GRADUATED RESPONSES

MISSOURI JUVENILE JUSTICE ASSN. (MJJA) SPRING CONFERENCE PRESENTATION:

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Is There a Need for a Graduated Response System?

- Who wants youth to comply with Rules of Supervision?
- How is it possible to get a youth’s attention without detention?
- The use of a graduated response system promotes equitable treatment of youth and can help reduce the overrepresentation of youth of color incarcerated for technical violations.
What Are “Graduated Responses”? 

- Structured systems of graduated incentives and sanctions 
- Tools to motivate youth to succeed on supervision 
- Incentives emphasize the importance of rewarding youth 
- Sanctions take into account the seriousness of a specific technical violation and the risk level assigned to the youth.
To be Most Effective
Research Shows that a System of Responses Should Be:

- Certain
- Immediate
- Proportionate
- Fair
- Tailored to Individual Youth
Principles of a Graduated Responses System

• All youths need to be held accountable for each offense.
• A wide range of sanctions/interventions must be available.
• System response should be equally concerned with accountability, risk control, and service needs.
• Specific programmatic interventions should be based on evidence regarding what does/does not work.
A Graduated System of Interventions and Sanctions Ensures that:

- Youth will face uniform, immediate and consistent consequences that correspond to the seriousness of the violation,
- Victim and community impact are assessed,
- Frequency of violations and overall compliance with probation are considered.
Graduated Responses
Grids

Program Activities & Services Guidelines

• GRID responses are appropriate to the legal status
• GRIDS are risk-responsive
• GRIDS should be planned, implemented, managed and monitored using accurate data
• GRIDS are committed to accountability
• GRID responses are community-based
Purposes of Incentives and Responses

• Encourage and support positive behaviors, positive changes, and compliance with court-ordered conditions of probation.
• Levels of supervision should be based on the individualized Risk/Needs Assessment.
• Specific interventions should target criminogenic risk factors.
• Ensure public safety.
• Reduce reliance on secure detention.
Purposes (continued)

• Levels of supervision and intervention services should also ensure that the court-ordered conditions related to victim accountability and restoration in the plan are followed.

• Reduce recidivism by preventing future delinquent behavior.

• Consideration of cultural competence and racial/ethnic and gender responsiveness.

• Provide for system accountability and uniformity.
The “My Child” Standard

Every juvenile justice system, including detention and corrections facilities, should be run as if your only child were being handled by the system.
Responses are:

- Competency Building moments!!!!!!!

- Teachable moments!!!!!
Restorative Responses

Goal → REPAIR HARM

- Restorative sanctions are distinct from those aimed at punishment or treatment.
- Restorative sanctions are distinguished from other compensatory sanctions because they tend to maximize victim, community, and offender input.
What Does Research Show?

- 2012 American Probation and Parole Association, the Pew Charitable Trusts, and the National Center for State Courts found in review of effective supervision practices:
Research Findings

- Sanctions and incentives should be used in conjunction with one another to promote compliance and positive behavior.
- The use of incentives is equally important and often not considered.
- A combination of sanctions and incentives best promotes compliance with requirements made by drug courts and clients are more likely to stay in treatment.
Research

- The importance of providing sanctions and incentives at the time a behavior occurs.

- 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 and time.
The number of rewards/incentives was the better predictor of program success.

Applying incentives at a ratio of four rewards/incentives to every one sanction continued to increase the chances of successful completion.
Roadmap for Creating or Revising a System of Graduated Responses

Step 1: Define the Purpose of the Graduated Response System

- Agreeing on the Purpose of Supervision
- Considering the Terms and Conditions of Supervision
Roadmap Step 2: Gather Data

- Understanding the reasons that youth are detained for technical violations
- Collect, analyze and use information from the data as part of reform process
- Establishing a baseline will help determine whether reforms have an impact, and whether that impact was positive or negative.
Roadmap Step 3: Interview Stakeholders

Conduct interviews or focus groups with line staff, supervisors, parents, youth, judges, service providers to:

- Gain insight into strength and weaknesses supervision practices
- Provide a range of programmatic options that can help guide the creation of a graduated response system.

Handout #1 Stakeholders Questions
Roadmap Step 4: Form a Committee - Collaboration is Key!

- Provides an opportunity for consensus and ensures policies and procedures reflect the perspective of those who will be impacted by the system
- Line staff should be involved in any committee
Collaboration is Key

- Probation
- Family Members
- Defense Attorneys
- Youth
- School Officials
- Judges
- Prosecutors
- Service Providers
- EM/CPS Provider
Roadmap Step 5: Create a List of Behaviors to Promote Targeted Skill Development

- Case Plans with short and long-term, concrete goals and activities that target a youth’s criminogenic needs
- Incorporate *strength-based* principles that connect youth with community-based supports and build on a youth’s unique skills
Sample Case Plans

- Goals based on Restorative Justice Principles and Desired Outcomes

- Goals developed in each of Five Domains:
  - Mastery, Meaningful Access to Relevant Resources, Social Connectedness, Stability, and Safety
    (Full Frame Initiative-Katya Fels-Smith)
Goal Development

- Establishing goals should NOT serve as another avenue for sanctioning youth.

- Avoid establishing a long list of goals that go beyond the youth’s identified needs then later sanction the youth for failing to meet those targeted goals.
Roadmap Step 6: Identify Incentives

- Develop the Incentives prior to development of the Sanction side of the Graduated Response System.
- Focusing on positive behaviors can encourage the steering committee to see probation as more than simply a monitoring process for negative behaviors.
Identifying Incentives

Topics to consider:

- Will the agency provide any incentives of monetary value, e.g. gift cards?
- Which incentives will require a parent’s approval?
- Will certain incentives require supervisory approval?
Identifying Incentives

- Interview youth, families, service providers etc.... to find out what they think would be the best motivators.
- Create a master list of possible incentives
- Create a list of non-monetary incentives such as certificates of recognition, extension of curfew, reduction in reporting requirements.
Important Considerations

- Balancing incentives with social reinforcement-highlight the intrinsic rewards brought on by the skill development.
- Consider the balance between extrinsic and intrinsic rewards.
- Consider which incentives are more appropriate for short-term accomplishments and which should be saved for achieving longer-term goals.
22nd Circuit POSITIVE OUTCOMES GUIDE
For youth demonstrating positives outcomes during their period of supervision, this chart should be used as a guide to recognize their improved Competency Skills.

<table>
<thead>
<tr>
<th>POSITIVE OUTCOMES</th>
<th>INCENTIVES</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Abiding by curfew (80% compliance for period)</td>
<td>Verbal praise</td>
</tr>
<tr>
<td>• Improved attendance in school</td>
<td>Verbal praise with parents</td>
</tr>
<tr>
<td>• Improved behavior in school</td>
<td>Praise letter</td>
</tr>
<tr>
<td>• Improved grades in school</td>
<td>Praise card to home</td>
</tr>
<tr>
<td>• Abiding by family and household rules</td>
<td>Praise letter to Judge</td>
</tr>
<tr>
<td>• Obtaining and holding onto a job</td>
<td>DJO takes youth to Community Activity</td>
</tr>
<tr>
<td>• Negative urine screens</td>
<td>JABG gift certificate/stipend</td>
</tr>
<tr>
<td>• Getting an academic promotion</td>
<td>- 30 minute later curfew</td>
</tr>
<tr>
<td>• Cooperating with treatment</td>
<td>- Decrease in frequency of office visits with DJO</td>
</tr>
<tr>
<td>• Handled difficult situations well</td>
<td>- Certificate saying “Great Job”</td>
</tr>
<tr>
<td>• Improvement in family dynamics</td>
<td>- Waiver of appearance at review hearing</td>
</tr>
<tr>
<td>• Completing community service</td>
<td>- Application to Discharge early</td>
</tr>
<tr>
<td>• Paying off restitution</td>
<td></td>
</tr>
<tr>
<td>• Participating and keeping DJO appointments</td>
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<tr>
<td>• Meeting Supervision Case Plan goals</td>
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<tr>
<td>• Completing treatment</td>
<td></td>
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<tr>
<td>• Positive Community Activities</td>
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</tbody>
</table>
Roadmap Step 7: Structure How to Determine the Severity of Negative Behaviors

- There are different approaches to this aspect of developing responses to negative behaviors.
- We recommend using a structured decision-making tool to assess the seriousness of the behavior.
Determining the Overall Severity of the Behavior

Consider Five Factors:

- Relationship to Underlying Offense
- Victim Impact
- Frequency of Violation
- Compliance with Conditions
- Community Safety

Handout #2: Maryland Tool
Determining the Overall Severity of the Behavior

Score a Violation in each of the five domains as:

- Minor infraction
- Moderate Infraction
- Serious Infraction

Then Compute the Score
Pitfalls of Grids

- Don’t presume that a given behavior will represent the same level of concern across all youth.
  - i.e. + drug screen for a youth with a history of serious drug issues may be more concerning,
  - youth violating GPS by going by victim’s home more concerning than a youth who took a long way home after school.
Pitfalls of Grids

- Fails to describe the violation with enough specificity.
  - i.e. Curfew Violation—there are varying degrees. Did they miss it by an hour or stay out all night?
- Failing to charge a GPS unit may warrant a different response for a sex offender than a Assault charge.
Pitfalls of Grids

- The frequency of the violations should be taken into account when considering the response, but not to the point of moving a youth from low to high level of severity.
- Having a consistent and measured response is the way to change behavior.
- Understanding the reasons for the violation is important when determining the response.
When is it Double Dipping?

- If youth is suspended from school, is that a sufficient enough sanction for behavior or are we to also impose a sanction?
- If a parent provides a consequence for some misbehavior are we also to impose a sanction for the same misbehavior?
- Including these things in a technical violation affidavit is providing a consequence three times.
Roadmap Step 8: Identify Sanctions and Match them to Behaviors

- With staff input and agreement, sanctions that are available and which are effective for your population should be discussed.

- Sanctions should not violate a juvenile’s rights to due process.

- Sanctions should be appropriate for low, medium and high severity of behavior AND low, medium or high risk.
COOK COUNTY’S 4 STEP GRADUATED SANCTION PROCEDURE

- First—the minor is screened to determine level of public safety risk.
- Second—the severity of the violation is identified using a table of offenses and behaviors.
- Third—the risk score and violation severity are cross-referenced on a grid to produce a level of sanction.
- Fourth—the caseworker selects the sanctions from a ‘Sanction Severity Table’.
CENTRAL AND EASTERN OREGON 4-STEP PROCESS

- Step 1: Determine the seriousness of the current Probation Violation.
  - Minor PRV
  - Moderate PRV
  - Serious PRV
- Step 2: Determine the risk to re-offend.
  - Low Risk
  - Medium Risk
  - High Risk
- Step 3: Determine the appropriate graduated sanction(s).
- Step 4: Document the probation violation and sanction(s).
<table>
<thead>
<tr>
<th>Probation Violation</th>
<th>Risk Level</th>
<th>Risk Level - Low</th>
<th>Risk Level - Medium</th>
<th>Risk Level - High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minor Violation</td>
<td></td>
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<tr>
<td>Moderate Violation</td>
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<tr>
<td>Serious Violation</td>
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</table>
**Administrative Sanctions Grid**

To use this grid, determine the seriousness level of the violation (Minor, Moderate, Serious) and locate it on the vertical axis. Then match the client's risk level to the risk level on the horizontal axis. Finally, locate the box at the intersection of the vertical and horizontal axes to choose the appropriate sanction tied to the violation.

(Updated January 2010)

<table>
<thead>
<tr>
<th>Seriousness of Violation</th>
<th>LOW RISK</th>
<th>MEDIUM RISK</th>
<th>HIGH RISK</th>
</tr>
</thead>
<tbody>
<tr>
<td>MINOR PROBATION VIOLATION</td>
<td>• Courtroom Observation/Report Conference&lt;br&gt;• Nightwatch Curfew Reduction&lt;br&gt;• Parent/School/Community Problem Solving Conference&lt;br&gt;• Restorative Instructional Competency-Building Video&lt;br&gt;• Community Service&lt;br&gt;• Letter of Apology&lt;br&gt;• Restorative Reading/Writing Assignment&lt;br&gt;• Increased Frequency of Contact&lt;br&gt;• NAB (can use for multiple violations)&lt;br&gt;• Restorative Sanction Group&lt;br&gt;• Intra-Family Mediation&lt;br&gt;• Weekend Work Detail</td>
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</tr>
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</table>
Review Case Plan

Choose Sanction from Grid after Determining Risk and Seriousness

Record Sanction

Swift Application

SANCTION PROCESS

With an Eye to Teach and Repair Harm
AUTHORIZATION TO PROVIDE SANCTIONS

- Written Policy
- Dispositional Order of Court
- Directive of the Court
SANCTION CHECKLIST

- Does the sanction have offender, parent/guardian, community input?
- Is the intent of the sanction clear to the offender, parent/guardian?
- Does the sanction have an eye to teaching, reconciling and reforming?
- Is the sanction swift?
- Is the sanction sufficiently graduated?

Scenarios 1 thru 4
Considerations when Identifying Sanctions

- It is more important to be swift and consistent than increasing the severity of sanction.
- Individualized responses are crucial.
- Removing services or treatments should NOT be used as a sanction.
- Mixing low and high risk youth in programs is counterproductive.
Database Documenting Probation Violations

- Review of St. Louis City’s Administrative Sanctions Database

- Violation types:
  - Nightwatch/Curfew Violation
  - Positive Drug Test
  - Truancy
  - Missed Appointments with Assigned DJO
  - Missed Appointments with Service Provider
  - Failure to attend Court Ordered Program
  - Failure to attend Drug Treatment
  - Failure to attend Sex Offender Treatment
  - Failure to pay Restitution
  - Failure to complete Community Service hours
  - Disrespect of parent/guardian rules
  - Staying away from home without permission
  - Associating with negative peers or with those the youth is court ordered not to associate with
  - Unauthorized Contact with the Victim
  - Failure to respond to authority of the court
  - Violation of Safety Plan (Sex Offender's only)
  - Failure to Appear
  - Other Violation
Administrative sanctions are designed to address a timely manner juveniles who have violated the terms of their probation or the court order. Juveniles are to be heard as suitable through immediate and appropriate response to any violation.

<table>
<thead>
<tr>
<th>Juvenile (e.g., Seat, Job)</th>
<th>Juvenile ID</th>
<th>Date</th>
<th>Assigned DJO</th>
<th>Date of Violation</th>
<th>Risk Level based on Original or Reassessment Score</th>
<th>Violation Level</th>
<th>Nightwatch Violation</th>
<th>No</th>
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Other Violation Type

Client Notification of Violation

Date

Parent Notification of Violation

Date

Section(s)

Override

No

Comments


Reassessment Tool Developed by OSCA assesses risk scores on a periodic basis.
Roadmap Step 9: Test Materials

- Once Grids are established, they should be reviewed and tested with your population to ensure they work as intended.
Roadmap Step 10: Develop Capacity to Evaluate Effectiveness

Administrative and Supervisory staff should consider:

• How existing data system can be used or modified to track data necessary to evaluate before implementation.

• Incorporating active and timely use of sanction into employee performance appraisals and supervision conversations.
Roadmap Step 11: Train Staff and Educate Clients

- Staff should be part of the development of the grids and be educated on the research behind the use of graduated responses.
- Staff may need to investigate prior to imposing the sanction. i.e. reason for curfew violation, missed appointment, missing school, etc.
Roadmap Step 12: Evaluate Implementation and Make Adjustments

- After piloting the response grid, data will need to be gathered to evaluate whether the sanctions were swift, consistent, and graduated.

- Solicit feedback from staff, parents and youth, and modify if needed.
Response Grids

Action Steps

1. Where are we now?

2. Where do we want to be?

3. Which stakeholders will this involve?

4. What are the next steps?