Graduated Responses Toolkit

New Resources and Insights to Help Youth Succeed on Probation

CENTER FOR Children's Law and Policy

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About This Toolkit

A significant portion of youth incarceration in the juvenile justice system results from violations of probation or other court orders. Much of this incarceration is not necessary to protect the safety of the community. Instead, many courts and probation departments 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 many ways to teach youth to respect rules that do not involve incarceration and removal from family, school, and the community. Moreover, research demonstrates what many parents, teachers, psychologists, and coaches already know: the best way to promote positive behavior is to use incentives for good behavior as well as sanctions for misbehavior. Yet many probation departments and juvenile justice agencies have yet to embrace the use of incentives to the same degree as the use of sanctions.

A strong system of "graduated responses" – combining sanctions for violations and incentives for continued progress – can significantly reduce unnecessary incarceration, reduce racial and ethnic disparities, and improve successful probation completion rates and other outcomes for youth under supervision. This Toolkit is designed to help jurisdictions create an effective graduated response system or improve an existing system. The Toolkit has seven parts:

1) **An Overview of Graduated Responses, Including Research Supporting Their Use.** Part One describes what "graduated responses" mean in practice, as well as the different lines of research that connect the use of incentives and sanctions to behavior change.

2) **A Step-by-Step Roadmap for Creating or Enhancing a Graduated Response System.** Part Two outlines the steps and key considerations when developing or revising a system of graduated responses, incorporating tools and resources that can assist officials with their efforts. This section includes many sample materials from jurisdictions that have successfully reduced their reliance on incarceration for violations of probation.

3) **Guidance on Gathering and Using Data.** Part Three highlights the data that officials should review prior to beginning work to create or revise a graduated response system. It also includes guidance on how agencies can evaluate the effectiveness of their policies and hold staff accountable for using the system.

4) **Staff Training Materials and Hands-On Scenarios.** Educating staff about the reasons for implementing or revising a system of graduated responses is just as important as making sure they know how the system works. Part Four includes a training curriculum that officials can adapt for their own use. The training includes scenarios designed to help staff practice the use of graduated responses in real-life scenarios.

5) **Guidance on Integrating Graduated Responses into Case Plans.** For graduated responses to be effective, the use of both sanctions and incentives should be explained and incorporated from the beginning of the probation relationship forward. However, many jurisdictions do not incorporate positive goals or integrate incentives into probation agreements or case plans. Part Five includes information on how to align case plans with the principles of effective graduated response systems.

6) **Tools to Engage Stakeholders.** Resistance from stakeholders can undercut even the most thoughtful system of graduated responses. Part Six contains specialized materials to help with outreach to judges, prosecutors, and juvenile defenders.

7) **Contacts from the Field.** This Toolkit references results and materials from jurisdictions around the country that have used graduated responses to successfully reduce reliance on incarceration for technical violations of probation. The individuals listed in Part Seven are willing to speak with others who are undertaking this work.

1. Why Is There a Need for Graduated Responses in Juvenile Justice?

In the most recent federal census of youth in residential placement, which took place in 2013, one in four youth in detention were incarcerated for technical violations of probation or court orders.[1] In many jurisdictions, technical violations represent one of the leading reasons for admission to detention or out-of-home placement. Youth of color are often overrepresented among youth incarcerated for this reason.

Juvenile courts, probation officers, victims, and other juvenile justice stakeholders want youth to comply with terms of probation and other court orders, and youth *should* comply. However, officials often resort to incarceration to respond to violations when other interventions could have held youth accountable without exposing them to the negative effects of confinement.[2]

It is a cardinal tenet of our justice system that punishment should be proportional to the offending behavior. When probation officers and judges use detention or out-of-home placement to sanction youth for technical violations, they are often imposing the most severe sanction for behavior that would not otherwise warrant confinement. Indeed, many of these behaviors, including truancy, alcohol use, or staying out past curfew, would be classified as status offenses if they occurred on their own. This disproportionate response to violations can fill detention and placement beds, the most expensive resources in the system, with youth who pose no significant threat to the community.

Accountability does not necessarily require incarceration, and it is possible to get a youth's attention without locking him or her up. Jurisdictions across the country have developed non-confinement sanctions that youth find onerous and that convey a clear message to obey probation and court orders. This Toolkit provides assistance to those systems that would like to increase or enhance their options for responding to violations. The Toolkit also contains guidance on how agencies can better structure decisionmaking by probation officers when a violation occurs. These criteria promote the equitable treatment of youth and can help reduce the overrepresentation of youth of color incarcerated for technical violations.

Evidence is now available from many criminal justice and youth-serving contexts that using incentives more frequently than sanctions is most likely to achieve behavior change.[3] This Toolkit also sets forth some of the research and suggests how it applies in juvenile justice settings. It offers suggestions for developing incentives and sanctions, and for bringing along staff and other stakeholders in the process.

Using a robust system of graduated responses helps incorporate lessons from research about effective behavior change into probation practice. It also helps ensure that officials observe the constitutional rights of youth under supervision of the juvenile justice system. In 2012, the U.S. Department of Justice's Civil Rights Division issued a findings letter concluding that certain probation practices in the Meridian office of the State of Mississippi Department of Youth Services violated the constitutional rights of youth under the Fifth and Fourteenth Amendments.[4] Among the problematic practices identified by the Justice Department were the following:

- Probation contracts contained terms and conditions that were written in language youth could not understand, so they could not adequately inform youth of their procedural rights, including the right to request a hearing for an alleged probation violation. Contracts also did not specify the types of behaviors that could warrant future incarceration.

- Youth were not provided required probable cause hearings or procedural safeguards when accused of violating the terms of probation, even when those youth faced potential incarceration for the violation.

- Officials did not investigate alleged violations to determine whether there was sufficient evidence to warrant a violation. For example, officials took the fact of a school suspension as sufficient evidence of a probation violation instead of examining the underlying circumstances of the suspension.

Mississippi state officials entered into a settlement agreement with the Justice Department in June 2015, and the agreement was approved by the federal court in September 2015.[5] The agreement includes several changes to practice: the provision of age-appropriate explanations of youth's rights and the probation process, revisions to probation contracts so that they are easily understandable to youth, limits on when officials can recommend incarceration for violations of probation that would not otherwise be detainable offenses, and use of graduated response grids and risk assessments for youth placed on probation. Other jurisdictions may find it helpful to review the Justice Department's letter and examine their own practices in light of these findings and agreed-upon solutions.

In sum, jurisdictions will find it useful to implement graduated responses if they find that they are relying too heavily on detention or out-of-home placement as a response to technical violations that do not pose a risk to public safety. Developing a graduated response system can help a jurisdiction expand the range of non-incarceration sanctions they have available and embrace use of incentives as an evidence-based tool for promoting behavior change. Furthermore, standardizing decision making practices may

help to reduce racial and ethnic disparities and improve equitable application of incentives and sanctions.

What Are "Graduated Responses"?

To motivate youth to succeed on probation, juvenile justice agencies have begun to rely on structured systems of graduated incentives and sanctions to respond to youth behavior. Together these are referred to as "graduated responses." Sanctions take into account the seriousness of a specific probation violation and the risk level assigned to a youth. Incentives emphasize the importance of rewarding youth for meeting short- and long-term goals as a way of helping them develop positive skills.

This Toolkit is focused on the use of graduated incentives and sanctions to respond to probation violations. Some in the field also use the term "graduated sanctions" to describe the continuum of dispositional programs that are available for youth upon adjudication. However, this publication is not using the term in that way. Graduated sanctions, when mentioned, refer to the options available to respond to probation violations and violations of court orders. Graduated responses in this Toolkit mean a combined system of incentives and sanctions.

Not all graduated response systems are created equal. To be most 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.[6]

- **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.[7]

- **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.[8]

- **Fair.** Officials should apply similar sanctions for similarly-situated youth. Perceived unfairness undercuts work to change behavior.[9]

- **Tailored to individual youth.** Certain sanctions or incentives will be more effective for individual youth depending on their circumstances. The goal of graduated responses is not to eliminate discretion in decisionmaking. The goal is to give juvenile justice professionals a broad array of options – within ranges that ensure proportionality – in order to motivate youth to succeed.[10]

Policies and practices that keep these five principles at the forefront of work with youth will increase the likelihood that a graduated response system will succeed at promoting positive behavior and deterring negative behavior.

Is There Research Showing That Graduated Responses Actually Work?

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."[11] The National Institute of Corrections has also noted that the use of incentives alongside sanctions "is affirmed in the 'what works' literature."[12]

Research from many different areas, including human behavioral studies, drug courts, school climate reforms, and adult parole and probation, suggest that a combination of sanctions and incentives best promotes compliance with rules and progress toward goals. For example, studies have shown that rewarding substance abusers for compliance with requirements made them more likely to stay in treatment, whereas those who were only punished were more likely to drop out.[13] Additionally, many schools have turned to the use of Positive Behavioral Interventions and Supports (PBIS), having seen the effectiveness of promoting and recognizing positive behaviors for managing student conduct and improving students' academic performance.[14]

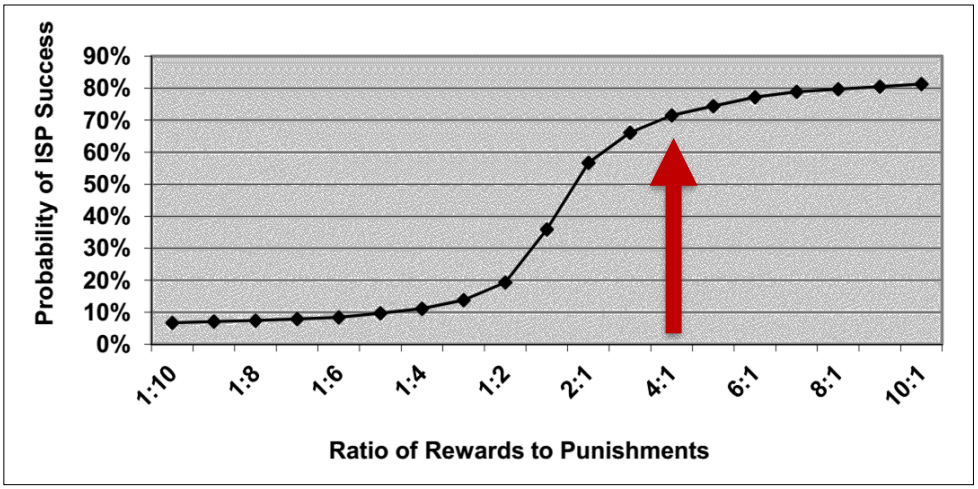
Studies have also highlighted the importance of providing sanctions and incentives at the time a behavior occurs, as this timing is most likely to lead to long-term behavior change. For example, in a study of smoking habits, participants who received incentives when they achieved particular milestones (for example, avoiding cigarettes for three months) achieved greater levels of abstinence than participants who received incentives throughout the program regardless of their smoking behavior.[15] So, an effective graduated response system isn't just about rewarding youth for being on probation. It is about providing positive reinforcement when youth achieve particular goals.

Other studies have shown that increasing the level of punishment for subsequent negative behavior is not the best way to improve compliance if a lower-level or another sanction had demonstrated a deterrent effect when applied at an earlier point in time.

For example, in one study of substance abusers, increasing the severity of sanctions for noncompliance with drug court provisions did not add an additional deterrent impact on use of illegal substances. What mattered was that the sanctions that were applied were swift and certain.[16]

This research suggests that the instinct to "up the ante" upon a second or third violation may not be any more likely to change behavior than applying a sanction that worked earlier, or a different sanction other than incarceration. Youth learn from repetition, and it may take some time for a youth to associate a response with a behavior.

Research also demonstrates the importance of embracing incentives as a tool to change behavior. 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.[17] 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.



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

The training materials in Part Five of this Toolkit contain additional descriptions of research studies supporting the use of graduated responses.

Finally, many juvenile justice agencies have used graduated responses as an important component of reform work to reduce the use of incarceration for technical violations of

probation and court orders. For example:

- The Maryland Department of Juvenile services saw court filings for probation violations fall 41% from September 2014 to September 2015, which far exceeded a 17% reduction in the agency's overall caseload during a comparable timeframe.[18]

- Santa Clara County, California, saw referrals for violations of probation fall by 60% from 2012 to 2014.[19]

- Monmouth County, New Jersey, saw admissions to detention for violations fall by 75% from 2009 to 2012.[20]

- Jefferson County (Kansas City), Missouri, saw detention admissions for violations of probation decrease by nearly two-thirds from 2009 to 2015.[21]

- Jefferson Parish, Louisiana reduced the number of youth revoked from probation and committed to the state Office of Juvenile Justice by 66% between 2009 and 2013.[22]

- Pinal County, Arizona, saw detention admissions fall by 25% from 2014 to 2015.[23]

- Hennepin County, Minnesota, saw its detention admissions for probation violations fall 63% from 2008 to 2012 after implementing its graduated response system.[24]

This publication incorporates lessons and tools from the implementation of graduated responses in these jurisdictions and others that have undertaken reforms.

2. A Roadmap for Creating or Revising a System of Graduated Responses

Whether officials are creating a graduated response system for the first time or revising existing policies and practices, the twelve steps outlined below will help ensure that the reform work is research-based, data-driven, and results-oriented.

Step 1: Define the Purpose of the Graduated Response System

As jurisdictions prepare to develop or revise a graduated response system for youth on probation, officials should agree upon 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 use of out-of-home placement for probation violators? Increasing probation completion rates? Reducing disproportionate representation of a particular segment of the juvenile justice population (for example, youth of color, girls, LGBTQI youth, youth with limited English proficiency) in one of these areas? Identifying the goals of the reforms will help focus the work and will help provide a benchmark against which to measure results.

Agreeing Upon the Purpose of Probation

In addition to agreeing upon the goals of the graduated response system, it is helpful to review the purpose of probation. Youth are placed on probation because officials believe that they do not represent a public safety risk that warrants out-of-home placement, but may still need supervision as they participate in rehabilitative programming. Probation is not simply about identifying each occasion where a youth doesn't do what he or she is supposed to do, although that would certainly be an easier task. Skilled probation officers recognize that their clients will make mistakes and break the rules. They see violations as occasions to work with a youth on strategies to correct the problem, which is what leads to long-term behavior change.

A clear statement of the goals of probation and the roles that probation officers are expected to play can help support the use of a graduated response system. Such a statement can make clear that officers are agents of change, and that incentives and sanctions are among the useful tools available to them.

Communities are likely to have several defined goals for probation. These include helping youth develop new skills to avoid recidivism, achieving restitution for victims, holding youth accountable for criminal behavior in a developmentally appropriate way, and others. Identifying and articulating those goals and how they relate to

implementation of an effective graduated response system may be helpful. Reinforcing those goals and messages in training materials for staff may be useful as well.

Examining the purpose of probation may highlight a need for reform work in other parts of the juvenile justice system. Probation can be an alternative to out-of-home placement, but that does not mean that it is should be the *only* other alternative for the resolution of juvenile court referrals. Diversion, informal processing, and use of child welfare resources can provide a range of treatment and accountability options beyond what is available to the probation department. Where those resources are not readily available, stakeholders may wish to work together to expand the non-probation options available. For example, if a large number of youth with shoplifting charges or minor property offenses are ending up on probation, officials should ask whether there are other interventions that could hold youth accountable. Options could include balanced and restorative justice programming, community service projects, or other diversion programs.

Although it is outside the scope of this Toolkit to provide guidance on a comprehensive review of probation practices, resources are available to help with these reviews.[25]

Considering Probation Terms and Conditions

It is also worth examining how officials assign terms and conditions to youth who are on probation. For example, if a youth is charged with domestic assault, helping that youth develop anger or conflict management skills can help defuse confrontations at home. A service plan might also require that the youth and his family participate in programming that helps address underlying criminogenic needs. In some juvenile justice systems, however, key decision makers have expanded probation's mandate well beyond addressing what led to the youth's involvement with juvenile court. Sometimes officials see the youth's contact with the system as an opportunity to examine *all* of the dynamics in a youth's life and attempt to "fix" anything perceived to be deficient or problematic.

An unfortunate but common practice is to apply extensive standard terms and conditions – long lists of required drug testing, curfew, no unexcused absences from school, stay away from "negative peers," no sagging pants, etc. – to all youth who come into the system, regardless of whether those areas have any relationship to the behavior that led to a juvenile court referral.

These practices usually stem from good intentions, but they can drive youth deeper into the system by creating many opportunities for violations. Indeed, in a recent report, the Council of State Governments Justice Center noted that "[j]uvenile justice systems can inadvertently set youth up for failure by establishing a laundry list of conditions that youth under system supervision might not understand or cannot realistically achieve."[26]

Although a discussion of strategies to tailor terms and conditions is beyond the scope of this Toolkit, the Center for Children's Law and Policy has developed a publication that describes how officials can work to craft meaningful and individualized probation terms.

By being more strategic about which youth are placed on probation and which terms and conditions are applied to each youth, officials can play an important part in limiting unnecessary incarceration.

Step 2: Gather Data

Officials who want to reduce the use of incarceration to respond to technical violations must ground their work in data from their own juvenile justice systems. This includes understanding the reasons that youth are detained or incarcerated for violations. Part Three of this Toolkit, Gathering and Using Data, is dedicated to helping officials collect, analyze, and use this information as part of their reform work. That section contains a detailed description of the types of data to collect, questions to answer, and tools to help jurisdictions compile data and identify trends.

Step 3: Interview Stakeholders

Conducting interviews or focus groups with probation officers, supervisors, parents, youth, and those responsible for developing a system of graduated responses will yield valuable information about supervision practices. 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.

Officials should take time to interview judges, prosecutors, public defenders, community-based service providers, probation officers, probation supervisors, youth, and family members. In addition to surfacing issues that will help guide the creation of a graduated response system, the interviews are an opportunity to present research and reasons for using graduated sanctions and incentives. Sharing such information will improve the chance that stakeholders will support reforms rather than resist them. The questions outlined below may serve as a helpful starting point for these conversations.

Coupling this qualitative information with other quantitative information will create the most complete picture of strengths and challenges in a jurisdiction.

Sample Questions for Stakeholders

- What are the strengths of current probation practices?
- What is and isn't working well for supervising youth on probation?
- If you could change a policy or practice, what would you change?
- How do youth and family members know what is expected of them? Are there better ways of communicating this information?
- What are the most effective incentives or rewards for positive behaviors? Are there incentives that do not exist now that would serve as better motivators?
- What are the most effective sanctions for negative behaviors?
- Are there barriers to using sanctions and incentives in a timely way? If so, what are they?
- Are there some community-based services or programs that have wait lists? Why?
- What additional resources would you want or need to help youth succeed in the community?
- What would motivate you/your child to invest in and participate with probation services?
- What would make it more likely that you/your child would do well on probation?

Step 4: Form a Committee

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 will have a range of perspectives. Additionally, the committee can ensure that policies and procedures reflect the perspective of those who will be impacted by the system.

Agencies have used a variety of different approaches to structure a committee's work on graduated responses. Some jurisdictions will form a multi-stakeholder committee to work through development of definitions, incentives grids, sanctions grids, and other components. This allows for a wider range of voices to offer ideas about what may be effective, and to bring resources to the table for new programming. Other jurisdictions will center the development of the grids and policies in the probation department but conduct outreach meetings with different stakeholders at intervals during the development process. Still others will seek feedback on drafts without including all stakeholders at the same table. These decisions are often driven by local dynamics, but

officials should consider which structure will yield the best results and the greatest buy-in from their communities.

Agency line staff should be involved in any committee, as they can be helpful ambassadors of reform during trainings and in other venues. Agency staff with particular responsibilities, such as management of an electronic monitoring program or specialized caseloads, will also have important perspectives. For example, officials at the Maryland Department of Juvenile Services had considered how the new graduated response system would function for youth on Community Detention, the agency's pre-adjudication release program that includes both electronic monitoring and staff monitoring options. Those youth were subject to a separate set of court- and agency-imposed rules for responding to violations. After working through a number of scenarios with staff who work with youth on Community Detention, DJS officials were able to develop a similar but separate sanctions grid for youth involved in that program.

Beyond agency staff, other potential committee members include prosecutors, public defenders, judges, service providers, youth and family members who reflect the racial and ethnic, gender, sexual orientation, and language diversity of youth under supervision, school officials, victim advocates, and others who are knowledgeable about working with youth in the community. Many agencies bypass outreach to these groups during the development of a graduated responses grid. Officials may see the development of a graduated response system as a task only for probation, or they may believe that trying to incorporate a diverse range of perspectives will slow the reform process.

Officials who make the effort to engage a broad range of stakeholders during the development of a graduated response system report that it helped build consensus about the wisdom of the approach. Moreover, many of those who did not engage outside stakeholders almost always say that if they could go back and do one thing differently, they would have taken the time to reach out to those individuals. Many agency administrators reported having to address skepticism and resistance by juvenile court judges following the release of a graduated response system that was developed in-house. Those administrators felt that greater outreach to judges during the development of the system could have minimized those problems.

Officials who asked for input from a broad range of individuals also report that the collaboration strengthened the final product. Community service providers who work with youth every day will have valuable insights about what tangible and intangible rewards serve as the best motivators for youth, and these providers may be able to meet new programmatic needs that are identified as well. Requesting input from prosecutors and judges about the kinds of documentation or reports that they would like to see regarding progress on probation can help minimize the chance that those

individuals will second guess probation's approach to case management. Hearing from public defenders about any concerns they may have about procedural fairness and protection of youths' rights will help to ensure that those developing the new system keep appropriate protections in mind.

Step 5: Create a List of Behaviors to Promote or a Structure for Promoting Targeted Skill Development

Effective probation practice involves more than simply identifying a rule violation and applying a sanction. Skilled juvenile justice professionals know that probation is an opportunity to help youth develop life skills and community connections that will support them long after supervision ends. Probation officers who see themselves as

agents of behavior change, rather than simply monitors deployed on behalf of the court, use their creativity and knowledge of individual youth to motivate them to develop positive behaviors.

A well-designed system of graduated responses will establish positive goals that are aligned with addressing a youth's criminogenic needs, as identified in a risk and needs assessment instrument. Pennsylvania's probation Case Planning Handbook provides suggestions for developing case plan goals and activities to address individual criminogenic needs. For example, if a youth's assessment indicates high need in the area of "peer relations," one of youth's case plan goals could be to "[s]pend more time with people and activities that keep me out of trouble."[27] A probation officer might ask a youth to develop a list of traits he would like in a positive peer relationship, and next work with him to make a plan to get involved in activities that increase the amount of time spent with youth who have those traits. Perhaps the youth would identify that he wanted to find a recreational soccer team, and might find one and sign up to participate. After completing each identified activity, the officer could provide an incentive to the youth. If the agency had the resources, it might help fund the purchase of a soccer ball or part of a team registration fee as incentives.

Graduated response systems should help officials incentivize the pursuit of concrete goals aligned with a youth's most significant criminogenic needs. Because these factors will vary from youth to youth, it may be useful to provide probation officers with guidance about behaviors and skills they can promote in each of the different identified domains in the agency's risk and needs assessment as Pennsylvania has done.

If a jurisdiction is not basing its service delivery on a risk and needs assessment that lends itself to strength-based goal setting, it may be helpful to develop a menu of positive behaviors that probation officers can promote. One resource for a strength-based approach is the Positive Youth Justice framework. In a Coalition for Juvenile Justice report, 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 each youth's unique skills and interests. The report outlines the different domains that agencies can consider when identifying goals, including education, family relationships, peer relationships, community engagement, workforce development, health and mental health, and creative self-expression. Identifying positive behaviors in each of these areas and then choosing those that match youths' corresponding criminogenic needs can help promote meaningful skill development.

Officials may want to consider dividing behaviors into short-term and long-term goals to enable juvenile justice professionals to acknowledge important smaller steps toward bigger accomplishments. For example, if school disconnectedness is a risk factor, a

probation officer could provide an incentive to a 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 probation officer could 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. Whether a jurisdiction compiles short- and long-term lists or leaves it to the case planning process to identify skill development goals, agencies can still provide a range of incentives to recognize different levels of accomplishments.

When establishing positive goals for youth, there are several important considerations that officials should keep in mind. First, establishing positive goals for youth should **not** serve as another avenue for sanctioning youth. Thus, probation officers should not establish a long list of goals that go beyond the youth's identified risks and needs and later sanction the youth for failing to meet those targets. As described above, goals should be narrowly tailored and related to a youth's criminogenic needs.

In addition, encouraging a focus on positive goals can run the risk that some judges or probation officers will see this approach as an opportunity to "fix" what they perceive to be problems in many areas of a youth's life. That is not the purpose of this aspect of a graduated response system. The purpose is to identify a small number of meaningful and achievable targets that will help youth avoid future system involvement. In a system where youth's probation plans are developed following risk and needs assessments, services and goals should be focused on the most salient of identified criminogenic factors. Officials should resist the temptation to create a laundry list of requirements.

Finally, staff should avoid incentivizing behaviors or skill development that are not central to the youth's rehabilitative needs just because they are among the terms and conditions of probation. Incentives should be used for the areas in which a youth is struggling. For example, it does little to offer incentives for a youth to avoid drugs and alcohol if he has never been shown to have a substance abuse problem. On the other hand, it may be helpful to provide a positive reinforcement for a youth who stays clean for as little as a few days, if he has been working hard to address an addiction.

This Toolkit encourages the development of incentives prior to the development of the sanctions side of the graduated response system. We recommend this approach because in many jurisdictions, the sanctions side of the graduated response system is very well developed and operationalized, but the use of incentives is not. For the system to work best, both incentives and sanctions require the same degree of thought, planning, and policy development. Moreover, focusing first on positive behaviors can help encourage committee members to see probation as more than simply monitoring

for negative behaviors. This approach can be helpful if there is resistance to the use of incentives in a more structured way.

Step 6: Identify Incentives

Committees will need to consider the types of incentives that their agencies will provide when youth make progress toward goals. Some of the topics officials will need to resolve include:

- Whether the agency will provide any incentives of monetary value, such as gift cards;
- Which incentives will require a parent's approval; and
- Whether certain incentives will require supervisor approval.

When thinking through possible rewards, it is useful to speak with youth, family members, service providers, and community-based youth programs about what they think would be the best motivators. Although an agency may not be able to secure all of the incentives identified through these conversations, they can yield valuable ideas for effective incentives and may also identify sources for donations.

In addition to obtaining ideas from youth, family members, and service providers, groups can use the master list of possible incentives that the Center for Children's Law and Policy has developed as a resource. Committees can work through this document to decide which incentives they could make available to youth right away, which incentives an agency can develop or obtain in the future, which incentives would require additional funding or buy-in from other stakeholders before being available, and which incentives the agency will not consider.

Even if funding is not available for certain incentives, agencies can develop non-monetary incentives such as certificates of recognition, awards ceremonies, extensions of curfew, and reduction of probation reporting requirements. In addition, jurisdictions may be able to secure donations from local businesses or organizations. Items such as apparel from local colleges, meal vouchers for a youth and his or her family, and tuxedo or dress rentals for school dances may serve as motivating incentives.

Another issue for jurisdictions to address is the extent to which they will balance incentives with social reinforcement – having the worker highlight the intrinsic rewards brought on by the skill the youth has developed. The Effective Practices in Correctional Settings (EPICS) training for probation officers acknowledges the value of tangible reinforcement. However, it also focuses on developing officer skills in social reinforcement of accomplishment: acknowledging the desired behavior and why it is important, helping the client articulate what the short- and long-term benefits of continuing the behavior might be, and then getting commitment from the client to

continue that behavior.[28] Such a process helps youth appreciate the intrinsic rewards of their newly acquired skills.

Jurisdictions need to determine where the balance should lie between extrinsic and intrinsic rewards. Mark Carey, a consultant and publisher of evidence-based resources for probation officers, suggests that extrinsic rewards are helpful at greater frequency early in the probation period to help officers and youth build a relationship and to motivate youth toward positive change. But as the probation term progresses, he advises, extrinsic rewards can be tapered as youth learn the value of developing new skills and behaviors.[29]

When developing lists of potential incentives, jurisdictions should determine which incentives are more appropriate for short-term accomplishments and which should be saved for achieving longer-term goals. Many jurisdictions report that early termination of probation is one of the biggest motivators for youth compliance with terms and conditions. This is certainly an acceptable reward for a significant accomplishment, but agencies should also have an array of meaningful rewards to respond to positive behavior in the short term. Moreover, if early termination of probation requires judicial approval, probation officers may not be able to guarantee that reward. With early termination of probation – as with all incentives – officials should be very clear about what they can and cannot promise. Failing to deliver an incentive as expected can breed resentment, frustration, and distrust, and it will undercut a youth's motivation to be successful on probation.

A related concern is ensuring that probation officers have timely access to incentives. Jurisdictions should decide how they will ensure equitable access to donated sports tickets (which may not always be available) or slots for special outings (which may be in limited supply) so that probation officers can tap into these resources for youth when appropriate. It may be easiest to have one person in the agency be responsible for managing these kinds of incentives. One individual can keep track of which incentives are available, monitor the supply of incentives to ensure that they are available when needed, and set aside items that have been promised to youth for a future date once they accomplish particular tasks.

The National Council of Juvenile and Family Court Judges has created a workbook[30] that outlines some key questions related to the logistics of making incentives available for probation officers. The guidebook raises considerations based on the different types of incentives that may be available, such as tokens or vouchers, special activities, public recognition, and others. These questions may be helpful when thinking through how to operationalize the availability of incentives.

Finally, 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 rehabilitative mission.

Step 7: Structure How to Determine the Severity of Negative Behaviors

After outlining how probation officers will respond to positive behaviors, officials should turn to developing responses to negative behaviors. Jurisdictions have taken different approaches to this aspect of their graduated response systems.

A number of jurisdictions have begun to use structured decision making criteria to assess the seriousness of a behavior. For example, the Maryland Department of Juvenile Services uses a tool to determine the overall severity of a violation using five factors: relationship to the underlying offense, victim impact, frequency of the violation, compliance with terms and conditions, and community safety. The scoring rubric is reproduced below.

	RISK FACTORS	INFRACTION LEVELS		
		MINOR INFRACTION	MODERATE INFRACTION	SERIOUS INFRACTION
1	RELATIONSHIP TO UNDERLYING OFFENSE	Behavior addressed is unrelated to underlying offense ☐	Behavior addressed supports behaviors that are similar to underlying offense ☐	Behavior addressed is the exact same as behavior reflected in underlying offense ☐
2	VICTIM IMPACT	No contact No intentional contact Explainable* contact w/victim ☐	Nonaggressive attempt to engage victim ☐	Intentional contact Verbal Threat Intimidation of victim ☐
3	FREQUENCY OF VIOLATION	Behavior addressed occurred 1-2 times within a 2-week period ☐	Behavior addressed occurred 3-4 times within a 2-week period ☐	Behavior addressed occurred More than 5 times in a 2-week period, suggesting a pattern ☐
4	COMPLIANCE WITH CONDITIONS	Behavior addressed violates at least one community supervision condition ☐	Behavior addressed violates more than one, but not majority, of community supervision conditions ☐	Behavior addressed violates all or the majority of community supervision conditions ☐
5	COMMUNITY SAFETY	Behavior addressed poses no direct risk to the community Has no involvement with person(s) with whom he or she must not have any contact ☐	Behavior addressed may lead to additional actions that pose a risk to the community Has periodic* or explainable* involvement with person(s) with whom he or she must not have any contact ☐	Behavior addressed poses a direct risk to the community Consistently* has involvement with person(s) with whom he or she must not have any contact ☐
	SCORING INSTRUCTIONS	Total Number that Apply= ☐	Total Number that Apply= ☐	Total Number that Apply= ☐
		The column with the highest number of total factors that "Apply" suggests the severity level of the noncompliant behavior and should guide choice of sanction.		
		If two categories tied in the number of responses checked, which risk factor did you weigh the heaviest in making your final detertmination of infraction level: _____		

DJS case managers score a violation in each of the five domains as minor, moderate, or serious, based on identified criteria. Case managers then compute an overall score to determine the severity of the violation. The tool allows for an override of the severity level (either up or down) following consultation with and approval by a supervisor, and it defines certain key terms to minimize variability in interpretation. Maryland's tool builds upon reform work undertaken in Santa Cruz, California, and other jurisdictions that have implemented this approach, including Santa Clara County, California, and Pinal County, Arizona.

In other jurisdictions, officials rely on a fixed grid of behaviors and corresponding sanctions. Along one side if the grid is a list of negative behaviors, sorted as low, moderate, or high severity, depending on the perceived seriousness of the behavior. For example, one unexcused absence from school may represent a low-severity behavior, whereas cutting off an electronic monitor may represent a high-severity behavior.

While these grids can help standardize how probation officers classify certain behaviors, jurisdictions must be careful to avoid several shortcomings.

First, fixed lists of behaviors presume that a given behavior will represent the same level of concern across all youth. In reality, though, the severity of a given behavior will depend on an individual youth's background. A positive drug screen for marijuana may be more concerning for a youth with a history of drug addiction and possession than it is for a youth without identified addictions who is on probation for theft. Violating geographic restrictions on an electronic monitor may be more significant for a youth who enters the neighborhood of a victim he is accused of assaulting than a youth who walks near a store he is charged with stealing from. Developers of sanctions grids and systems should structure them in a way that accounts for these differences.

Second, many sanctions grids mix violations of varying degrees under one heading by failing to describe the violation with enough specificity. To illustrate, some jurisdictions list "Curfew Violation" as a moderate or high-severity behavior. However, there are different types of curfew violations. Missing curfew by an hour may be a low-severity behavior, while staying out overnight with whereabouts unknown could be a high-severity behavior. The same is true for violations of electronic monitoring or GPS – failing to charge a device once may warrant a different response than tampering with or disabling a unit.

A related problem is that some jurisdictions will list the same behavior under more than one level of severity. For example, they might list "Curfew Violation" as both a moderate and a high severity behavior. In order to provide sufficient guidance for users, authors of grids should make sure that they describe distinctions between terms listed in each level of severity. As committees begin to refine their draft grids, they should watch for

ambiguities such as these and provide more clarification where needed. One solution for both the issues described above would be to include different gradations of curfew violations under different severity levels. For example, the low severity category might include "Out past curfew – up to 2 hours." The medium severity category might be "Out past curfew – 2 to 4 hours" and the high severity category might include "Curfew violation – more than four hours or overnight."

Third, grids are often structured in a way that transforms low-severity behaviors into high-severity violations. The most common way this occurs is when grids include "Multiple or Chronic" before low-severity behaviors, escalating the behavior to moderate- or high-severity. The frequency of a violation may be something to consider when determining an appropriate response, but it should not automatically transform a low-risk behavior into a high-severity violation. Indeed, as the research described in Part One of this Toolkit explains, increasing the level of punishment for repeated negative behavior is not the most effective way to improve compliance. Having a consistent and measured response is the way to change behavior.

Regardless of which approach an agency chooses to take – a structured decision making process or a fixed list of behaviors – officials should recognize that not all violations of probation indicate negative intentions by youth. If a youth fails to make it to 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. Understanding the reasons contributing to a violation is important when determining an appropriate response.

Another example of the importance of examining the underlying circumstances of a violation is school discipline. If a youth is suspended from school, probation agencies should consider whether the behavior warrants a probation sanction in addition to the school's response. It may be that school administrators are responding harshly to minor misbehavior, due to school system "zero tolerance" policies or deficits in the school's resources or teacher skills. Many studies have demonstrated that youth of color are most likely to receive such harsh disciplinary treatment in school.[31] For these reasons, Connecticut's Court Support Services Division (CSSD) removed suspensions and expulsions from its matrix of negative behaviors. CSSD's graduated response 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.

Finally, agency officials should focus their grids on the behaviors that probation officers are responsible for managing. While we have seen "Disobeying Parents at Home" or "Failure to Complete Chores" on graduated response grids, we do not recommend including them as probation violations because it displaces the authority of the family to

respond to misbehavior at home. Many agencies have decided that such behaviors do not fall within their purview and should not be subject to sanctions by the agency (although they may warrant additional work with a youth and his or her family members on home discipline).

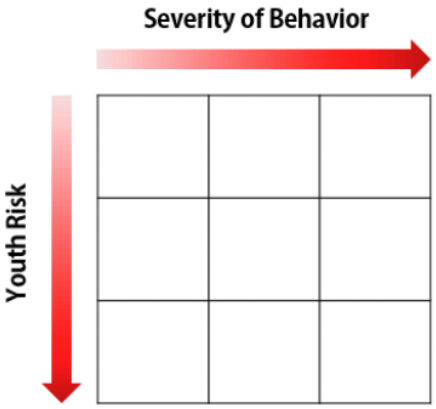
Step 8: Identify Sanctions and Match them to Specific Behaviors

Officials should identify ways of holding youth accountable by listing sanctions that are available and discussing which are effective and which are not. Then officials should outline sanctions that the agency *would like to have* but has not yet developed. These might include assigning youth supervised community service hours or requiring youth to attend a day or evening reporting center. Sample sanctions grids that contain a range of activities and programmatic responses are available for download by following this link.

When developing this list of sanctions, officials should identify whether the application of certain sanctions will require a hearing in court or some other type of approval and provide clear guidance in written materials. For example, in Hennepin County, Minnesota, the probation response grid denotes sanctions that require sanctions conferences, screening committee review, or court orders using special symbols.

Considering which sanctions will require approvals or review because of state law or policy is one aspect of review. Officials will also want to consult with stakeholders to determine their views about the need for in-person hearings or review. For example, even if public defenders support an overall move to limit incarceration and out-of-home placement of youth for technical violations, they may be concerned about the imposition of sanctions without a hearing. Defense attorneys are charged with protecting the constitutional Due Process rights of their clients, and they rightly will want to prevent imposition of the harshest sanctions without hearings in order to protect those rights. As mentioned in Part One, the Justice Department issued a recent findings letter in which it found that incarcerating youth for probation violations without due process protections was a violation of youth's rights under U.S. Constitution. It is important to obtain input and resolve issues such as these early on, as resistance can threaten the viability of reforms.

After developing a range of sanctions, officials should determine two things: first, which sanctions are appropriate for low, medium, and high-severity behaviors. Second, they should determine which sanctions are appropriate for youth who are identified as low-, medium-, or high-risk. Best practice is to assign a risk level based on the use of a risk and needs assessment tool that has been validated for the population of youth in the jurisdiction.



Officials can then plot these determinations on a three-by-three grid. One axis can be severity of behaviors that violate probation (low, medium, high), and the other axis can be general risk level of the youth (low, medium, high), as in the diagram at left. The end result is a matrix of possible responses that probation officers can employ for youth who violate probation or court orders, from low severity of violation by a low risk youth all the way to high severity of violation by a high risk youth.

Four considerations are particularly important when developing a sanctions matrix. First, research suggests that increasing the severity of sanctions when a youth repeats 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.[32] Increasing sanctions for a second curfew violation from 5 hours of community service to 20 hours may be no more effective (and may actually be less effective) than applying another 5-hour sanction, since youth learn by repetition.

Second, the impact and severity of a sanction may vary among youth. Probation officers should consider the individual impact on each 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. This is one reason that it is important to provide probation officers with an array of potential sanctions within the same range, so that they can tailor the choice of response to create an appropriate amount of impact for the individual youth.

Another reason to provide a variety of sanctions is that responses that have some connection to the violation will be more meaningful than responses that do not have any relationship to the problem behavior. For example, if a youth has repeatedly missed appointments with a counselor, it may be useful to discuss how missing counseling could set him behind on completing his probation goals and require him to write about three strategies to avoid missing appointments in the future.

Considerations When Identifying Sanctions

- Increasing the severity of sanctions for the same type of behavior does not add additional deterrent effect.
- The impact and severity of the sanction will vary among youth, which is why individualized responses are crucial.
- Removing of services or treatment should not be used as a sanction.
- Mixing low- and high-risk youth in programs or activities is counterproductive.

Third, officials should avoid mixing youth of all risk levels in the same programming. Research has demonstrated that mixing low- and medium-risk youth with high-risk youth can increase recidivism for low- and medium-risk youth,[33] so sanctions grids should avoid offering the same programs across risk levels without separating youth by risk level in the programs.

Finally, agency officials should be careful not to include the removal of services or treatment opportunities as a possible sanction – for example, mentoring, counseling, or substance abuse services. Doing so would runs counter to the agency's rehabilitative mission.

In some situations, it may be appropriate to add or initiate services to help address the root cause of a violation. Officials should be careful to avoid having probation officers and youth view services as a sanction. Some grids mix treatment options with sanctions, which can blur the distinction between the two. This may lead youth to see services as a punishment and make it less likely that they will participate.

The Maryland Department of Juvenile Services recognized that in some circumstances, a treatment referral may be an appropriate response in lieu of, or combined with, a sanction. For that reason, the agency's response grids separate traditional sanctions (in the top half of each box) from treatment and rehabilitative services (in the bottom half of the box). Agencies may find it helpful to draw a similar distinction in their own policies and ensure that probation officers do not communicate to clients that the necessary programs are sanctions.

Step 9: Test Draft Materials

Once officials have developed the grids and other components of the graduated response system, they should review and test those materials to ensure that they will work as intended. Officials can compare their policies and tools against a checklist of key

considerations developed by the Center for Children's Law and Policy that was later adapted for use in Pennsylvania.

Officials should also take the time to apply the draft system to a sample of representative files. This step will help determine whether individuals agree about the system's outcomes when applied to actual situations. It will also identify places where materials or instructions may not be clear enough for staff.

Step 10: Develop Capacity to Evaluate Effectiveness

Officials should consider how existing data systems can be used or modified to track the data necessary to evaluate a system of graduated responses before they implement the system. A portion of Part Three of this Toolkit is dedicated to developing this data capacity, which ideally should be done before a system is launched.

Officials should also consider making the use of the graduated response system a component of regular employee evaluations. Pinal County, Arizona, has developed staff-by-staff reports that allow supervisors to determine how often, and how quickly, staff employ graduated sanctions and incentives. Administrators can incorporate active use of incentives and timely use of sanctions into employee performance appraisals and supervision conversations as well. Part Three of this Toolkit discusses the importance of staff accountability for use of the graduated response system and highlights tools and resources that may be helpful.

Step 11: Train Staff and Educate Youth and Family Members

Staff should be trained on the research and reasons behind the use of graduated responses, as well as how to apply the agency's policies to their clients. Part Four of this Toolkit contains a sample training curriculum, along with hypothetical scenarios.

Written agency policies or practice materials should reinforce the elements of effective graduated response systems and their role in establishing a rehabilitative culture within the agency. They should make clear the extent to which incentives and sanctions are to be used. Policies should require quick verification of violations and administration of sanctions for negative behaviors, as the effectiveness of sanctions diminishes over time. They should also address scenarios that probation officers are likely to encounter, such as situations involving multiple violations, how to handle new arrests, and what to do if a youth does not complete an assigned sanction. Probation officers should also receive guidance on how much investigation they are expected to undertake before deciding that a violation has occurred. Finally, the materials should also emphasize that any departures from the graduated sanctions matrix should be the exception to the rule, and set forth the process staff must follow to secure supervisor approval for any deviations.

Thinking Outside the Box:
Community Partnerships to Support Youth on Probation

Some jurisdictions have partnered with community service providers to help support youth who are struggling to meet the expectations established by probation and the court.

Monmouth County, New Jersey. Officials identified an overrepresentation of youth of color referred to detention for probation violations. The County contracted with a community service provider, Mercy Center, to develop a network of "Community Coaches" who are assigned to youth who are struggling to meet the terms of probation and the court. The program focuses on two neighborhoods that generate a large number of referrals to detention for probation violations: Neptune Township and Asbury Park. Community Coaches check in with youth on a frequent basis, respond to requests for intervention, engage youth in pro-social activities, and otherwise serve as positive adult role models. Community Coaches reside in the community and are compensated for their services on an hourly basis. They also provide regular progress reports to the youth's probation officer. Since implementing the Community Coaches program and other reforms, officials have seen admissions to detention for violations fall by 75%. For more information on the Community Coaches program, follow this link.

Travis County (Austin), Texas. Data revealed that Hispanic youth were more likely than white youth to be securely detained for technical probation violations, with the top three violations being truancy, curfew violations, and substance abuse. Officials developed the Sanction Supervision Program (SSP), a more intensive case management program for youth who would otherwise be detained for violations. The Travis County Juvenile Probation Department contracted with a culturally responsive community-based service provider to provide more intensive supervision for the caseload of youth assigned to the SSP. More information on the SSP is available by following this link.

A graduated response system cannot achieve its intended result unless parents and youth also have a common understanding of the behaviors that will lead to incentives and sanctions. Officials should clearly outline how juvenile justice professionals should communicate expectations to youth and family members. The Maryland Department of Juvenile Services developed a one-page handout for family members that case managers can use when explaining the agency's approach to youth and their families. Part Five of this Toolkit also explores how to integrate graduated responses into case planning in more detail. Family members can and should be partners in an agency's system of graduated responses. Indeed, family members themselves can be the ones to apply sanctions or incentives in certain situations instead of having to rely on probation in all situations.

Step 12: Evaluate Implementation and Make Adjustments

After piloting or implementing the graduated response 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. A portion of Part Three of this Toolkit is dedicated to assessing the effectiveness of reforms and making any necessary adjustments.

3. Gathering and Using Data

Officials who want to reduce the use of incarceration in response to technical violations must ground their work in data on their own juvenile justice system. This includes understanding the reasons why youth are detained or incarcerated for violations. It also includes tracking the use of and outcomes from a system of graduated responses to ensure that it achieves its intended effect. This portion of the Toolkit is designed to help jurisdictions address each of those needs.

Digging Deeper into Current Practices

As mentioned above, successful efforts to reduce the use of incarceration for technical violations begin with a data-driven understanding of how violations are currently handled. In addition to gathering the qualitative information described in the first part of this Toolkit, agency officials should gather quantitative information to help inform their work. Gathering this information is important for a number of reasons.

- **Establishing a baseline will help determine whether reforms have an impact, and whether that impact was positive or negative.** Without a point of comparison, officials will be unable to assess the impact of their work.

- **Gathering data will help determine whether policies are being applied consistently.** As described in Part One, perceived unfairness undercuts the value of the graduated response system in eliciting behavior change. Similarly situated youth should receive responses to their behavior that are similar in terms of their significance (in the case of an incentive) or severity (in the case of a sanction). However, many agencies encounter wide variations in practice from officer to officer or unit to unit, even under the same policy. Analyzing data on whether sanctions and incentives are being used consistently among similarly situated youth will help identify areas of improvement. Presenting this data may also help convince some stakeholders of the need for reform. As described above, consistency does not mean that responses to individual youth have to be identical. Well-designed graduated response systems give probation officers a range of options to choose from when deciding what will work best for a particular client.

- **Racial and ethnic disparities may require special attention.** 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.[34] Gathering and analyzing quantitative information on violations and the response to those violations can help unearth racial and ethnic disparities or disparate treatment for similar behavior.

- **Data may help convince reluctant stakeholders of the need for reform.** Some stakeholders may not see a need to reform the system unless presented with data showing that current practices fail to achieve their intended results. For example, an analysis completed by the Annie E. Casey Foundation for the Maryland Department of Juvenile Services (DJS) revealed that youth referred for violations of probation were more than twice as likely to be committed to the department than youth referred for a violent felony.[35] Data also showed that 59% of committed youth were classified as low- and moderate-risk.[36] These two pieces of data helped underscore DJS's arguments about the need to identify alternatives to incarceration and out-of-home placement for those youth who did not pose a risk to public safety.

To conduct the appropriate analyses, a jurisdiction should collect data on basic demographics such as age, race, ethnicity, gender, underlying offense, and language ability. Other useful information includes the behavior that violated the probation rules or court order, sanctions applied (including secure confinement), 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 this data. Ideally, all of these elements would be captured in an electronic case management system. However, many jurisdictions do not have an easy way to obtain this information. If this is the case, a file review of 50 or 100 cases focused on answering the questions listed above can prove to be a useful starting point. Officials may be able to partner with a local college or university, which may have the capacity to assist with data analysis. Officials in Fairfax County, Virginia, partnered with the George Mason University Center for Advancing Correctional Excellence to gather data on how probation officers responded to different types of violations. Officials incorporated that data study into their work to revise their graduated response system.

If the focus is specifically on reducing unnecessary incarceration for probation violations and violations of court orders, officials may want to obtain data specific to youth who are incarcerated or placed out of home for that reason. This Toolkit contains a template that officials can use to gather this information. The Probation Violation Data Collection Tool captures key data elements that will help officials determine:

- The most common types of violations that lead to detention or out-of-home placement;
- The number of admissions to detention or out-of-home placement for violations over a given time period, including the length of stay and outcome of the youth's release (e.g., released back home);

- The racial, ethnic, age, and gender breakdown of admissions for violations;
- The risk level and underlying charges of youth; and
- Whether a probation officer, prosecutor, or other party moved for the violation.

The Probation Violation Data Collection Tool contains instructions for how to enter data and how to modify the tool to best reflect the needs and practices in a particular jurisdiction. The tool is designed so that it could capture youth detained short-term for probation violations or youth who are committed and placed out-of-home for violations. If officials are looking at both groups, it will be easiest to track data separately in two different versions of the tool. Once a representative sample of cases has been entered into the Probation Violation Data Collection Tool, the second worksheet in the file contains a pivot table. This table can help officials examine admissions for violations by any of the variables collected.

If officials have already gathered information in an existing database, completing the Probation Violation Data Collection tool may not be necessary. As part of work to help officials in Fairfax, Virginia, address racial and ethnic disparities, CCLP developed a reporting template for examining the makeup of youth on probation, violations, and use of detention and placement for violations. This spreadsheet helps examine the demographics of the overall probation caseload, types of probation violations, and detentions and placements for probation violations. It breaks them down by a range of key variables, including race and ethnicity, gender, age, youth residence, reason for violations, and placement types for violations. Officials can fill in this tool and use it to develop a more complete understanding of the use of detention and out-of-home placement for probation violations in their jurisdiction, and how the population of youth sent deeper into the juvenile justice system for probation violations may compare with the overall probation population.

Once data have been collected, officials can begin asking questions to better understand current practices. Relevant questions may include:

- When compared with the racial and ethnic makeup of youth on probation during the same time period, do admissions for violations suggest that there is overrepresentation of youth of color?
- Of youth admitted for violations, are a significant percentage assessed to be low- or medium-risk?
- Of youth admitted for violations, what percentage have a history of felonies?
- Are there gender differences in the types of violations?
- Do youth generally return home after being detained? If so, this suggests that the youth was not a public safety risk to begin with.
- What are the most common violations? High numbers of a particular violation may indicate that there is a problem with a particular program or service where

the violations are occurring, or it may suggest a need for a specialized intervention or support.

- If a graduated response system exists, how often are the policy or tool's recommendations overridden and why?
- How long do youth stay in detention for violations? If youth are staying for fixed time periods – e.g., a week or two weeks – before being released, this suggests that detention is being used as a fixed punishment and not to protect public safety.
- How many youth ended up committed or placed because of violations? What were the risk levels and underlying charges of those youth?

Gathering this information will help inform the creation or revision of an agency's graduated response system and any surrounding programming.

Collecting Data on Implementation

Before launching a system of graduated responses, officials should ensure that there is a system in place to track the effectiveness of reforms. Many agencies, in a rush to implement changes, do not devote adequate time and attention to this crucial step. Without this information, officials will not have a complete picture of whether staff are using the system as intended.

There are some foundational questions that all officials will need to answer:

- 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 will the agency track how often and why case managers depart from the matrix of approved sanctions through an override of the recommended response?
- How will the tracking of graduated responses fit within existing business processes and workflows to minimize the burden on probation officers?

Agencies have varied in their approach to this data collection, but many jurisdictions have worked to automate the process as much as possible. In Santa Cruz, California, probation officers access customized screens to enter negative behaviors, their severity, and the corresponding sanction applied. Probation officers have a separate screen to enter goals, benchmarks, and incentives applied for positive behaviors.

In Maryland, officials at the Department of Juvenile Services decided to pilot their graduated response system by having staff document the use of sanctions on paper while modifications to their statewide case management system were progressing over

several months. Administrators wanted to gather information to determine how well the system was working during that interim period, and to ensure that they made adjustments to the new graduated response system before finalizing the case management system adjustments.

During the pilot, DJS officials received feedback that informed modifications to the case management system to streamline workflow. Case managers requested that the system automatically calculate the overall severity of a violation based on staff member clicking "low," "medium," or "high" in each of the five domains in the agency's Infraction Determination Guide. Staff also requested that the available sanctions automatically pop up based on the youth's risk level and the severity of the violation. The agency's software engineers were able to accommodate both requests, which helped show staff that officials were responsive to concerns about their workload.

In Pinal County, Arizona, officials did not have the resources to undertake modifications to their Juvenile On-Line Tracking System (JOLTS) data system. Instead, officials identified a way of coding the use of sanctions and incentives within their existing client contact database. The agency prepared guidance for staff on entering information using these codes. Pinal County placed an extra emphasis of documenting when sanctions had actually been completed, as officials wanted to be sure that staff were following through to help youth meet any requirements stemming from a violation. Because Pinal County officials worked within an existing data system, staff did not raise as many concerns about documentation of graduated responses as they may have with the introduction of a new or entirely separate data collection process. This also ensured that officials could conduct analyses of the use of sanctions and incentives by age, race and ethnicity, and gender because all of the data elements were part of the same case record in a single data system.

Assessing the Effectiveness of Reforms

Implementation of an effective graduated response system does not end after the adoption of new policies and procedures. Following a pilot of the system, or after a period of time following implementation, officials should gather data to evaluate whether the reforms are having their intended impact. Asking three different types of questions is helpful.

First, is the system generating the results that it was intended to achieve? If the system of graduated responses was put in place to help reduce the use of detention for violations, have admissions decreased as compared with admissions during the prior quarter or during the same time period the previous year? If another goal was to reduce racial and ethnic disparities in detention admissions for violations, has the overrepresentation of youth of color been eliminated or reduced? Officials should be

sure to analyze outcomes by race, ethnicity, language ability, and gender to ensure that the system is working well for all youth.

Second, are probation officers using the system as intended? Are staff using both incentives and sanctions, or are they focusing more on the use of sanctions (which we know from the research will be less effective at creating behavior change)? Are staff responding in a timely manner to both positive and negative behavior? Are there high rates of overrides of responses recommended by the grids? These questions will help determine whether there is a need for re-training or additional guidance.

In addition to determining whether staff members are using the system consistently at an office or agency-wide level, officials will also want to determine how well individual staff members are following guidelines. In Pinal County, Arizona, supervisors created an automated report that provides aggregate statistics on documented violations, sanctions issued in response to violations, the number of sanctions completed, and the number of incentives given for positive behavior. The report also provides that information for each probation officer, along with a listing of their history of use of graduated responses by client. This allows supervisors to verify that staff are documenting responses appropriately, and it helps identify staff members who may not be using the system as intended (e.g., underusing incentives). Orange County, California, has developed a similar system, which allows for analyses by individual clients, officers, probation units, and the agency as a whole.[37]

Third, is the system working well from the perspective of youth, family members, and other stakeholders? Gathering information from youth and family members about their experience with the use of sanctions and incentives can be valuable in making changes to further improve the system. Officials can obtain this information through surveys, exit interviews, or focus groups. With any method of soliciting feedback, administrators should include youth who were successful as well as youth who were not as successful while under supervision. Additionally, checking in with other system stakeholders such as judges, prosecutors, and public defenders can help identify any concerns or problems before they escalate into resistance to or distrust of the system.

Taking the time to assess a graduated response system shortly after its implementation, as well as periodically as time goes on, will help ensure that the agency continues to achieve its goals.

Tools and Resources

- **Probation Violation Data Collection Tool**. The Probation Violation Data Collection Tool captures key data elements that will help officials determine the most common types of violations that lead to detention; the number of detention admissions for violations over a given time period, including the length

of stay in detention and outcome of the youth's release (e.g., released back home, sent to an out-of-home placement, etc.); the racial, ethnic, age, and gender breakdown of admissions for violations; the risk level and underlying charges of youth who are detained for violations; and trends in which parties are requesting detention for a violation. The tool contains instructions for how to enter data and how to make modifications to best reflect the needs and practices in a particular jurisdiction. Once a representative sample of admissions to detention has been entered into the Probation Violation Data Collection Tool, the second worksheet in the file contains a pivot table that can help officials examine admissions to detention for violations by any of the variables collected.

- **Fairfax, Virginia, Data Reporting Template**. As part of work to help officials in Fairfax, Virginia, address racial and ethnic disparities, the Center for Children's Law and Policy developed a reporting template for examining the makeup of youth on probation, violations, and use of detention and placement for violations. This spreadsheet helps examine placements by a range of key variables, including race and ethnicity, gender, age, youth residence, reason for violations, and placement types for violations. Officials can fill in this tool and use it to develop a more complete understanding of the use of detention and out-of-home placement for probation violations in their jurisdiction, and how the population of youth sent deeper into the juvenile justice system for probation violations may compare with the overall probation population.

- **Examples of Data Entry Systems and Reports.** This link contains the screen shots from several agencies' data entry systems for graduated responses, as well as sample data reports that are mentioned above. These examples may help inform officials' efforts to integrate data collection into their own case management systems.

4. Training Staff

Even a well-designed system of graduated responses will not achieve its intended results if staff do not understand the reasons that support the system's use. This includes the key principles of effective approaches to changing youth behavior. Similarly, if staff do not appropriately apply the graduated response system in real-life situations, a new policy or revised sanctions and incentives grids will do little to change day-to-day behavior. Officials must also address potential resistance from staff members who may feel that a graduated response system is about giving youth a free pass or taking away staff members' discretion.

A strong staff training curriculum will directly address these concerns and provide many opportunities for staff to practice the use of sanctions and incentives. The materials below were designed to be adapted by jurisdictions to fit their own graduated response systems. Both the staff training PowerPoint and scenarios contain placeholders and notations where officials should insert specific policies and procedures for their agency.

When choosing who will deliver the staff training, officials should strongly consider incorporating line staff as presenters. If a line staff member served on the committee that developed or revised the system of graduated responses, he or she may be helpful in reinforcing the collaborative nature of the system's development, sharing information learned during the development process, and increasing buy-in from other staff.

Tools and Resources

- **Staff Training PowerPoint with Trainer Notes.** This PowerPoint contains slides and trainer notes, along with placeholders for jurisdiction-specific information.

- **Practice Scenarios.** These scenarios were designed to help staff practice the application of the graduated response system in real-life scenarios. Officials can adjust these scenarios to be more realistic for their community, or they can use them as a template for the creation of new scenarios. Of the eight scenarios, the first three are focused on sanctions, the fourth is focused on in-court conversations about the use graduated responses for a client, and the last four are focused on the use of incentives.

- **Trainer Notes for Practice Scenarios.** This document contains notes and observations for the trainer to raise regarding each of the practice scenarios. Officials will have to determine what the appropriate response should be for each of the scenarios per agency policy in advance of the training.

5. Integrating Graduated Responses into Case Planning

Case plans can help structure the delivery of probation services. They also ensure that probation officers, youth, and their families have a common understanding of the goals of probation. Construction of a case plan following the guidance from an objective, validated risk and needs assessment can help focus the plan on the youth's most salient criminogenic needs and capitalize on the youth's protective factors. This in turn helps to concentrate the youth's probation activities on developing skills that can help reduce recidivism.[38] Some jurisdictions have also constructed service matrices to ensure that services included in case plans are used only for youth at risk levels that have been shown to benefit from such services.[39]

One way to reinforce youth's commitment to the probation process and to ensure that youth and their families know what incentives or sanctions they can expect is to integrate discussion of incentives and sanctions into the case planning process. This integration can occur in a number of ways. First, probation officers can explain the department's system of incentives and sanctions at the beginning of work with a youth and family. A second step would be to discuss with the youth and family what incentives and potential sanctions would motivate the individual youth, and what the family might be able to participate in administering. Such a conversation allows the probation officer to work with the youth and family to identify incentives and sanctions that are within the range of the agency's acceptable options but that have particular relevance for the youth. A third level of integration into case planning would be to write potential incentives and sanctions into the case plan or a performance contract.

The National Council of Juvenile and Family Court Judges (NCJFCJ) suggests, for example, that a behavior contract can be useful at the beginning of involvement in a program that uses incentives and sanctions. According to NCJFCJ:

> Clarifying expectations from the beginning lays the foundation for certainty and consistency. If youth experience the responses as "coming out of the blue," they lose the sense of connection between their own actions and your responses, which can lead to feelings of victimization and helplessness. One way to do this is with a behavioral contract. Clear expectations foster a sense of responsibility.[40]

The Maryland Department of Juvenile Services developed a brochure that explains its graduated response system to families. Staff are encouraged to use the brochure to begin conversations about incentives and sanctions early in the probation relationship.

As we have described earlier in this Toolkit, a key to effective case planning is avoiding piling on too many requirements in the conditions of probation or in the case plan.[41] Some case plans, such as the Pennsylvania and Utah models described below, focus on a small number of criminogenic needs at one time. Probation officers are encouraged to work with youth and their families to identify simple, measurable goals to work toward, along with skills they need to attain the goals. Then they can identify individual activities to help move toward the goals. Many practitioners now talk about SMART goals – simple, measurable, attainable, realistic and timebound objectives.[42]

In Pennsylvania, a committee of the Pennsylvania Council of Chief Juvenile Probation Officers (the Chiefs' Council) came together to learn about effective case planning models and experiment with a variety of strategies. A recently published handbook for probation officers, which was jointly created by the Chiefs' Council, the Juvenile Court Judges' Commission, and The Carey Group, provides potential case plan goals for each of the major criminogenic needs and identifies skills on which a youth could focus. It then provides a wide range of suggestions for activities to build those skills as well as one-on-one supervision tools and evidence-based service options for each criminogenic need. The handbook acknowledges that there are both commercially available products and home-grown approaches that may help a probation officer and youth to achieve the same goal. Pennsylvania's handbook helps staff map criminogenic needs to available products and intervention strategies.

The case planning approach recommended in the handbook is structured with a case plan template that the committee is recommending to counties after experimenting with several models. Officers in jurisdictions that have adopted the case plan template or adjusted it to meet their needs reportedly appreciate the simplicity of the case plan's structure and its ease of use.[43] Another key strength of this case plan is that it is short enough and straightforward enough for youth and their families to understand it. Case plans should provide clear guidance both to probation officers and their clients as well.

Utah's case planning model incorporates evidence based practices by integrating Risk, Need, Responsivity, and Program Integrity principles. First, the approach encourages probation officers to avoid over-serving youth at low risk and to concentrate use of more intensive services on the highest risk youth. Second, officers are expected to focus their services on addressing youths' criminogenic needs. Third, workers are expected to sculpt case plans that match the services delivered and the style of delivery to the youth's learning style, gender, culture, developmental stage, mental health needs, ability to understand the material offered, and individual motivation. In addition, workers are expected to choose evidence-based programs that correlate with youths' identified needs and to inform service providers about youths' individual targeted criminogenic needs. Probation officers are asked to use objective tools and engage in motivational interviewing as well as file review to map youth's risks and needs, then

"Find the Hook." This means engaging the youth and family and working together to create case plan action steps, find potential barriers, and identify incentives that will motivate the youth. [44]

Introducing incentives and sanctions at the case planning stage is a logical component in a move toward objective, measurable probation expectations. Tying incentives and sanctions to achievement of SMART goals means that everyone involved is on notice about what will happen if someone achieves or does not achieve a goal. If goals are measurable and timebound, it is easier for everyone to agree whether the youth has achieved the goal. Breaking down the work into attainable, realistic activities means a greater likelihood that the youth will earn an incentive and sustain motivation for the next step in the plan. At the same time, when youth are not able to make progress, putting youth and families on notice about the possible consequences and incorporating proportionate interventions for noncompliance early on means that probation officers can step in and provide redirection to keep youth on track before violations mount up or become more serious.[45]

In the case plan template found at this link, staff at the Center for Children's Law and Policy have built upon the Pennsylvania model case plan to illustrate how jurisdictions could incorporate discussions of incentives and sanctions into case planning. The template incorporates all three ways in which graduated responses could be incorporated in case planning.

- First, the worker would explain to the youth and family that there is a system of incentives and sanctions available in the county and what kinds of things might happen depending on the youth's compliance with probation. In order to prompt that conversation at the time of case planning, the template includes a box to check after completing that conversation with both the youth and the family.

- Second, the officer would have a conversation with the youth and the family in which the youth and family identify incentives and sanctions that would be most meaningful to the youth. The template includes boxes for workers to fill in with the results of those conversations.

- Third, staff can work with youth and families to identify incentives for the individual activities that youth are expected to complete under each goal. The officer should record what the incentive is and when the incentive was earned. A box is included under each of the activity areas for this.

Tools and Resources

- **Pennsylvania Case Planning Handbook**. This handbook, jointly created by the Council of Chief Juvenile Probation Officers, the Juvenile Court Judges' Commission and The Carey Group, provides guidance to probation officers developing a case plan after assessment of youth with the Youth Level of Service/Case Management Inventory (YLS/CMI). The handbook identifies potential case plan goals for each of the key criminogenic needs, then outlines skills toward which a youth might work in order to meet those goals, and activities to help build each skill.

- **Sample Case Plan with Incentives and Sanctions Discussion Incorporated**. This document builds from the case plan template developed by Pennsylvania's case planning committee. It offers a model for integrating incentives into a case plan and ensuring that a conversation about potential sanctions is also included at the time of case planning.

- **Maryland Parent Outreach Flyer**. Maryland's Department of Juvenile Services developed this simple flyer to help youth and families understand how the AIM system would be integrated with probation activities.

- **Involving Families in Case Planning**. This handbook, published by the American Probation and Parole Association and the Bureau of Justice Assistance, highlights the value of incorporating families into probation case planning. It is written for Native American probation officers for adults, but its values and approaches are applicable for other audiences.

6. Engaging Stakeholders

As officials undertake the creation or revision of their graduated response systems, they should take time to interview judges, prosecutors, public defenders, community-based service providers, school officials, youth, and family members. In addition to surfacing issues that will help guide the creation of a graduated response 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. Including these individuals in the group that develops or revises a system of graduated responses can also help enrich the final product and increase the likelihood that all officials will buy into the system as a whole.

Stakeholders might be concerned that graduated responses put more power in the probation officer's hands without checks and balances from the court. Some might worry that youth's procedural rights won't be protected in a system where probation officers can administer some sanctions without a hearing. Others might be concerned that graduated responses send the message that youth won't have to be accountable to the judge for misbehavior. And some might prefer the use of incarceration to teach kids a lesson.

Officials must directly address these concerns to ensure that stakeholders support the graduated response system. The following tools can be helpful when having these important conversations.

Tools and Resources

- **Sample Stakeholder Handout**. This handout, adapted from material prepared by the Maryland Department of Juvenile Services, outlines some key information that is useful to share with stakeholders regarding graduated responses. The document includes placeholders where agencies can insert jurisdiction-specific information prior to sharing with others in their community.

7. Contacts from the Field

This Toolkit references results and materials from jurisdictions around the country that have used graduated responses to successfully reduce the use of incarceration for technical violations of probation. The individuals listed here are willing to speak with others who are undertaking this work.

Lisa M. Garry (Maryland)
Director of System Reform Projects
Maryland Department of Juvenile Services
(410) 230-3156
lisa.garry@maryland.gov

Kathy Martinez (Santa Clara County, California)
Deputy Chief Probation Officer - Juvenile Division
Santa Clara County Probation
(408) 278-5924
Kathy.Martinez@pro.sccgov.org

Valerie Thompson (Santa Cruz County, California)
Division Director
Santa Cruz County Probation
valerie.thompson@santacruzcounty.us
(831) 454-3835

Celena Angstead (Pinal County, Arizona)
Probation Officer IV- Division Supervisor
Pinal County Juvenile Court Services
(520) 866-4050
CAngstea@courts.az.gov

Maura Brennan (Connecticut)
Juvenile Probation
Court Support Services Division, State of Connecticut Judicial Branch
maura.brennan@jud.ct.gov
(203) 579-6588

John S. Ryals (Jefferson Parish, Louisiana)
Evaluation and Treatment Supervisor
Jefferson Parish Department of Juvenile Services
(504) 364-3750 x 24
jryals@jeffparish.net

Jerald Moore (Hennepin County, Minnesota)
JDAI Site Coordinator
Hennepin County Department of Community Corrections and Rehabilitation
jerald.moore@hennepin.us
(612) 348-3667

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