



Justice Center

THE COUNCIL OF STATE GOVERNMENTS

Breaking the Rules

Rethinking Condition Setting and Enforcement in Juvenile Probation

October 6, 2022

Gineen Gray, *Deputy Commissioner of Juvenile Operations, NYC*

Stephanie Shaw, *Project Manager, Corrections and Reentry, CSG Justice Center*

Tim Wires, *Chief of Probation, Stark County, OH*

Judge Todd Ziegler, *Monroe County, WI*

The Council of State Governments Justice Center

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.

Agenda

- I. Introductions
- II. Why Focus on Conditions and Enforcement?
- III. Effectiveness, Accountability, Equity
- IV. Technical Assistance Opportunity
- V. Discussion and Questions

Introductions

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Why Focus on Conditions and Enforcement?

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- Many juvenile probation agencies and courts are oriented around monitoring youth's compliance with probation conditions.
- These conditions can set up youth (and officers) for failure and perpetuate system inequities rather than contribute to youth's success and community safety.
- Approximately 16 percent of youth who are detained and 12 percent who are committed to state custody nationwide are detained or committed due to a technical violation of supervision conditions.
- Black youth were five times more likely to be detained, and almost four times more likely to be committed to state custody, for a violation than White youth.

Centering Effectiveness, Accountability, and Equity in Condition Setting and Enforcement

Gained a deeper understanding of the issue by:

- Hosting over 30 listening sessions with stakeholders across an array of disciplines and perspectives
- Conducting a 50-state policy scan to identify how states treat condition setting and sanctions in state statute and court rules
- Facilitating focus groups with youth who have been on probation and their family members

Based on the listening sessions, policy scan, and focus groups, three themes emerged:

- Conditions vs. relationships, service delivery, and supports as effective mechanisms for promoting positive behavior change
- Need to rethink and redefine accountability, including shared accountability and improvement among all stakeholders
- Standardization is often a myth in practice, and how conditions applied in an “equal” way can exacerbate system inequities

Effectiveness

Perspectives from the Field on Probation Conditions' Ability to Promote Positive Behavior Change

- Supervision/rules alone don't facilitate behavior change; relationships/services are most critical.
- There is a negative relationship between the number of conditions and program success.
- Youth are impulsive, risk taking, and don't think about long-term consequences.
- Conditions are static and absolute, while adolescents are dynamic and inconsistent.
- Standardized conditions hinder officers/courts from focusing on underlying, individual needs.
- Youth and families often don't understand conditions and related court orders/processes.
- Youth and families are less likely to respond to conditions they don't buy into or believe are fair.
- Compliance with conditions can get in the way of school and other prosocial opportunities.

What to Consider to Promote More Effective Probation Condition Setting and Enforcement Strategies

- Developmental Science
- Risk, Need, Responsivity (RNR)
- Procedural Justice and Youth and Family Partnership
- Practicalities

Applying a More Effective Approach to Condition Setting



Applying a More Effective Approach to Who Is Involved in Setting Conditions and How



Accountability

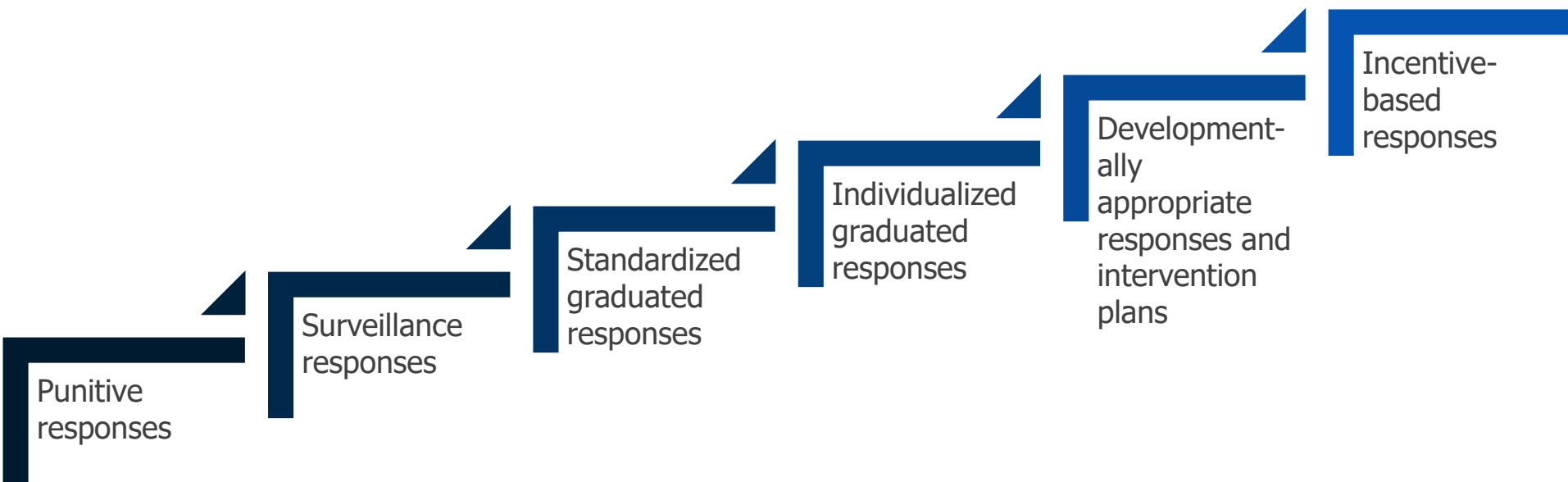
Perspectives from the Field on Probation Conditions' Ability to Promote Accountability

- Accountability needs to be defined across stakeholders, as siloed roles and responsibilities of system actors are not conducive to working together to support/hold youth accountable.
- Victims and communities are not involved in court processes/disposition, condition setting, and enforcement.
- Helping youth recognize their behavior and build skills in the face of real-world challenges is a truer form of accountability.
- Persistence in goal setting/treatment is more fundamental, sustainable accountability that promotes growth/safety.
- Conditions require immediate and linear accountability vs. dynamic and directional accountability.
- Probation officers are both enforcers and mentors, bringing in family and community organizations to expand supports.
- Conditions undermine parental authority and disrupt family systems, including establishing appropriate consequences.
- Unidirectional vs. mutual accountability—youth do not have a way to hold system stakeholders accountable.

What to Consider to Promote More Meaningful Accountability Mechanisms in Probation Condition Setting and Enforcement Strategies

- Accountability for What: Beyond generic notions
- Accountability How: Mechanisms that work
- Accountability When: Timeliness
- Accountability Who: Including others

Applying More Meaningful Accountability Mechanisms in Enforcement Approaches



Applying More Meaningful Accountability Mechanisms by Expanding Who Is Involved in Enforcement and How

Court requires automatic filing of a technical violation or take into custody order/warrant

Probation policies require automatic filing of a violation and/or court hearing

Judges or officers determine responses at their own discretion

Judges and officers determine responses guided by agreed upon tools and policies, such as graduated response matrices, and supervisory oversight

Responses are determined outside of court whenever community safety is not at imminent risk and collaboratively with youth, family members, service providers, community supports, and others

Case challenges result in a broader family-team meeting to review the case plan, youth's progress and challenges, and needed adjustments and related responses and supports

Equity

Perspectives from the Field on Probation Conditions' Ability to Promote Equity

- Youth of color often have longer and harsher conditions, such as drug testing, and less positive ones, like restorative justice.
- Compliance and consequences, including incarceration, are shaped by perception, subjectivity, and bias, including framing of court reports.
- Youth of color are less likely to receive treatment and strength-based services to help with condition compliance.
- Youth of color's noncompliance is more likely to be seen as blameworthy as opposed to circumstantial.
- Not considerate of individual capacity; mostly outside of youth's control to comply including resources, family, community, school, services.
- Noncompliance and disengagement reflect system performance and responsiveness to the population served.
- Youth, family, and community mentors need to be integrated into determining conditions, violations, and successful completion.
- Racial equity is missing from victim engagement, along with an understanding that some youth are both victims and responsible parties.

What to Consider to Promote More Equity in Probation Condition Setting and Enforcement Strategies

- Supervision Equity: Individual needs and fairness
- Services Equity: Access and cultural competency

Applying More Equitable Strategies in Condition Setting and Enforcement Approaches

- ✓ Tailor conditions to a youth and family's strengths and circumstances.
- ✓ Recognize and account for youth's circumstances, culture, and community.
- ✓ Involve family, community mentors, peers, and others in decision-making.
- ✓ Eliminate sanctions resulting from things outside of youth's direct control.
- ✓ Measure whether conditions and responses are applied in an equitable manner.
- ✓ Review completion rates of services to determine if and how equitable outcomes are occurring.
- ✓ Engage in training on system equity, implicit and explicit bias, and cultural competency.
- ✓ Partner with communities and leaders of color to expand and align local service systems to effectively serve youth of color.

Technical Assistance Opportunity

Probation Condition and Enforcement Reform: Unique TA Opportunity

Goals

- Partner with two jurisdictions over 12 months to receive cost-free technical assistance to help them assess and improve their approach to condition setting and enforcement.

Methods

- Conduct case-level data analysis related to incentives, sanctions, and technical violations.
- Host focus groups with probation staff, judges, youth, families, community-based organizations, and other key stakeholders.
- Review policies and practices related to condition setting and enforcement.
- Develop an action plan that leads to reforms in probation conditions and enforcement—including the potential to pilot innovative approaches.

Probation Condition and Enforcement Reform: Unique TA Opportunity (cont.)

Site Requirements

- Form an internal working group chaired by an agency leader.
- Readily share data in a timely fashion; ensure that data are relatively comprehensive and high-quality concerning probation, violations, and outcomes.
- Engage in a transparent review of policies and practices.
- Commit to meaningful innovation and reform.

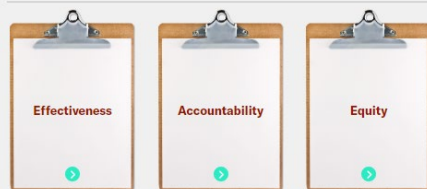
Next Steps

- **To apply, please submit a letter of interest by Friday October 14, 2022**, signed by agency and/or judicial leadership—see full application for more details.

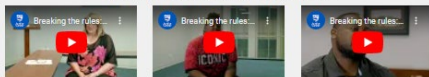
Visit the Digital Toolkit!

Toolkit

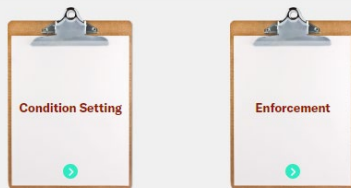
Section 1: Reasons to Question, Questions to Ask



Why should jurisdictions consider reforming their approach to juvenile probation conditions and enforcement? Hear directly from youth, community leaders, and probation officers.



Section 2: Solutions to Explore



Breaking the Rules: Rethinking Condition Setting and Enforcement in Juvenile Probation

The Toolkit 90-State Findings

Section 1: Reasons to Question, Questions to Ask

Effectiveness
Accountability
Equity

Section 2: Solutions to Explore

Condition Setting

Enforcement

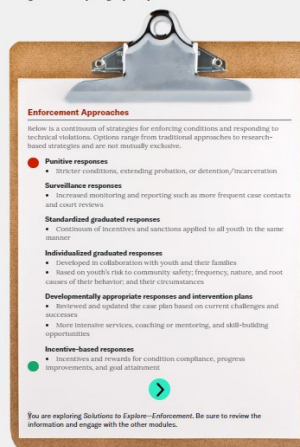
About the Toolkit

The Toolkit PDF Download
90-State Findings PDF Download

Enforcement

What Would a More Effective, Accountable, Equitable Approach to Juvenile Probation Condition Enforcement Entail?

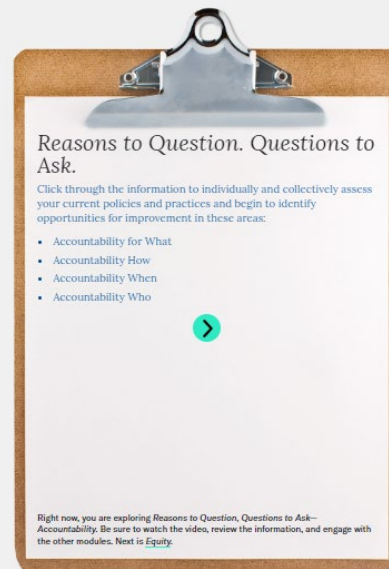
This section of the toolkit can help you identify and come to consensus on condition setting and enforcement policy and practice improvements. Use the information to review a continuum of potential reform options and determine which strategies are best for your agency and system.



Accountability

Reasons to Question, Questions to Ask: Do Your Probation Conditions and Enforcement Strategies Promote Meaningful Accountability for Youth, Families, and System Stakeholders?

This section of the toolkit can help you assess whether your current approaches to juvenile probation conditions and enforcement effectively promote youth behavior change, youth and system accountability, and system equity. We recommend you start by watching the video. Then review the reasons and questions to assess your current policies and practices and begin to identify opportunities for improvement.



Right now, you are exploring Reasons to Question, Questions to Ask—Accountability. Be sure to watch the video, review the information, and engage with the other modules. Next is Equity.

Discussion and Questions

Discussion

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Thank you!

Join our distribution list to receive updates and announcements:

<https://csgjusticecenter.org/resources/newsletters/>

For more information, please contact Stephanie Shaw at
sshaw@csg.org

This project was supported by Arnold Ventures.

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