and conditions ignore the challenges faced by youth and families involved in the juvenile justice system. Poor school attendance may be the product of a youth's dislike of school, a bully at school who the youth seeks to avoid, a parent's difficulty providing consistent transportation to school, a youth's responsibility to provide supervision to other children in the family if a parent is unavailable, a school's failure to identify educational disabilities and provide special education services, or a parent whose own mental health or substance abuse problems prevents them from providing adequate supervision of their children. Officials may assume that poor school attendance is a choice made by the youth or family when there are many reasons why a youth may not want to - or cannot - attend school consistently.

It is unlikely that simply requiring a youth to attend school every day without incident will change his or her behavior any time soon, particularly if that youth has not attended school consistently in the past for any of the reasons listed above. In these situations, it may make more sense to set intermediate goals that are more achievable - for example, requiring consistent attendance for a set period of time, such as a week, with review after that period. Making school attendance mandatory as a standard term or condition removes this flexibility and almost certainly sets some youth up for violations.

Juvenile court and probation officials should convene a committee of stakeholders to review standard terms and conditions, individualized court orders with special terms and conditions, and case plans. Committee members should review these documents with the goal of either limiting the number of standard terms and conditions to a narrower range of requirements, or establishing a process for selecting which terms and conditions should apply in certain kinds of cases. Connecticut's juvenile probation order, reproduced in the Appendix, does not include drug testing or curfew as required terms and conditions.

2. Set Expectations that Youth and Family Members Understand and Confirm That They Understand Them

Court orders and case plans outline expectations that juvenile justice officials have for youth and families. However, these documents often contain complex language and legal terms that have no significance to those who do not work in the system. In many cases, the drafters of these documents have not considered the limited literacy skills of youth and family members. In short, the way these documents are written often reduces the chance that individuals will know what is expected of them and be able to comply.

As part of Models for Change, Washington State officials recognized this limitation and did something about it. As part of what was known as the “[Washington Judicial Colloquies Project](#),” juvenile justice stakeholders from Benton and Franklin Counties examined existing disposition orders and colloquies (i.e., the exchanges between judges and youth about rules and expectations).²⁷ Officials learned that disposition orders and the outline for colloquies were written at a college graduate reading level. Unsurprisingly, surveys of youth revealed that youth failed to recall numerous terms and conditions, even when questioned immediately after their hearings.

Washington State officials also conducted focus groups with youth. Through these conversations, they learned that youth often misunderstood language that stakeholders had taken for granted as having a clear meaning. For example, youth believed that the phrase “shall appear in court as required” meant that they should come to court dressed in nice clothes. When officials told them that the language meant that youth had to come to court, the youth responded with “Well, why don’t you just say that then?”

As a result of these activities and others, stakeholders developed model colloquies and disposition orders that use simple, concrete language and straightforward verbs. The working group also developed a simple checklist of “Dos and Don’ts” for youth, pictured below. As the judge reads through the conditions that apply to a youth’s case, the youth checks off each requirement after confirming that he or she knows what is expected. The checklist also serves as a simple, easy-to-follow reminder of these requirements after the hearing. Surveys of youth after the implementation of the new materials revealed a significant increase in comprehension following hearings.²⁸

Washington State officials developed [a report](#) that describes the process that they undertook to develop and revise materials that youth and families would be more likely to understand.²⁹ The report provides a useful starting point for jurisdictions that want to undertake a similar analysis of their own court orders, forms, and case plans. Any such effort should include a determination of whether reforms actually improved comprehension, such as through post-hearing focus groups or surveys.

Jurisdictions such as Cook County, Illinois, have thought not only about the message when explaining terms and conditions to youth, but the messenger as well. Officials there created a Juvenile Advisory Council, which is a collaboration between probation staff and former system-involved youth.³⁰ The Juvenile Advisory Council holds youth-led orientation sessions for youth and family members on the last Saturday of each month. The program reinforces expectations and outlines strategies to overcome problems and challenges, but it does so from the perspective of youth who have successfully exited the system. The Juvenile Advisory Council also holds focus groups with family members exiting care to obtain feedback about their experience and make recommendations to probation to improve policies and practices. Many jurisdictions already do orientation sessions or have surveys at the time of case closure, but Cook County’s experience has been that having youth as the voice has enhanced understanding and buy-in.

Release Do's		Release Don'ts	
<input type="checkbox"/> 1	I will come to court and go to all hearings scheduled by the court for my case(s). My next hearing is: _____ at _____ a.m./p.m. and will take place at the Juvenile Court, 1212 W. 1st Place Street, Suite 100, Thistown, WA 99111. 8 I	<input type="checkbox"/> 8	Immediate Supervision: I will NOT leave my house unless a court-approved adult listed in # 4 is able to go along and see me all the time.
		<input type="checkbox"/> 8A	I am allowed to attend school, work, or other activities approved by my probation counselor.
		<input type="checkbox"/> 8B	But, I will NOT go anywhere else without my court-approved adult. I will NOT leave the house by myself. I will have an approved adult drive me to and from school or work
<input type="checkbox"/> 2	I will call my lawyer _____ . Phone # _____	<input type="checkbox"/> 9	I will NOT travel outside of Thistown County without permission from my probation counselor.
<input type="checkbox"/> 3	I will attend all meetings scheduled by my probation counselor and call as directed. My probation counselor is _____ and the phone # is (000) 555-1212.	<input type="checkbox"/> 10	I will NOT drink or have alcohol. I will NOT use or have drugs unless they have been given to me by my doctor.
<input type="checkbox"/> 4	I will live with _____ at the following address: _____ Phone #: _____. I will obey all their rules. Other adults the court has approved to supervise me are: _____	<input type="checkbox"/> 11	I will NOT commit any crimes or get arrested. I will not do anything illegal that will get me arrested.
<input type="checkbox"/> 5	House Arrest: I will stay home. I am only allowed to leave the house to come to court. <input type="checkbox"/> 5A I will always have one of the court-approved adults referenced in item # 4 with me at home. <input type="checkbox"/> 5B I will get permission from my probation counselor each time I want to leave the house.	<input type="checkbox"/> 12	I will have NO CONTACT with the people listed here: a. _____ DOB: _____ b. _____ DOB: _____ c. _____ DOB: _____ This means I will NOT talk to or send messages by mail, phone, email, text messages, or through the internet, other persons, or by any other way.
<input type="checkbox"/> 6	I will follow Curfew and be home and stay there: ≤ Every night from ____pm until ____am. ≤ Sunday to Thursday from ____pm until ____am. ≤ Saturday and Sunday from ____pm until ____am.	<input type="checkbox"/> 13	I will NOT be alone with children 3 or more years younger than me. If I am around children I MUST have a parent or approved adult who knows about what I have been accused of. The parent or adult most know the rules the judge gave me. The parent or adult must be able to see me at all times when children are around me.
<input type="checkbox"/> 7	Other: _____	<input type="checkbox"/> 14	I will NOT have, look at or listen to anything that shows or describes any sexual acts. I will NOT have or look at anything that shows or describes the uncovered private parts of the human body.
		<input type="checkbox"/> 15	I will NOT have or use any guns, knives, or other weapons.
		<input type="checkbox"/> 16	Other
I understand that if I break any of rules that the Judge reviewed with me, I may have to return to Detention and have a Court hearing to address the violations.			
Signature: _____		Date: _____	

Distrust of the juvenile justice system may run deep in certain communities. Officials who take the time to consider how to make terms and conditions more meaningful and understandable for youth and families of color are more likely to build effective channels of communication between clients and agency staff. That will also mean that family members and youth are more likely to be partners in the juvenile justice process and less likely to see the system as adversarial or inherently critical of them.

3. Involve Youth and Families When Developing Supervision Plans

Effective work to reduce racial and ethnic disparities incorporates feedback and insights from youth and family members. This is, in part, because youth and families are “consumers” of the juvenile justice system’s services and have a valuable perspective that is different from those who work inside the system. It turns out that involving youth and families in disposition planning can also strengthen outcomes. A [report](#) from the [Office of Juvenile Justice and Delinquency Prevention](#) noted that, as part of a pilot project, a jurisdiction that assigned youth to family group conferencing had a 23% lower re-arrest rate than youth and families who did not participate in such a process, even when controlling for a range of other variables.³¹

In many juvenile justice systems, probation officers and judges set terms and conditions for a youth based on prior experience and recommendations of a number of different parties in court - individuals who conducted assessments of the youth, the prosecutor, probation staff, and the youth’s lawyer. Family members may not have an opportunity to make recommendations in the same way. A common practice is for juvenile justice personnel to arrive at their recommendations first, and then turn to family members and ask if the plan sounds acceptable to them. This ignores the fact that family members often have some of the best insights about what will or will not work for their child and relegates the family’s perspective to an afterthought.

Effective family engagement begins at the start of the juvenile court process. For this reason, jurisdictions such as Santa Cruz, California, a [Juvenile Detention Alternatives Initiative](#) (JDAI) “model site,” inform parents about the many different ways that they can involve themselves in their child’s case. Santa Cruz officials developed a video that includes clips of parents and caregivers talking about the ways that they had an impact on the process. The video plays on a continuous loop in the lobby of the probation office.³² The officials made the video in part because, in focus groups, family members revealed that they didn’t engage with the process because they thought their input would have no real impact on what would happen in court

Santa Cruz also took their family engagement a step further at the dispositional planning phase. Officials developed a [Placement Prevention Assessment Conference Team](#), a form of family group conferencing for cases that had the highest chance for out-of-home placement.³³ As part of this process, families begin with a conversation with juvenile justice officials about their strengths and needs, and recommendations for supervision. Families play a central role by proposing important elements of a

supervision plan. After that occurs, probation staff review the proposal with family members and make suggestions and recommendations.

Santa Cruz officials believe that this process gives youth and family members more of a stake in supervision plans, and officials there report that it leads to greater compliance with terms and conditions and higher success rates with services.³⁴ Probation officers also report that family-driven plans are actually more comprehensive and help lessen the “us vs. them” dynamic that sometimes occurs between family members and juvenile justice officials.

D. Practice Tips

- ✓ Examine standard terms and conditions in court orders and case plans. Reduce the number of standard terms and consider applying others on a case-by-case basis, depending on each youth’s individual strengths and challenges.
- ✓ Set achievable requirements and milestones. Recognize that standard terms and conditions hold all youth to the same high standard even though youth and families may need to work over an extended period to address certain problems. Setting a high bar right at the outset sets youth up for failure and deeper involvement with the justice system.
- ✓ Examine court orders, case plans, and other written documents through the lens of youth and families who may have limited literacy or limited English proficiency. Recruit youth and family members to provide insights about concepts and phrases that are unclear, and replace complex or legal terms with simple, easy-to-understand language.
- ✓ Focus on the terms and conditions that matter for an individual youth. Helping youth and families focus on a small number of key requirements is more likely to be successful than painting with a broad brush across a dozen or more requirements.
- ✓ Identify ways to engage youth and families in the juvenile justice process at the very outset, and identify ways of incorporating their insights into supervision and service plans.

E. Resources

[TeamChild and the Juvenile Indigent Defense Action Network, The Washington Judicial Colloquies Project: A Guide for Improving Communication and Understanding in Court](#)

This report, prepared as part of Models for Change, outlines how officials in Washington State re-examined the way that they communicated with youth and families in court. The document identifies the ways that stakeholders made written

materials and in-court discussions more understandable for youth and their families and includes the written products from those efforts.

Santa Cruz County Probation Department, Continuum of Juvenile Services

This publication of the Santa Cruz County Probation Department outlines the resources available to youth involved in the juvenile justice system. It outlines the planning process and resources available to youth who are at the highest risk for out-of-home placement.

F. For More Information

Rosa Peralta

Research Associate, TeamChild
1225 South Weller Street, Suite 420
Seattle, WA 98144
206-322-2444
questions@teamchild.org

Julia Feldman

Deputy Probation Officer III
Wraparound Supervisor
Santa Cruz, CA Department of Probation
831-763-8421
Julia.Feldman@santacruzcounty.us

Jason Szanyi

Staff Attorney, Center for Children's Law and Policy
202-637-0377 x 108
jszanyi@cclp.org

G. Appendix - Connecticut Judicial Branch Juvenile Order of Probation

ORDER OF PROBATION <small>JD-JM-116 Rev. 7-12 C.G.S. §§ 46b-140, 46b-141a, 46b-141d</small>		STATE OF CONNECTICUT SUPERIOR COURT JUVENILE MATTERS <small>www.jud.ct.gov</small>
Address of Court	CMIS Client number	Docket number
Name of child	Date of birth	
Address	Probation officer	
Parent/Guardian	Address (if different from child)	
Period of probation	Detention/lockup time credit earned	Probation until (Date)
Having been convicted as a delinquent, the child is placed on probation until the date shown above and must obey the following orders:		
1. Do not violate any Federal, State or Municipal law or ordinance. 2. Remain drug and alcohol free. 3. Reside with <input type="checkbox"/> Parent/Guardian or <input type="checkbox"/> _____ and obey the rules of the residence. 4. Do not leave the state of Connecticut without notifying and obtaining permission to leave from your probation officer. 5. Notify your probation officer of any change of address or phone number within 48 hours. 6. Keep all appointments scheduled by the probation officer, evaluators or therapists. 7. <input type="checkbox"/> Attend school and class on a regular basis and follow school policies on student conduct and discipline. <input type="checkbox"/> Seek and obtain employment, work study, or alternative education program. 8. Obey any graduated responses ordered by your probation officer. 9. Other Conditions <input type="checkbox"/> Cooperate with Department of Children and Families placement and/or programs. <input type="checkbox"/> Counseling (type) _____ <input type="checkbox"/> Submit to periodic alcohol and drug testing and assessment and treatment (Community or in-patient) for substance abuse as deemed necessary by the probation officer. <input type="checkbox"/> Initiate no contact with victim(s) <input type="checkbox"/> Curfew _____ (time) <input type="checkbox"/> Electronic Monitoring from: _____ until: _____ _____ <input type="checkbox"/> House Arrest from: _____ until: _____ <input type="checkbox"/> Submit a sincere letter of apology to Probation by _____ (date) <input type="checkbox"/> _____ Hours of Community Service to be completed by _____ (date) <input type="checkbox"/> Pay restitution in the amount of _____ payable to CSSD, Restitution Unit, 936 Silas Deane Hwy, Wethersfield, CT 06109, by bank check or money order by _____ (date)		
<input type="checkbox"/> Special conditions: _____		
Notice: At any time during the period of probation, the court may modify or add conditions, whether originally imposed by the court under this section or otherwise and may extend the period as the court deems appropriate after hearing and for good cause shown. The Probation Officer may inform the police of these conditions.		
<small>Name of Judge (Print or type)</small> _____		
Signed (Judge/Clerk)	Date of order	Date signed
I have read and understand the above orders. If I do not obey these orders, I can be placed in detention, convicted as delinquent and committed to the Department of Children and Families for out-of-home placement, including a secure out of home placement.		
Child	Date signed	
Parent/Guardian/Witness	Date signed	
Probation Officer	Date signed	

IV. Ensuring Access to and Availability of Alternatives to Out-of-Home Placement

A. The Issue

The early sections of this practice manual have focused on ensuring that youth of color have the same opportunities to be diverted away from the juvenile justice system as white youth at the point of arrest. Subsequent sections have outlined how to ensure that youth of color benefit equally from policies, practices, and programs designed to create pathways away from deeper involvement with the juvenile justice system - for example, through alternatives to formal court referrals or the creation of culturally responsive alternatives to secure detention.

All of these efforts can help ensure that the juvenile justice system focuses its most intensive and restrictive interventions on the small number of youth for whom those interventions are appropriate. Many communities have successfully reduced or, in some cases, eliminated disparities at earlier decision points in the juvenile justice system. However, in many communities, racial and ethnic disparities at later stages of the juvenile justice system persist or even become larger. This includes disparities at the point of commitment to state custody and placement out of home - what some refer to as the “deep end” of the juvenile justice system.

Examining racial and ethnic disparities at the “deep end” of the juvenile justice system may not seem like an area where much progress can be made. Some have the perception that youth who have made it to this point are either ineligible for less restrictive options because of the nature of their offense or history with the court, or that they have failed to take advantage of community-based services, making out-of-home placement the only remaining option.

As mentioned in the introduction to this chapter, though, recent research suggests just the opposite. Recent federal surveys have found that only 25% of youth in residential facilities are there for violent felonies.³⁵ The majority of youth are in out-of-home placements for other reasons, such as misdemeanor offenses and probation violations. And although youth of color represent only one-third of the youth population, they represent two-thirds of the youth confined in out-of-home placements.³⁶ One of the most [comprehensive and rigorous analyses of juvenile justice reforms](#) conducted to date, released in 2015, found that youth incarcerated in out-of-home state placements “look[ed] no different than many of those who are kept in their communities.”³⁷

These studies suggest that many youth may have been able to benefit from a more robust continuum of alternatives to out-of-home placement. The fact that youth of color are overrepresented in out-of-home placements may also suggest that those alternatives that do exist are not always as effective for youth of color as they are for white youth. Indeed, researchers find that youth and families of color are less likely to receive community-based services and are more likely to terminate those services prematurely.³⁸

Although communities may have struggled in the past to develop a robust continuum of community-based and culturally-responsive disposition alternatives, disparities in access to and success with these programs often stems from a small number of problems. New resources and approaches from the field can help officials re-examine existing options from the lens of racial and ethnic fairness and explore the possibility of new programs and services for youth and families of color. This section focuses on making sure youth of color at the deep end of the juvenile justice system have opportunities to avoid incarceration and out-of-home placement through culturally-responsive, community-based alternatives.

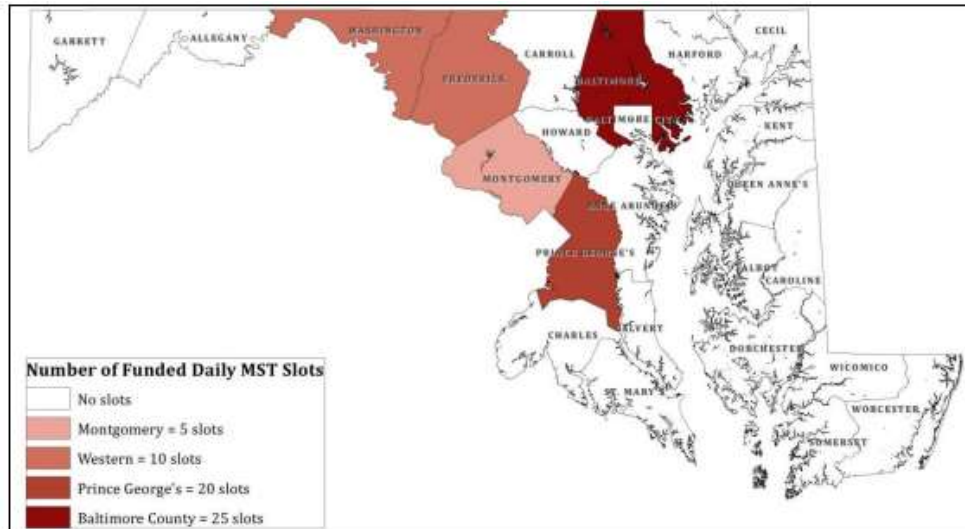
B. The Problems

When examining the issue of racial and ethnic disparities in out-of-home placements, asking three key questions can help officials understand what the problems are so that stakeholders can work toward potential solutions.

1. Are Alternatives to Out-of-Home Placement Available?

Jurisdictions vary widely in terms of the availability of alternatives to out-of-home placement. In some situations, this is a matter of population density. Urban locations generally have greater resource availability than suburban or rural areas. As the map below illustrates, youth who live in more densely populated areas of Maryland have greater access to [Multisystemic Therapy](#) than youth who live in other parts of the state.

MST Availability in Maryland for the Department of Juvenile Services Youth - FY 2014



Source: [Maryland Department of Juvenile Services Residential and Community-Based Services Gap Analysis \(2013\)](#).

However, there may also be systemic barriers to the creation of community-based alternatives to out-of-home placement. In most states, counties and states share responsibility for the juvenile justice system's operation. Generally, county officials fund contracted services for youth at the front end of the system: intake, diversion, pre-adjudication detention, and probation supervision. State officials bear all or most of the cost of those youth who are committed to the juvenile justice system, including the cost of housing youth in out-of-home placements.

One problem with this arrangement is that it does not create incentives for counties to develop alternatives to out-of-home placement in their own communities. To the contrary, these arrangements may actually encourage counties to commit youth who have the most significant risk factors or the highest need for particular treatment.

This dynamic may not reflect any malicious intent on the part of county officials, who are often stretching tight budgets across a range of different programs. But it can have the unfortunate effect of limiting the development of local resources to serve as effective alternatives to out-of-home placements. Additionally, this arrangement can

mean that counties do not have an incentive to implement programs that may have a higher start-up cost than some other county-based programming, such as Multisystemic Therapy, even though they can be significantly less expensive than the cost of out-of-home placements and can achieve significantly better results in terms of reductions in recidivism.

An underlying issue is how jurisdictions decided on their continuum of alternatives to out-of-home placement to begin with. Have officials chosen to fund programs based on demonstrated need for such services, demonstrated positive outcomes associated with those services, and an ability to provide culturally responsive treatment? Or are programs funded based on anecdotal information on the benefits that they offer? In some jurisdictions, the programs that are offered may not be rooted in actual needs, and they may not have been evaluated to see if they are having their intended impact.

Officials should work with service providers and other stakeholders to analyze and evaluate programs and services from these lenses.

2. Are Existing Alternatives to Out-of-Home Placement Accessible to Youth and Families of Color?

Even if juvenile justice professionals are able to access services that can serve as alternatives to out-of-home placement, youth and families of color may have difficulties participating in those services for a variety of reasons. Some programs may be in locations that are far from communities of color where youth and family members live. Youth and their family members may lack transportation to and from these locations, which can make consistent attendance difficult or impossible.

A separate issue is whether there are barriers surrounding eligibility for alternatives that make it less likely that youth of color will successfully engage with services, even if they are technically available. Without a structured referral process and set of clear criteria about which youth are eligible for specific programs, providers may use their discretion to reject certain groups of youth as being “too difficult to work with” or “a poor fit for the therapeutic milieu.”

Potential Barriers to Accessing Alternatives to Out-of-Home Placement for Families of Color

- Location
- Eligibility criteria
- Offense history

Jurisdictions may also exclude from programs youth who have a history of certain charges (e.g., “violent offenses”). That type of restriction, on its face, may seem like an objective, race-neutral limitation. However, if it is youth of color who are more frequently petitioned for offenses such as aggravated assault, the limitation may disproportionately negatively impact youth of color.

3. Are Existing Alternatives to Out-of-Home Placement Culturally Responsive To, and Effective for, Youth and Families of Color?

The availability and accessibility of alternatives to out-of-home placements, although important, do not guarantee that such alternatives are culturally responsive to the individuals they serve. Some have raised concerns that well-established evidence-based practices that serve as alternatives to out-of-home placement, such as [Functional Family Therapy](#) and Multisystemic Therapy, are not designed for youth of color or administered in a manner that acknowledges cultural differences.

Barriers to Developing Culturally Responsive Alternatives to Out-of-Home Placement for Families of Color

- Misinterpretation of cultural differences
- Failure to recruit staff from communities of color
- Failure to align services with changing demographics

Those raising these concerns cite studies finding higher rates of early termination among youth and families of color,³⁹ as well as literature suggesting that providers may misinterpret cultural differences as deficiencies or risk factors.⁴⁰ For example, a provider may not know that it is frowned upon to openly challenge one’s parents. That provider may interpret a youth’s reservations to speak up about problems at home as a refusal to participate. Some research also suggests that providers may not always recognize cultural differences in family and community supports, which can serve as important protective factors against future offending.⁴¹

One [Models for Change](#) site that examined racial and ethnic disparities in engagement with Functional Family Therapy uncovered evidence suggesting that these types of concerns might be generating lower success rates for certain groups. Juvenile justice professionals in Pierce County, Washington, learned that less than half of African-American youth assigned to Functional Family Therapy engaged with the service.⁴² There are many jurisdictions that never have examined engagement or success rates of youth of different races and ethnicities with alternatives to out-of-home placement, but Pierce County made the analysis and next steps part of their work

plan. Fortunately, juvenile justice officials took steps to address and correct the problem - steps that are described in more detail later in this section.

A lack of cultural responsiveness may stem from a number of different problems. For one, providers may not always recruit and hire professionals from communities of color or the communities where youth and families are most likely to live. This is not to say that youth and therapists have to be of the same race and ethnicity in order for services to be successful. Indeed, some studies have found that matching the race or ethnicity to a provider does have a beneficial effect,⁴³ whereas others have not found any effect of this type of matching.⁴⁴

Nevertheless, providers who do not have connections to the communities they serve, or meaningful understanding of those communities, may not be welcomed or trusted to the same degree as providers that are located in, and actively recruit from, communities of color. Additionally, some jurisdictions may not have aligned their current services with the changing demographics in their communities and may be struggling to catch up. Others may have attempted to reach out to recruit a diverse range of providers and not made much progress in the past. These are not problems with easy solutions, but there are short- and long-term strategies that can help jurisdictions work toward a culturally responsive continuum of community-based services.

C. The Solutions

Although the problems outlined above can stem from different causes, there are a number of strategies that help ensure that youth and families of color have equal access to programs that avoid the need for out-of-home placement.

1. Creating Incentives to Develop Programs in Communities of Color

Current financial arrangements may not create the right incentives for communities to develop their own alternatives to out-of-home placement, but a number of states have moved towards changing those incentives through policy changes and legislation. In 2005, officials in Illinois launched a program known as “[Redeploy Illinois](#).” Originally introduced in the state as a pilot project in three counties, Redeploy Illinois provides funding to counties to help develop a county-based continuum of care. Counties receive

Results of Redeploy Illinois

- 51% reduction in incarceration of committed youth
- 14.2% re-incarceration rate for pilot counties versus 57.4% re-incarceration rate for other counties
- \$40 million in savings

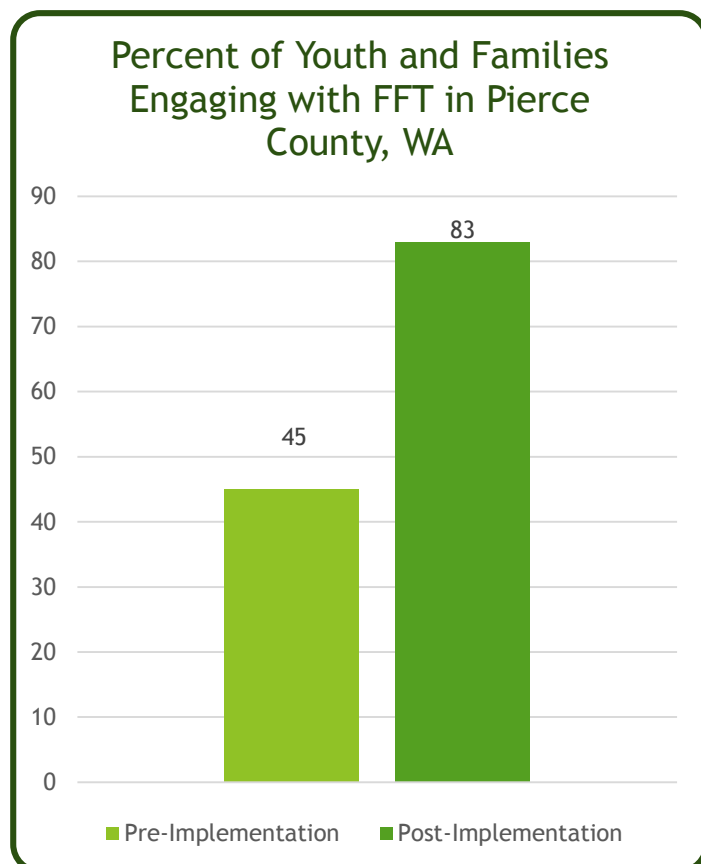
this funding in exchange for a promise to work toward a 25% reduction in youth committed to state facilities.

The arrangement, which allows the state to save money on expensive bed space in state-run facilities, also allows youth and families to benefit from services with better outcomes that are closer to their own homes. The results demonstrate that the program, which has now expanded to 28 counties as a permanent initiative, is a success. Participating counties have seen a 51% reduction in incarceration of committed youth. Additionally, juvenile justice-involved youth in participating counties have a 14.2% re-incarceration rate as compared with a 57.4% re-incarceration rate in counties that do not participate in the program. All of this benefits youth, families, and county officials. It also benefits the state, which has saved an estimated \$40 million from the reduced reliance on incarceration.⁴⁵

Illinois is not alone in trying to realign incentives and develop a continuum of services in the communities where youth are most at risk for removal from their homes. [Ohio and Wayne County, Michigan](#), are two other jurisdictions that have worked on changing policies and practices to strengthen community-based services with significant success.⁴⁶ Examining these different approaches to incentivizing effective community-based programs can help officials determine which reforms may be possible in their jurisdictions.

2. Examining the Reasons for Failure to Engage with Services

When analyzing engagement or successful completion rates for evidence-based programs, officials may find lower rates among certain racial and ethnic groups. In some communities, officials may chalk up lower rates to a lack of interest among communities of color in



intensive home- or family-based therapy. That belief, in addition to being rooted in anecdotes or misconceptions, can undercut officials' willingness to dig more deeply into the reasons for those lower rates.

In Pierce County, Washington, a Models for Change DMC Action Network site, juvenile justice professionals recognized this difference in rates as a problem and took action to understand its causes. Pierce County had a wide array of evidence-based practices available to youth involved in the juvenile justice system, including programs with substantial evidence of effectiveness such as Functional Family Therapy. However, officials discovered that less than half of African American youth and families who were referred to Functional Family Therapy engaged with the service.

Instead of simply accepting this figure, Pierce County's stakeholders went to work. Officials questioned what led African American youth and families not to engage with the Functional Family Therapy program. Through these conversations, they learned that it was the lack of the therapists' knowledge of, and familiarity with, the communities in which they were working. This was more than a matter of matching the provider's race and ethnicity to the race and ethnicity of the youth and families, as the County had recruited and used African American therapists in the past.

The solution? The County worked diligently to identify a masters-level psychotherapist

Key Questions for Service Providers

- How are programs staffed?
 - Does the program have a staff that reflects the diversity of youth and family members?
 - Do staff have ties with the communities served or life experiences that help them relate to youth?
- What reputation do providers have with communities of color in your jurisdiction? Who has evaluated that reputation and how?
- Are there language barriers?
 - Are there bilingual staff who can speak with families about logistics and administer services?
 - Are brochures, websites, and forms translated using the language(s) that the community uses?

with a broad range of experiences who could connect with youth and families from the parts of Pierce County where African American youth were at the highest risk for out-of-home placement. The therapist carried a small, specialized case load so that he could make himself available to youth and families with referrals from these communities. This change helped to almost double engagement rates, something that the County saw as a significant success. In addition to his work with individual clients, the therapist also provided cultural responsiveness training and support to probation officers within the Pierce County Juvenile Court. This had the added benefit

of help building the skills and knowledge of the individuals who were working with youth from these communities in a different capacity.

Recruiting mental health professionals and therapists from the communities from which youth and families are most likely to reside may seem like a tall order. Officials must be prepared to work at this goal over time, however, for it to have any chance at success. Simply posting job announcements with a note that the County is seeking “applicants of color” is not, on its own, likely to be enough to help create a workforce that has knowledge of the communities in which youth and families live. Targeted outreach to social work and mental health programs and job fairs at local colleges and universities can help raise awareness of the benefits of working with juvenile justice-involved youth.

Another strategy is to speak to community organizations with strong connections to groups that are underrepresented about any resources or strategies that they think could help recruit a diverse workforce. These groups may have suggestions for particular individuals or organizations with qualifications to apply. In the long-term, officials may need to increase salary and benefits for positions in order to be able to attract and retain desired professionals if stakeholders identify that as a barrier. That may not be possible right away, but if officials do not start the conversations and planning needed to make this change, they cannot expect to see much improvement.

Officials should also be sensitive to language barriers that may lead to lower engagement rates among certain groups. In one Models for Change jurisdiction with a growing Latino population, data revealed significantly lower successful completion rates for Functional Family Therapy among Latino youth as compared with African American and white youth. When discussing the issue, officials recognized that they had difficulties recruiting and retaining Latino therapists and, in fact, had no Spanish-speaking therapists on contract to provide such services at the time of the analysis. Recruiting and retaining Spanish-speaking therapists can be a challenge, but it calls for a short- and long-term corrective action plan to help ensure that all youth have the same opportunities to benefit from the most effective services that are available.

Jurisdictions such as Santa Cruz County, California, a [Juvenile Detention Alternatives Initiative](#) (JDAI) [Model Site](#), are well-known for their work on strategies to improve linguistic and cultural responsiveness. Officials working in this area can contact representatives there to learn more about the policies and practices that have supported the county’s work.⁴⁷ The county, which has a sizeable and growing Latino population, uses a set of “Standards of Latino Accessibility” to evaluate the cultural responsiveness of services in a number of different areas.⁴⁸ Jurisdictions can adapt or apply these standards to providers to determine areas of need or concern and then develop work plans to address them.

3. Implementing Culturally-Appropriate Adaptations to Evidence-Based Programs

Evidence-based programs such as Functional Family Therapy and Multisystemic Therapy are held out as “best practices” in the juvenile justice world because of rigorous evaluation and documented effectiveness, an ability to replicate results using a standardized model, and documented of ongoing positive effects after the completion of the program.

In a [Models for Change Innovation Brief](#) on cultural adaptations to evidence-based practices, University of Washington researcher Sarah Walker notes that the programs’ defining characteristics can lead some to view evidence-based practices as inflexible and unable to accommodate any adjustments for work with different racial and ethnic communities.⁴⁹

In response to these concerns, the University of Washington’s Division of Public Behavioral Health and Justice Policy developed a [Cultural Enhancement Model](#) to help agencies and practitioners incorporate culturally-relevant strategies into evidence-based programs. Although a detailed description of the model is beyond the scope of this Practice Manual, the approach relies on creating a stakeholder group that identifies needed modifications based on feedback from providers, youth, and family members who have used these services. The researchers suggest areas where modifications may be appropriate, such as additional training for providers on use of conversational language, cultural sensitivity, and working effectively with a translator; improving family engagement by ensuring that providers have information on relevant community resources; and describing therapeutic concepts and strategies using more concrete language and culturally relevant references specific to the populations in that jurisdiction.

The Cultural Enhancement Model

Policy

- This can include making changes to funding streams or contract language to ensure that providers prioritize cultural responsiveness in service provision or meet certain agreed-upon standards of cultural responsiveness.

Training

- Changes might include adding or enhancing content on the traditions of specific racial and ethnic groups and how they can impact work with youth and families.

Conceptual Translation

- Modifications in this area focus on the ways that providers present and explain concepts to youth and families, including the incorporation of culturally-appropriate metaphors.

Washington State officials used the Cultural Enhancement Model to make changes to the [Family Integrated Transitions](#) (FIT) program, which is a set of three evidence-based practices targeted at youth re-entering the community from out-of-home placements. Because Latino youth and families represented a growing share of the state's population, juvenile justice professionals identified a need to ensure that existing programs worked well with all populations. Some of the recommendations that followed from the use of the Cultural Enhancement Model were including additional training on conversational Spanish and providing therapists with information on relevant community-based resources that focused on serving Latino families.

When officials surveyed providers about how well trainings prepared them to work with Latino youth and families, providers averaged a response of 4.1 out of 5 (5 being the highest rating) following implementation of the Cultural Enhancement Model, as compared with a rating of 1.7 prior to the reforms. Officials who are interested in exploring the use of the Cultural Enhancement Model can find more information in the related Innovation Brief⁵⁰ and Toolkit,⁵¹ prepared with the support of the Models for

Change initiative. Officials should be sensitive to differences within racial and ethnic groups as they use these tools. For example, not all Latinos or Hispanic people are the same - different groups, such as Mexicans and Puerto Ricans, have their own cultural references, languages, and values that must be considered.

D. Practice Tips

- ✓ Realign incentives so that localities have the resources to build alternatives to out-of-home placement in communities of color that do not already have them. Consider lessons from states that have successfully reduced the use of incarceration using this approach.
- ✓ Identify barriers to accessing community-based services and consider ways of addressing them. Can a therapist provide services from a school or other convenient location as opposed to his or her own office, which may not be easily accessible for youth and families of color?
- ✓ Assess engagement and successful completion rates for existing alternatives to out-of-home placements. If differences exist by race and ethnicity, dig deeper to determine the underlying reasons for the trends and use the data to inform interventions. Lower engagement rates among Latino youth may suggest the need to recruit bilingual and bicultural staff.
- ✓ Consider whether culturally appropriate enhancements to evidence-based program curricula will improve outcomes for youth and families of color by using the Cultural Enhancement Model implementation toolkit, which is available on the Models for Change website, www.modelsforchange.net.

E. Resources

National Juvenile Justice Network and the Texas Public Policy Foundation, *The Comeback States: Reducing Juvenile Incarceration in the United States*

This 2013 report outlines success stories of a number of states that have safely reduced their reliance on incarceration and out-of-home placement by strengthening community-based programs and providing incentives to localities to work with youth and family members closer to their homes. The descriptions can provide juvenile justice officials with ideas about how to realign incentives to develop or enhance alternatives to placement in communities of color that currently lack such programs.

Sarah Walker, Models for Change Innovation Brief: The Cultural Enhancement Model for Evidence-Based Practice

Interest in developing and testing cultural adaptations has grown in proportion to the widespread adoption of policies to support the implementation of evidence-based practice (EBPs). One significant challenge for EBP dissemination is the perception that EBPs are not responsive to cultural needs and preferences and thus conflict with standards of culturally competent best practice. The University of Washington Division of Public Behavioral Health & Justice Policy developed the Cultural Enhancement Model to provide feasible guidance to agencies and practitioners for how to incorporate culturally-relevant strategies into evidence-based practice to improve both community and client-level engagement. The Innovation Brief also contains links to a [toolkit](#) to help communities apply the model to their own services.

Griffen, J. P. & Miller, E., (2007). A researcher practitioner's perspective on culturally relevant prevention: Scientific and practical consideration for community-based programs. *The Counseling Psychologist*, 35, 850.

This publication contains a review of the research literature surrounding the cultural responsiveness of evidence- and community-based programs. It also contains a number of recommendations about steps that practitioners can take to examine and improve the cultural responsiveness of such services.

F. For More Information

Jason Szanyi

Director of Institutional Reform, Center for Children's Law and Policy
202-637-0377 x108
jszanyi@cclp.org

Sarah Walker

Research Assistant Professor, University of Washington
Division of Public Behavioral Health & Justice Policy
206-685-2197
secwalkr@uw.edu

Alicia Ybarra

JDAI Model Site Coordinator, Santa Cruz Probation Department
831-454-3800
ybarra@santacruzcounty.us

V. Implementing an Effective Graduated Responses System

A. The Issue

A significant portion of youth incarceration in the juvenile justice system today results from violations of probation or other court orders. A 2013 federal survey of youth in residential placement revealed that juvenile facilities were holding over 9,300 youth for technical violations during a single day that year.⁵² Much of this incarceration is not necessary to protect the safety of the community. Instead, many courts respond to “technical” violations of probation -- such as missing appointments with probation officers, skipping school, or staying out past curfew -- by relying on detention and out of home placement as a means of holding youth accountable for their actions.

Youth *should* be held accountable for their actions. However, there are other sanctions that can be effective in teaching youth to follow rules but that do not involve incarceration and removal of youth from family, school, and the community. Moreover, research demonstrates what every parent knows: the best way to promote compliance with rules and encourage progress toward goals is to use incentives for good behavior as well as responses for misbehavior. Where youth of color are disproportionately detained or placed for probation violations, a strong system of “graduated responses” - combining sanctions for violations and incentives for continued progress - can help reduce racial and ethnic disparities. Effective approaches for youth on probation employ objective decision making to sanction youth who misbehave while under supervision and reward youth who comply. These systems limit unnecessary incarceration for behaviors that do not present a risk to public safety. They also help youth develop positive and developmentally appropriate skills by recognizing and providing proportionate positive incentives for youths’ accomplishments.

B. The Problems

Juvenile courts and probation officials want to ensure that youth comply with the terms of probation and other court orders. That is certainly appropriate. But when youth violate those orders, probation officers often refer them to court, and judges often order them to be locked up as a way to hold them accountable for their actions. In many cases, such a response is unnecessary to enforce compliance because lesser responses could hold youth accountable without removing them from their homes and supports.

This is not a small problem. As mentioned above, there are many thousands of young people locked up in detention facilities in this country for violating probation rules or court orders. In many jurisdictions, youth of color are overrepresented among the group of youth incarcerated for these reasons.

The goal is to ensure that youth do not engage in behavior that jeopardizes their safety or the safety of the community while under probation supervision, while avoiding unnecessary confinement and its longer-term effects.

One challenge for the system is maintaining proportionality and fairness. It is a cardinal tenet of our justice system that the punishment should be proportional to the offending behavior. When probation officers and judges use secure detention to sanction youth for technical violations, they are imposing the most severe sanction for behavior that, on its own, would not warrant confinement at all. This can fill detention and placement beds, the most expensive resources in the system, with youth who pose no significant threat to the community. Moreover, it undermines respect for the system and leads youth to feel that they have been treated unfairly. When overly severe sanctions are combined with a disproportionate impact on youth of color, the whole juvenile justice system suffers.

The Challenges

- Maintaining proportionality and fairness across youth
- Holding youth accountable in a timely manner in a meaningful way
- A lack of positive incentives that youth are motivated to work toward

A second challenge has to do with accountability and getting the attention of youth who misbehave. Accountability does not necessarily require incarceration, and it is possible to get a youth's attention without locking him or her up. In general, intensity of supervision should be increased before the ultimate sanction of incarceration is used. Many jurisdictions have developed non-confinement sanctions that youth find onerous and that convey a clear message that they should obey probation and court orders. These sanctions are matched to the seriousness of the violation and the risk level of the youth. Sanctions may

include, at the lowest level, a verbal warning from the probation officer or requiring the youth to write a letter of apology. At the intermediate level, sanctions may also include electronic home monitoring and more frequent drug testing. At the highest level, they may additionally include community service work, required attendance at

an after-school program, and, ultimately, filing of a notice of probation violation in court.

A third challenge in many jurisdictions is the absence of positive incentives. Officials should not just sanction youth when they violate orders and rules. They should also reward youth for making progress and successfully meeting the requirements of those directives. These two objectives are closely related. The more youth are motivated by positive incentives to comply with the terms of probation, the less likely they are to engage in behaviors that violate the rules. Unfortunately, few jurisdictions seize the opportunity to set positive goals that will help youth develop skills to protect against future offending behavior. Even in jurisdictions that do try to make such efforts, positive goals are often missing from supervision plans or are relegated to secondary concerns.

The lack of a structured approach to responding to the behavior of youth on probation, coupled with an over-reliance on incarceration and a lack of consideration of a youth's strengths, are leading contributors to the racial and ethnic disparities described above.

C. Graduated Responses - A Solution

To address the problems outlined above, juvenile justice agencies have begun to rely on a structured system of graduated incentives for youth to comply with community supervision and graduated sanctions to respond to youth misbehavior. Together these are referred to as "graduated responses." Sanctions take into account the seriousness of a specific probation violation - in terms of danger to self or others - and the youth's level of risk to reoffend. Incentives emphasize the importance of rewarding youth for meeting short- and long-term goals as a way of helping them develop positive skills.

1. What is the Evidence for the Use of Graduated Responses?

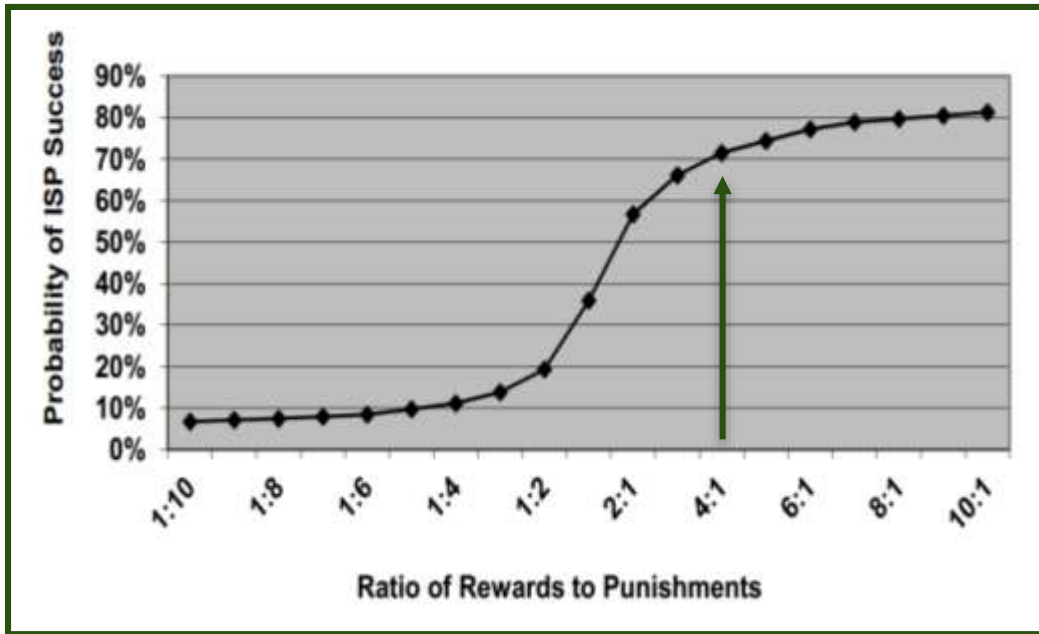
Research from human behavioral studies, drug courts, school climate reforms, and adult parole and probation suggests that a combination of sanctions and incentives best promotes compliance with rules and progress toward goals. Studies have shown that rewarding substance abusers for compliance with rules made them more likely to stay in treatment, whereas those who were just punished were more likely to drop out.⁵³ Additionally, [many schools have turned to the use of positive behavioral interventions and supports \(PBIS\)](#), recognizing the importance of promoting and recognizing positive behaviors in managing student conduct.⁵⁴

Graduated rewards and sanctions are more effective than static ones. In one study of smoking habits, participants who received incentives in response to achieving particular milestones achieved greater levels of abstinence than participants who simply received reinforcements at fixed intervals of time regardless of their behavior.⁵⁵ Other studies have shown that increasing the level of punishment is not the best way to improve compliance. For example, increasing the severity of sanctions for noncompliance with drug court provisions did not add an additional deterrent impact on use illegal substances, so long as sanctions were swift and certain.⁵⁶

In 2012, the American Probation and Parole Association, the Pew Charitable Trusts, and the National Center for State Courts examined the [most up-to-date research on effective probation and parole practices](#). The review found that “[t]he use of incentives is equally important (and often not sufficiently considered) in probation and parole supervision” and that “sanctions and incentives should be used in conjunction with one another to promote compliance and positive behavior.”⁵⁷

In one study, researchers found that while both the number of sanctions and the number of incentives were related to the likelihood of successful completion of probation or parole, the number of rewards was the better predictor of program success.⁵⁸ In fact, the number of rewards applied had almost twice as strong a relationship to success as the number of sanctions. The researchers also noted that incentives and sanctions worked best when used together, and that applying incentives at a ratio of four rewards to every one sanction continued to increase the chances of successful completion (**see figure below**). For these reasons, the National Institute of Corrections also notes that the use of incentives alongside sanctions “is affirmed in the ‘what works’ literature.”⁵⁹

The use of graduated responses provides an alternative for jurisdictions that wish to save incarceration and other out-of-home placements for youth who pose significant risks to public safety. Rock County, Wisconsin, a Models for Change DMC Action Network site, developed and implemented a graduated sanctions and incentives system for youth on probation in 2008 in response to high rates of incarceration and placement of youth for probation violations. The agency also implemented a new risk and needs assessment that helped probation officers hone in on strengths and concerns for individual youth, as well as a number of other reforms. As of March 2011, Rock County officials reported a 35% reduction in youth of color sanctioned to secure detention for probation violations, with the largest reduction reported for African-American youth.



Source: Eric J. Wodahl et al., *Utilizing Behavioral Interventions to Improve Supervision Outcomes*, 38 *Criminal Justice and Behavior* 386 (2011).

2. What Makes a System of Graduated Responses Effective?

Research shows that a system of graduated responses should be:

- **Certain.** If youth know that a negative consequence will automatically follow a particular behavior, they will be less likely to engage in that behavior than if enforcement is erratic. Similarly, if youth know that they will definitely receive a reward for engaging in particular actions, they are more likely to pursue positive behaviors.
- **Immediate.** Youth must be able to see a direct and close relationship between their behavior and a sanction or incentive. Sanctions and incentives administered long after a behavior occurs lose their impact.
- **Proportionate.** Administering sanctions that do not correspond with the severity of the violation can lead to feelings of anger and resentment. Disproportionately harsh sanctions for minor misconduct can undermine other attempts at behavior change by leading youth to feel helpless to control their future. Youth of color may have already experienced negative interactions with public officials, and they may see overly severe sanctions as a continuation of that experience.

- **Fair.** Juvenile justice officials should apply similar sanctions for similarly-situated youth. Perceived unfairness undercuts the value of the graduated response system in eliciting behavior change.
- **Tailored to individual youth.** Certain sanctions or incentives will be more effective for individual youth depending on their individual circumstances. The goal of graduated responses is not to eliminate discretion in decision-making, but rather to give juvenile justice professionals a broad range of tools - within ranges that ensure proportionality - in order to motivate youth to succeed.

D. Steps for Creating or Strengthening an Effective Graduated Responses System

The Center for Children’s Law and Policy [has prepared a comprehensive toolkit designed to help jurisdictions develop or improve upon an existing system of graduated responses](#). It is the most comprehensive publicly available resource on the use of graduated responses in juvenile probation to date, containing a comprehensive set of tools, guidance materials, and sample materials. The information below summarizes some of highlights from the toolkit, but officials undertaking this work should [download and review the toolkit publication in full](#).

1. Define the Purpose(s) of Implementing a Graduated Responses Practice for Your Jurisdiction

As jurisdictions prepare to develop a graduated response system for youth on probation, key stakeholders should discuss the outcomes they hope to achieve. Is the jurisdiction interested in reducing the number of technical violations referred to court? Reducing the number of youth placed in secure detention as a result of probation violations? Reducing the proportion of probation violations filed against youth of color?

2. Gather Data on Youth Under Supervision and Youth Sanctioned for Violations of Probation and Other Court Orders

To accomplish any of these goals, it is important to collect and analyze data on youth on probation and otherwise under supervision, as well as youth who have received sanctions for violations of probation and other court orders. There are four reasons for this. First, it is necessary to establish a baseline of the use of sanctions prior to

reforms. Unless a jurisdiction tracks baseline data, it will not be able to determine if the reforms have improved the situation, had no effect, or made it worse.

Why Gather Data About Youth Under Supervision?

- Establish baseline data
- Review effectiveness of current policies
- Determine level of consistency in application of policies
- Ascertain whether there are racial and ethnic disparities when sanctioning youth

Second, it is necessary to look at the relative effectiveness or ineffectiveness of current policies. Do current sanctions actually reduce offending behavior? Are some more effective than others? Is it possible to determine why some sanctions are more effective?

Third, it is important to look at whether current policies have been applied consistently. If there is inconsistency in applying sanctions, that fact may help to explain why sanctions have been ineffective.

Fourth, a jurisdiction should assess whether there are racial or ethnic disparities in the ways that sanctions have been applied. Research has demonstrated that probation reports can be affected by implicit racial bias on the part of probation officers, with powerful consequences for young people before the court.⁶⁰

To conduct the appropriate analyses, a jurisdiction should collect data on basic demographics such as age, race, ethnicity, gender, as well as underlying offense, behavior that violated the probation rules or court order, sanctions applied (including secure confinement), and subsequent behavior of the youth such as successful completion of probation or additional probation violations, whether youth were detained or sent to placement as a result of their violations, and how long they stayed if detained or placed.

Jurisdictions vary in their ability to collect and analyze data. Where a jurisdiction collects data electronically in Excel or similar programs, the analysis can be relatively straightforward. But it does not require a university researcher with a graduate degree

What Data, at a Minimum, Should a Jurisdiction Collect?

- Race
- Age
- Ethnicity
- Gender
- Underlying Offense
- Violation
- Sanctions
- Resulting Behavior
- Whether youth are detained or placed out of home for their violations
- How long youth stayed if detained or placed

and a state-of-the-art computer system to obtain valuable information. A jurisdiction can conduct a study of a sample of the population on probation, such as 50 or 100 cases, using a simple set of questions to collect needed data directly from case files.

Moreover, reforms are about changing the behavior of adults who run the juvenile justice system as well as youth who are in the system. Collecting data on probation violations is a way of looking at implementation of system policies at the ground level. It allows those responsible for supervision of youth to make informed decisions about how to make that supervision more effective.

3. Interview a Variety of Individuals to Understand the Strengths and Weaknesses of the Supervision of Youth in the Community

By conducting focus groups with probation officers, supervisors, parents, and youth, those responsible for developing a graduated responses system will obtain valuable information about supervision. Although agency officials often hold the formal authority for responding to youth behavior, many other stakeholders have valuable insights about the strengths and weaknesses of supervision practices and the range of programmatic options available to support youth and their families during the period of supervision. Officials should take time to interview judges, prosecutors, public defenders, community-based service providers, youth, and family members. In addition to surfacing issues that will help guide the creation of a graduated responses system, the interviews are an opportunity to present the relevant research and reasons for using graduated sanctions and incentives. This will improve the chance that stakeholders will support the reforms rather than resist them.

4. Form a Committee to Develop the Graduated Responses System

Creating a committee to help develop a system of graduated responses offers a number of benefits. For one, the committee structure provides an important opportunity to obtain consensus on how and when to reward and sanction specific behaviors, as individuals within an agency will have a range of perspectives. Additionally, the committee can ensure that policies and procedures reflect the perspective of line staff. System staff with particular responsibilities, such as management of an electronic monitoring program or specialized caseload, will also have important perspectives. If the jurisdiction wishes to increase the range of rewards or sanctions available, potential community partners who could provide those services or opportunities may be valuable participants. Other potential committee members include prosecutors, public defenders, current service providers, youth, and family members.

5. Create a List of Behaviors and Skills to Promote Among Youth Under Supervision

Juvenile justice professionals can use supervision as an opportunity to encourage youth to develop positive life skills and community connections that will help them succeed after their supervision ends. Officials should think broadly about the types of behaviors that probation officers or case managers can promote across a range of areas, including education, family relationships, peer relationships, community engagement, workforce development, health and mental health, and creative self-expression.

In a Coalition for Juvenile Justice report, [Positive Youth Justice: Framing Justice Interventions Using the Concepts of Positive Youth Development](#), Dr. Jeffrey Butts and his colleagues describe how services for juvenile justice-involved youth can incorporate strength-based principles, such as connecting youth with community-based supports and building upon a youth's unique skills and interests. By creating an extensive menu of desired behaviors, the graduated responses system will give probation officers and case managers the flexibility to identify the most appropriate goals for their individual clients.

Officials should consider dividing behaviors into short-term and long-term goals to enable juvenile justice professionals to acknowledge important steps toward bigger accomplishments. A case manager could reward youth for meeting with a guidance counselor about vocational goals or consistently attending school for a set period of time, which are important behaviors of a short duration. The case manager can also provide a more significant reward for obtaining a high school diploma or GED, which requires a more sustained commitment. [The District of Columbia's Department of Youth Rehabilitation Services adopted this approach when developing its list of goals.](#)

When developing this list, officials should not view this as an opportunity to “fix” everything that they believe may not be working well in an individual youth's life. Rather, the focus should be on identifying a range of culturally appropriate and achievable skills that will help youth of color succeed in the community.

6. Identify a List of Incentives to Reward Youth for Meeting Particular Goals

Committees should consider the types of incentives that agencies will provide when youth make progress toward goals. Officials will need to consider whether the agency will provide tangible incentives such as gift cards or sports tickets, and whether some incentives will require a parent's approval. When thinking through possible rewards, it may be useful to speak with youth, family members, service providers, and community-based youth programs about what they think would be the best

motivators. [The Center for Children’s Law and Policy has developed an extensive list of possible incentives](#) that groups can work from when deciding which incentives could be offered to youth right away, and which incentives an agency would like to develop or obtain in the future. Agencies can also consider incentives that they can provide to parents to help recognize when youth are following behaviors at home.

Even if funding is not available for incentives, agencies can develop non-monetary incentives such as letters of recognition, awards ceremonies, extended curfew, or requests to the judge to terminate probation early. In addition, jurisdictions may be able to secure donations from local business that can serve as motivators. Examples include apparel from local colleges, meal vouchers for a youth and his or her family, and tuxedo or dress rentals for school dances.

In developing these lists, jurisdictions should determine which incentives are more appropriate for short-term accomplishments and which should be saved for achieving longer-term goals. This approach will structure decision-making to limit variability among probation officers.

Through this process, officials should be careful not to treat services that an agency would provide anyway as incentives that are only provided upon good behavior. Doing so would undercut the agency’s mission and the goal of a graduated responses system.

7. Develop a List of Negative Behaviors and Categorize them as Low-, Medium-, or High-Severity

When identifying the range of negative behaviors that youth may exhibit under supervision, committee members should categorize actions that require a response based on the risk that they pose to public safety and to the youth. Showing up 15 minutes late to school may represent a low-severity behavior, whereas cutting off an electronic monitor may represent a high-severity behavior. Officials should also consider whether there is variability in severity within certain categories of negative behaviors, such as curfew violations. For example, missing curfew once in a week but not staying out overnight could be a low-severity behavior, while missing curfew more than once a week but not staying out overnight could be a medium-severity behavior, and missing curfew by staying out overnight with whereabouts unknown could be a high-severity behavior.

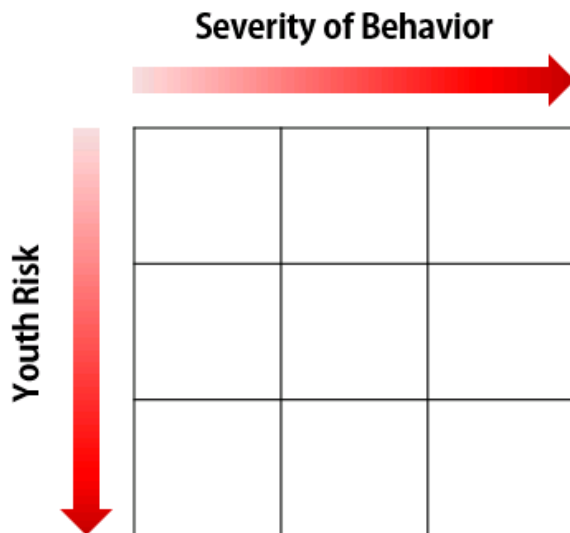
When generating this list, officials should be aware that not all violations of probation indicate negative intentions by youth. If a youth fails to make appointments, the problem may be that the parent doesn’t own a car and there is no available public transportation. If a youth fails to engage with a particular treatment, the problem may be that the treatment provider is not well-matched to the needs of the youth

and family. If a youth is suspended or expelled from school, it may be that a minor misbehavior escalated into a major conflict, in part due to “zero tolerance” policies that disproportionately impact youth of color. Relatedly, school discipline policies vary widely across individual schools or districts. For these reasons, the State of Connecticut’s Court Support Services Division (CSSD) decided to remove suspensions and expulsions from its matrix of negative behaviors. [CSSD’s graduated responses policy](#) requires that probation officers look to the facts of the incident, rather than the action taken by school officials, to determine whether it warrants a sanction by probation staff.

Officials should be sure to examine negative behaviors from the lens of race and ethnicity as well as public safety. For example, are there certain behaviors that are more prevalent among youth of color than white youth? If so, what is the risk that these behaviors pose to public safety?

8. Identify Possible Sanctions and Match them to Specific Behaviors for Youth Assigned as Low-, Medium-, or High-Risk

Officials should identify ways of holding youth accountable by listing sanctions that are available at that time and discussing which are effective and which are not. Then officials should outline sanctions that the agency *would like to have* but have not yet developed. These may include assigning youth community service hours or requiring youth to attend a day or evening reporting center. The sample agency policies listed at the end of the chapter contain a variety of sanctions.



After developing a range of sanctions, officials should determine two things: first, which sanctions are appropriate for low-, medium-, and high-severity behaviors that violate probation or other court orders. Second, they should determine which sanctions are appropriate for low-, medium-, and high-risk youth, based on their original offense or their likelihood for reoffending. They can then plot those determinations on a three-by-three grid. The left or vertical axis can be severity of behaviors that violate probation (low, medium, high), and the horizontal axis can be general risk level of the youth (low, medium, high). The end result is a

matrix of possible responses that probation officers or case managers can employ for youth who violate probation or court orders, from low-low all the way to high-high. Examples of such graduated sanction matrixes are available in the [Graduated Responses Implementation Toolkit](#) mentioned earlier in this chapter.

Three considerations are particularly important when developing a sanctions matrix. First, research suggests that increasing the severity of sanctions for the same type of behavior does not add any additional deterrent effect, so long as officials apply sanctions in a swift and certain manner each time.⁶¹ Increasing sanctions for a second curfew violation from 5 hours of community service to 20 hours may be no more effective than applying another 5-hour sanction, since youth often learn by repetition.

Second, the impact and severity of a sanction may vary among youth. Imposing an after-school curfew for two weeks may have much more negative consequences for a youth on the basketball team (who might lose his or her spot for the season) than a youth who hangs out with friends after school. Officials should also take care to ensure that sanctions (and incentives) are culturally appropriate. Having a range of potential options that reflect the backgrounds of youth under supervision is important.

Finally, agency officials should be careful not to include the removal of services or treatment opportunities as a possible sanction. Doing so would undercut the overall goal of a system of graduated responses, which is to help youth avoid future involvement with the juvenile justice system.

Three Important Considerations When Developing a Sanctions Response Grid

1. Increasing the severity of sanctions for the same type of behavior does not add additional deterrent effect.
2. The impact and severity of the sanction will vary among youth, which is why individualized responses are crucial.
3. Removal of services or treatment should not be used as a sanction.

9. Develop Data Capacity to Track the Effectiveness of the System

Officials should consider how existing data systems can be used or modified to track the data necessary to evaluate a graduated responses system before they implement the system. Asking certain questions, such as those in the box below, can be helpful in framing data collection and analysis.

Questions to Consider When Developing Data Capacity to Track Effectiveness

- How will the agency gather information on whether probation officers or case managers are administering sanctions and incentives consistently and in a timely manner?
- How often and why do case managers depart from the matrix of approved sanctions?
- How will the agency measure whether the reform has achieved its goal(s)?

10. Train Staff and Develop Appropriate Practice Materials

Staff training should stress that implementation of graduated responses aims to equip case managers with more options to manage youths' behavior, not to reduce their discretion. When training staff, administrators should consider including line staff who participated in the development of the graduated responses system. Doing so can help reinforce the collaborative nature of the system's development and increase buy-in from other staff.

A graduated responses system cannot achieve its intended result unless parents, youth, probation officers, and case managers have a common understanding of the behaviors that will lead to incentives and sanctions. As part of the training, officials should clearly outline how juvenile justice professionals should communicate expectations to youth and family members. This includes how incentives will be incorporated into the case planning process. Agencies may need to modify case plans or other materials to better align with a focus on positive behaviors, and to ensure that youth and their families receive sufficient notice of expectations and potential rewards and consequences.

Finally, any policies or practice materials should reinforce the elements of effective graduated responses systems, which are outlined above. Policies should require quick verification of violations and administration of sanctions for negative behaviors, as the effectiveness of sanctions diminishes over time. These materials should also emphasize that any departures from the graduated sanctions matrix should be the exception to the rule, and that staff must secure supervisor approval for any deviations. [The case manager manual developed by the District of Columbia's Department of Youth Rehabilitation Services](#) captures these principles.

Officials should consider making use of the graduated responses system a component of regular employee evaluations to promote and ensure its use.

11. Gather Data, Evaluate Implementation, and Make Adjustments

After piloting or implementing the graduated responses system, officials should gather data and evaluate whether the reforms are having their intended impact. Soliciting feedback on the system from youth, family members, and other system stakeholders can help inform any necessary refinements.

E. Practice Tips

- ✓ Counter perceptions that graduated responses will eliminate discretion by framing the reform as an opportunity to give juvenile justice professionals more tools in the toolbox to respond to youth behavior.
- ✓ Develop a matrix of positive behaviors and rewards before developing a sanctions matrix and ensure that they are equally robust in order to emphasize the importance of a strength-based approach to supervision and service delivery.
- ✓ Do not include the removal of services or treatment opportunities as a possible sanction.
- ✓ Do not convert services and treatment opportunities that an agency would otherwise be obligated to provide into incentives for good behavior.
- ✓ Ensure that sanctions and incentives included in the graduated responses system are available and accessible to staff. Otherwise, the system may not be perceived as a practical approach to supervision.
- ✓ Clarify that juvenile justice professionals should not use the failure to make progress toward positive goals as another avenue for sanctioning or detaining youth.
- ✓ Think carefully about how juvenile justice professionals will communicate expectations and possible rewards and consequences to youth and family members.
- ✓ Track data to monitor the impact of reforms.

F. Resources

Center for Children’s Law and Policy, Making Graduated Responses Work for Youth: Tools to Help Juvenile Justice Officials Use Incentives and Sanctions to Promote Success of Youth on Probation (2015).

This toolkit, prepared by the Center for Children’s Law and Policy with the support of the Public Welfare Foundation, contains a comprehensive set of tools, guidance materials, and sample materials to help a jurisdiction develop or improve upon an existing system of graduated responses. It is the most comprehensive publicly available resource on the use of graduated responses in juvenile probation to date.

Jeffrey Butts et al., Positive Youth Justice: Framing Justice Interventions Using the Concepts of Positive Youth Development (2010).

In this report published by the Coalition for Juvenile Justice, Dr. Jeffrey Butts and his colleagues outline how adapting principles of positive youth development to services can improve outcomes for youth involved in the juvenile justice system. The guide can provide a helpful framework as officials consider how to establish goals for youth to achieve beyond basic compliance with the terms of probation or a court order.

G. For More Information

Jason Szanyi

Director of Institutional Reform, Center for Children’s Law and Policy

202-637-0377 x108

jszanyi@cclp.org

Lance Horozewski

Juvenile Justice Division Services Manager, Rock County, Wisconsin, Human Services Department

608-758-8430

Horozews@co.rock.wi.us

Lisa M. Garry

Director of System Reform Projects

Maryland Department of Juvenile Services

120 W. Fayette Street, Baltimore, MD 21201

410-230-3156

lisa.garry@maryland.gov

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