Implementing an Effective Graduated Responses System

The Issue

A major reason for incarceration of young people in this country, particularly youth of color, is to sanction the youth for violating probation or other court orders. One-fourth of youth detained in 2010 were confined for breaking probation rules or the terms of a court order rather than for committing new offenses.[[1]](#endnote-1) Much of this incarceration is not necessary to protect the safety of the community, but, rather, results from “technical” violations of probation such as missing appointments with probation officers, skipping school, or staying out past curfew.

Youth should be held accountable for their actions. However, there are other sanctions that can be effective in teaching youth to respect rules but that do not involve incarceration and removal of youth from family, school, and the community. Moreover, research demonstrates what every parent knows: the best way to promote compliance with rules and encourage progress toward goals is to use incentives for good behavior as well as sanctions for misbehavior. A strong system of “graduated responses” – combining sanctions for violations and incentives for continued progress – can help reduce racial and ethnic disparities by increasing objective decision making regarding youth who misbehave while under supervision, limiting unnecessary incarceration for behaviors that do not present a risk to public safety, and helping youth develop positive and developmentally appropriate skills.

The Problems

Juvenile courts and probation officials want to ensure that youth comply with the terms of probation and other court orders. That is certainly appropriate. But when youth violate those orders, probation officers often refer them to court, and judges often order them to be locked up as a way to hold them accountable for their actions. In many cases, that is unnecessary and inappropriate.

This is not a small problem. There are many thousands of young people locked up in detention facilities in this country for violating probation rules or court orders. For example, a 2010 federal survey revealed that detention facilities were holding over 5,000 youth for technical violations and status offenses during a single day that year.[[2]](#endnote-2) In addition, this incarceration often falls more heavily on youth of color, with African American and Latino youth representing two-thirds of the youth detained for these reasons.[[3]](#endnote-3)

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

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

A second problem has to do with accountability and getting the attention of youth who misbehave. Accountability does not necessarily require incarceration, and it is possible to get a youth’s attention without locking him or her up. In general, intensity of supervision should be increased before the ultimate sanction of incarceration is used. Many jurisdictions have developed non-confinement sanctions that youth find onerous and that convey a clear message that they should obey probation and court orders. These sanctions are matched to the seriousness of the violation and the risk level of the youth, the latter of which usually relates to the seriousness of the youth’s original charge or his or her risk of reoffending. Sanctions may include, at the lowest risk level, a verbal warning from the probation officer or requiring the youth to write a letter of apology. At the intermediate level, sanctions may also include electronic home monitoring and more frequent drug testing. At the highest risk level, they may additionally include community service work, required attendance at an after-school program, and, ultimately, filing of a notice of probation violation in court.

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

The Solutions

To address the problems outlined above, juvenile justice agencies have begun to rely on a structured system of graduated incentives for youth on community supervision and graduated sanctions to respond to youth misbehavior. Together these are referred to as “graduated responses.” Sanctions take into account the seriousness of a specific probation violation – in terms of danger to self or others – and the youth’s more general risk level, which usually relates to the dangerousness of the original charge or risk of reoffending. The approach also emphasizes the importance of rewarding youth for meeting short- and long-term goals as a way of helping them work toward positive skills.

What is the evidence for the use of graduated responses?

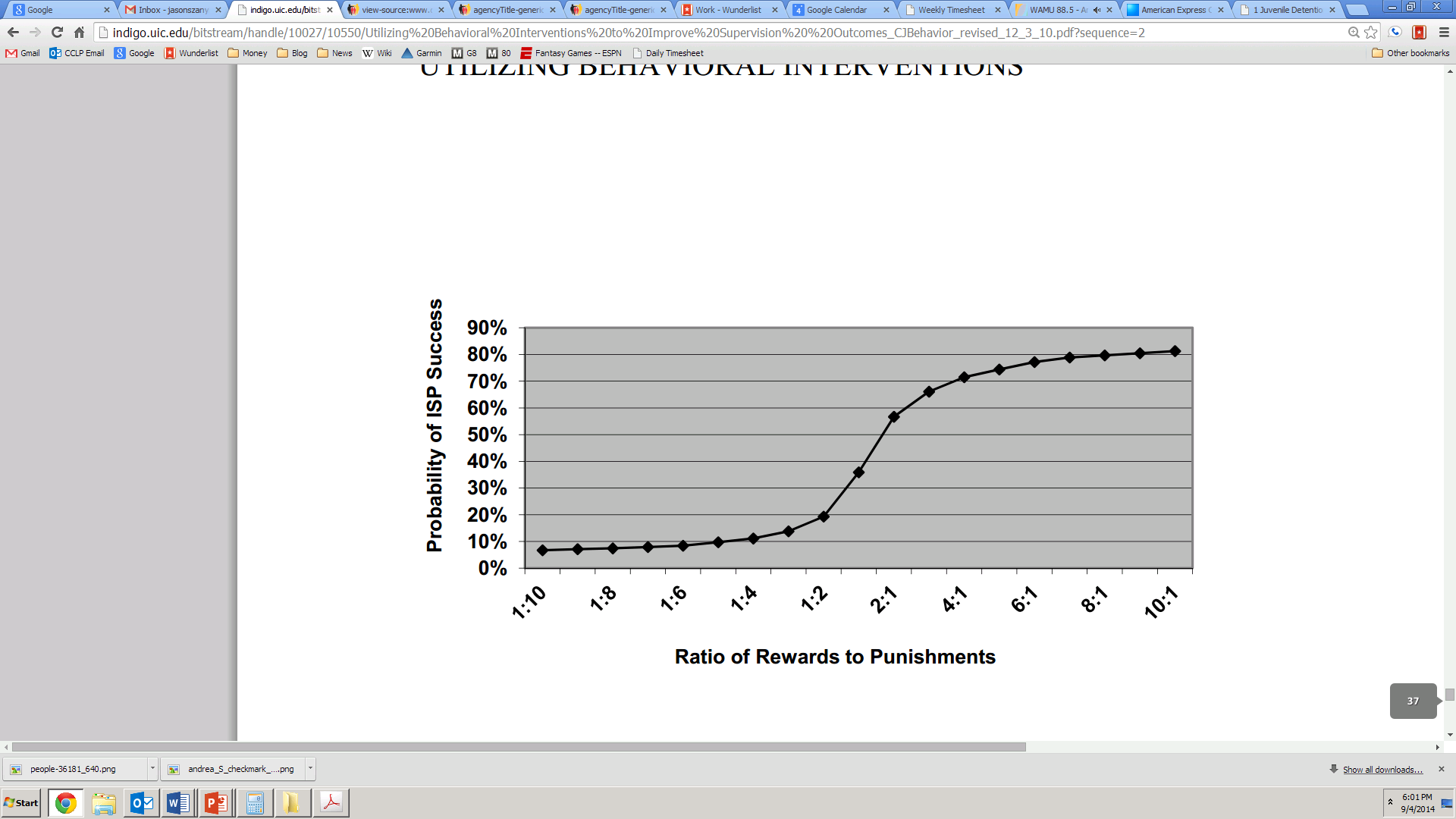
Research from human behavioral studies, drug courts, school climate reforms, and adult parole and probation suggests that a combination of sanctions and incentives best promotes compliance with rules and progress toward goals. For example, studies have shown that rewarding substance abusers for compliance with rules made them more likely to stay in treatment, whereas those who were just punished were more likely to drop out.[[4]](#endnote-4) Additionally, many schools have turned to the use of positive behavioral interventions and supports (PBIS), recognizing the importance of promoting and recognizing positive behaviors in managing student conduct.[[5]](#endnote-5)

Graduated rewards and sanctions are more effective than static ones. In one study of smoking habits, participants who received incentives in response to achieving particular milestones achieved greater levels of abstinence than participants who simply received reinforcements at fixed intervals of time regardless of their behavior.[[6]](#endnote-6) Other studies have shown that increasing the level of punishment is not the best way to improve compliance. For example, increasing the severity of sanctions for noncompliance with drug court provisions did not add an additional deterrent to use illegal substances, so long as sanctions were swift and certain.[[7]](#endnote-7)

In 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.”[[8]](#endnote-8)

For example, 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.[[9]](#endnote-9) In fact, the number of rewards applied had almost twice as strong of a relationship to success as the number of sanctions. The researchers also noted that incentives and sanctions worked best when used together, and that applying incentives at a ratio of four rewards to every one sanction continued to increase the chances of successful completion (**see figure below**). For these reasons, the National Institute of Corrections also notes that the use of incentives alongside sanctions “is affirmed in the ‘what works’ literature.”[[10]](#endnote-10)

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



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

What makes a system of graduated responses effective?

Research shows that a system of graduated responses should be:

* **Certain**. If youth know that a negative consequence will automatically follow a particular behavior, they will be less likely to engage in that behavior than if enforcement is erratic. Similarly, if youth know that they will receive a reward for engaging in particular actions, they are more likely to pursue positive behaviors.
* **Immediate.** Youth must be able to see a direct and close relationship between their behavior and a sanction or incentive. Sanctions and incentives administered long after a behavior occurs lose their impact.
* **Proportionate.** Administering sanctions that do not correspond with the severity of the violation can lead to feelings of anger and resentment. Disproportionately harsh sanctions for minor misconduct can undermine other attempts at behavior change by leading youth to feel helpless to control their future.
* **Fair.** Juvenile justice officials should apply similar sanctions for similarly-situated youth. Perceived unfairness undercuts the value of the graduated response system in eliciting behavior change.
* **Tailored to individual youth.** Certain sanctions or incentives will be more effective for individual youth depending on their individual circumstances. The goal of graduated responses is not to eliminate discretion in decisionmaking, but rather to give juvenile justice professionals a broad range of tools – within ranges that ensure proportionality – in order to motivate youth to succeed.

What are the steps involved in creating a graduated responses system or strengthening the use of existing sanctions and incentives?

1. **Define the purpose(s) of implementing a graduated responses practice for your jurisdiction.**

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

1. **Gather data on youth under supervision and youth sanctioned for violations of probation and other court orders.**

To accomplish any of these goals, it is important to collect and analyze data on youth on probation and otherwise under supervision, as well as youth who have received sanctions for violations of probation and other court orders. There are four reasons for this. First, it is necessary to establish a baseline of the use of sanctions prior to reforms. Unless a jurisdiction tracks baseline data, it will not be able to determine if the reforms have improved the situation, had no effect, or made it worse.

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

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

Fourth, a jurisdiction should assess whether there are racial or ethnic disparities in the ways that sanctions have been applied. Research has demonstrated that probation reports can be affected by implicit racial bias on the part of probation officers, with powerful consequences for youth people before the court.[[11]](#endnote-11)

To conduct the appropriate analyses, a jurisdiction should collect data on basic demographics such as age, race, ethnicity, gender, as well as underlying offense, behavior that violated the probation rules or court order, sanctions applied (including secure confinement), and subsequent behavior of the youth such as successful completion of probation or additional probation violations.

Jurisdictions vary in their ability to collect and analyze data. Where a jurisdiction collects data electronically in Excel or similar programs, the analysis can be relatively straightforward. But it does not require a university researcher with a graduate degree and a state-of-the-art computer system to obtain valuable information. A jurisdiction can conduct a study of a sample of the population on probation, such as 50 or 100 cases, using a simple questionnaire to collect needed data directly from case files.

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

1. **Interview a variety of individuals to understand the strengths and weaknesses of the supervision of youth in the community.**

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

1. **Form a committee to develop the graduated responses system.**

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

1. **Create a list of behaviors and skills to promote among youth under supervision.**

Juvenile justice professionals can use supervision as an opportunity to encourage youth to develop positive life skills and community connections that will help them succeed after their supervision ends. Officials should think broadly about the types of behaviors that probation officers or case managers can promote across a range of areas, including education, family relationships, peer relationships, community engagement, workforce development, health and mental health, and creative self-expression. For example, in a Coalition for Juvenile Justice report, [Positive Youth Justice: Framing Justice Interventions Using the Concepts of Positive Youth Development](http://www.juvjustice.org/media/resources/public/resource_390.pdf), Dr. Jeffrey Butts and his colleagues describe how services for juvenile justice-involved youth can incorporate strength-based principles, such connecting youth with community-based supports and building upon a youth’s unique skills and interests. By creating an extensive menu of desired behaviors, the graduated responses system will give probation officers and case managers the flexibility to identify the most appropriate goals for their individual clients.

Officials should consider dividing behaviors into short-term and long-term goals to enable juvenile justice professionals to acknowledge important steps toward bigger accomplishments. For example, a case manager could reward youth for meeting with a guidance counselor about vocational goals or consistently attending school for a set period of time, which are important behaviors of a short duration. The case manager can also provide a more significant reward for obtaining a high school diploma or GED, which requires a more sustained commitment. [The District of Columbia’s Department of Youth Rehabilitation Services adopted this approach when developing its list of goals](http://cclp.org/chapter5.php).

1. **Identify a list of incentives to reward youth for meeting particular goals.**

Committees should consider the types of incentives that agencies will provide when youth make progress toward goals. Officials will need to consider whether the agency will provide financial incentives such as gift cards or sports tickets, and whether some incentives will require a parent’s approval. When thinking through possible rewards, it may be useful to speak with youth, family members, service providers, and community-based youth programs about what they think would be the best motivators. [The Center for Children’s Law and Policy has developed an extensive list of possible incentives](http://cclp.org/chapter5.php) that groups can work from when deciding which incentives could be offered to youth right away, and which incentives an agency would like to develop or obtain in the future.

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

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

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

1. **Develop a list of negative behaviors and categorize them as low-, medium-, or high-severity.**

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

When generating this list, officials should be aware that not all violations of probation indicate negative intentions by youth. If a youth fails to make appointments, the problem may be that the parent doesn’t own a car and there is no available public transportation. If a youth fails to engage with a particular treatment, the problem may be that the treatment provider is not well-matched to the needs of the youth and family. If a youth is suspended or expelled from school, it may be that a minor misbehavior escalated into a major conflict, in part due to “zero tolerance” policies. School discipline policies vary widely across individual schools or districts. For this reason, the State of Connecticut’s Court Support Services Division (CSSD) decided to remove suspensions and expulsions from its matrix of negative behaviors. [CSSD’s graduated responses policy](http://cclp.org/chapter5.php) 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.

1. **Identify possible sanctions and match them to specific behaviors for low-, medium-, and high-risk youth.**

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

After developing a range of sanctions, officials should determine two things: first, which sanctions are appropriate for low-, medium-, and high-severity behaviors that violate probation or other court orders. Second, they should determine which sanctions are appropriate for low-, medium-, and high-risk youth, based on their original offense or their likelihood for reoffending. They can then plot those determinations on a three-by-three grid. For example, the left or vertical axis can be severity of behaviors that violate probation (low, medium, high), and the horizontal axis can be general risk level of the youth (low, medium, high). The end result is a matrix of possible responses that probation officers or case managers can employ for youth who violate probation or court orders, from low-low all the way to high-high. Examples of such graduated sanction matrixes are at the end of this chapter.

Three considerations are particularly important when developing a sanctions matrix. First, research suggests that increasing the severity of sanctions for the same type of behavior does not add any additional deterrent effect, so long as officials apply sanctions in a swift and certain manner each time.[[12]](#endnote-12) For example, increasing sanctions for a second curfew violation from 5 hours of community service to 20 hours may be no more effective than applying another 5-hour sanction.

Second, the impact and severity of a sanction may vary among youth. For example, imposing an after-school curfew for two weeks on a youth 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.

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

1. **Develop data capacity to track the effectiveness of the system.**

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

* How will the agency gather information on whether probation officers or case managers are administering sanctions and incentives consistently and in a timely manner?
* How often and why do case managers not use the matrix of approved sanctions?
* How will the agency measure whether the reform has achieved its goal(s)?

1. **Train staff and develop appropriate practice materials.**

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

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

Finally, any policies or practice materials should reinforce the elements of effective graduated responses systems, which are outlined above. For example, policies should require quick verification of violations and administration of sanctions for negative behaviors, as the effectiveness of sanctions diminishes over time. These materials should also emphasize that any departures from the graduated sanctions matrix should be the exception to the rule, and that staff must secure supervisor approval for any deviations. [The case manager manual developed by the District of Columbia’s Department of Youth Rehabilitation Services](http://cclp.org/chapter5.php) captures these principles.

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

1. **Gather data, evaluate implementation, and make adjustments.**

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

Practice Tips

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

Resources

**Jeffrey Butts et al., Positive Youth Justice: Framing Justice Interventions Using the Concepts of Positive Youth Development (2010)**In this report published by the Coalition for Juvenile Justice, Dr. Jeffrey Butts and his colleagues outline how adapting principles of positive youth development to services can improve outcomes for youth involved in the juvenile justice system. The guide can provide a helpful framework as officials consider how to establish goals for youth to achieve beyond basic compliance with the terms of probation or a court order.  *Available at* [www.juvjustice.org/media/resources/public/resource\_390.pdf](http://www.juvjustice.org/media/resources/public/resource_390.pdf).

**Maryland Department of Juvenile Services – Graduated Responses Implementation Materials**With support from the Public Welfare foundation and the Center for Children’s Law and Policy, the Maryland Department of Juvenile Services has developed a number of tools as part of its work to implement a system of graduated sanctions and incentives. These include a staff training curriculum with additional citations to research supporting the use of graduated responses, fact sheets for different stakeholders in the juvenile justice system about the benefits of graduated responses (judges, prosecutors, families), and sample sanctions and incentives grids. *Available at* <http://cclp.org/chapter5.php>.

**District of Columbia Department of Youth Rehabilitation Services’ Graduated Responses Grids and Case Manager Manual**With support from the Public Welfare Foundation and the Center for Children’s Law and Policy, the Department of Youth Rehabilitation Services (DYRS) in Washington, DC, developed a system of graduated responses for youth committed to the juvenile justice system who were supervised in community-based placements. This resource contains DYRS’ graduated sanctions matrix, a list of short-term and long-term goals for youth, a list of incentives to match with those goals, and the section of the case manager manual outlining the research behind and expectations for the use of graduated responses.   
*Available at* <http://cclp.org/chapter5.php>.

**Rock County, Wisconsin, Human Services Department, Graduated Responses Grid and Policy**Rock County, Wisconsin, a DMC Action Network site, developed and implemented a graduated sanctions and incentives system for youth on probation in 2008. This resource contains the agency’s sanctions grid and the accompanying policy on the use of graduated incentives and sanctions.   
*Available at* <http://www.modelsforchange.net/intranet/tools/item.aspx?id=615>.

**Center for Children’s Law and Policy, Master List of Incentives**As part of its work to promote graduated responses for youth on probation, the Center for Children’s Law and Policy has compiled a master list of incentives. Officials can use this document to start forming a list of the rewards that probation officers would be willing to administer in a system of graduated incentives.   
*Available at* <http://cclp.org/chapter5.php>.

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12. *See* Hawken & Kleiman, *supra* note 8. [↑](#endnote-ref-12)