



**Justice Center**

THE COUNCIL OF STATE GOVERNMENTS

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# Key Opportunities for Improvement: County and State Probation Transformation



Traditional forms of supervision have been shown to have minimal if any impact on recidivism, but most probation departments still focus primarily on surveillance and sanctions rather than positive youth behavior change.



In many jurisdictions, the most common cause of a new probation disposition is a probation violation. Twenty-five percent of youth who are detained and 15 percent placed in state custody are for probation violations. 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.



Probation agencies are increasingly adopting research-based approaches but staff buy-in, agency and system culture, and implementation fidelity undermine the potential benefits.



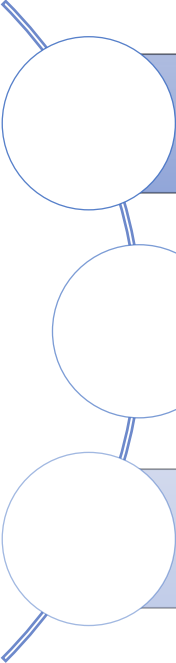
Many juvenile justice systems do not consistently or fully track recidivism, violations, or positive youth outcomes; analyze this data by key variables, including risk level, demographics, and providers; and establish ongoing processes to evaluate progress.

# Community supervision should focus on promoting positive youth behavior while balancing public safety.

Focus on Only Surveillance	Focus on Positive Behavior Change
Laundry list of supervision conditions	Developmentally appropriate conditions
Fixed and uniform case contact requirements	Contact requirements based on youth's assessed risk level
No collateral contact requirements	Required family and school collateral contacts, engagement, and support
Large caseloads, "check-in" visits	Small caseloads with sessions focused on behavior change/skill development
Minimal training	Training in engagement and cognitive behavioral techniques
Minimal use of incentives/rewards	Frequent use of incentives/rewards

# **Rethinking Conditions: Positive Youth Behavior Change**

# State Laws and Court Rules Influence the Effectiveness of Local Probation Condition Setting and Enforcement



**Over 60%:** States that require or authorize juvenile courts and/or probation agencies to impose a standard set of conditions or related list of rules and sanctions for youth placed on probation

**1–25:** The range of separate conditions and sanctions that different states require or authorize courts/agencies to impose, with an average of 8–10 different conditions per youth

**< than 10%:** States that require that conditions/penalties are imposed in a manner that is one or more of the following: individualized; developmentally appropriate; based on youth's risk of reoffending; or based on youth or their families' specific needs or circumstances

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

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Supervision/rules alone don't facilitate behavior change; relationships/services are most critical.

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Youth and families often don't understand conditions and related court orders/processes.

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There is a negative relationship between the number of conditions and program success.

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Youth are impulsive, risk taking, and don't think about long-term consequences.

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Conditions are static and absolute, while adolescents are dynamic and inconsistent.

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Standardized conditions hinder officers/courts from focusing on underlying, individual needs.

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Youth and families are less likely to respond to conditions they don't buy into or believe are fair.

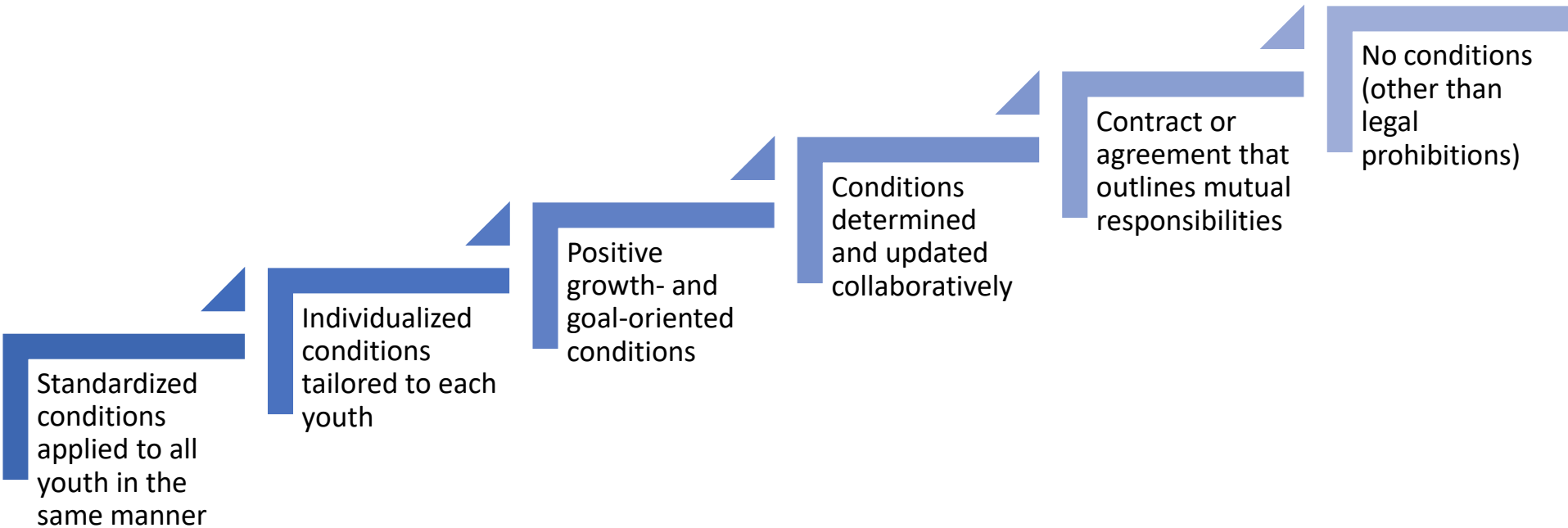
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Compliance with conditions can get in the way of school and other prosocial opportunities.

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# Applying a More Effective Approach to Condition Setting



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

Conditions are automatically determined

Judge sets the conditions

Probation officers set the conditions

Probation officers set the conditions with input from stakeholders

Probation officers and judges mutually determine conditions and supports

Conditions are determined and updated in an ongoing way through a collaborative team approach





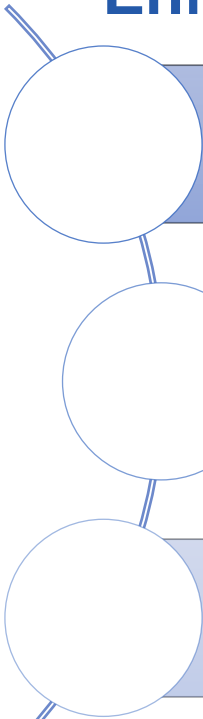
# Examples of Improving the Effectiveness of Conditions and Responses

- ✓ Use language and concepts that are understandable and motivating to youth.
- ✓ Ensure they are developmentally appropriate, feasible, and realistically achievable.
- ✓ Ensure they are dynamic and based on and responsive to youth's risks, needs, and changing circumstances.
- ✓ Exclude extraneous, unmeasurable, or unenforceable rules to ensure that youth and officers are not set up for failure.
- ✓ Identify and address the root causes of behavior and match youth with related services and supports.
- ✓ Rely heavily on incentives and ongoing positive reinforcement.
- ✓ Promote officers' ability to engage in relationship building, problem solving, skill building, and service connections.
- ✓ Position families to strengthen their own ability to promote positive youth behavior change.



# **Rethinking Conditions: What Accountability Really Means**

# State Laws and Court Rules Influence Accountability Mechanisms in Local Probation Condition Setting and Enforcement



**< 15%:** States that require the amount and type of restitution or community service imposed to be determined in consultation with the victims or communities harmed and/or that afford youth the opportunity to participate in direct victim mediation that, if successful, can stand in lieu of court-ordered restitution or community service.

**< 30%:** Of all states authorize or require the statewide use of incentives and graduated sanctions as a response to youth's noncompliance with probation conditions.

**< 15%:** Of all states restrict the use of detention and long-term incarceration solely for youth who commit technical violations of probation conditions such as truancy, running away, and disobeying curfew.

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

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Victims and communities are not involved in court processes/disposition, condition setting, and enforcement.

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Conditions undermine parental authority and disrupt family systems, including establishing appropriate consequences.

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Unidirectional vs. mutual accountability—youth do not have a way to hold system stakeholders accountable.

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Helping youth recognize their behavior and build skills in the face of real-world challenges is truer form of accountability.

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Conditions require immediate and linear accountability vs. dynamic and directional accountability.

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Persistence in goal setting/treatment is more fundamental, sustainable accountability that promotes growth/safety.

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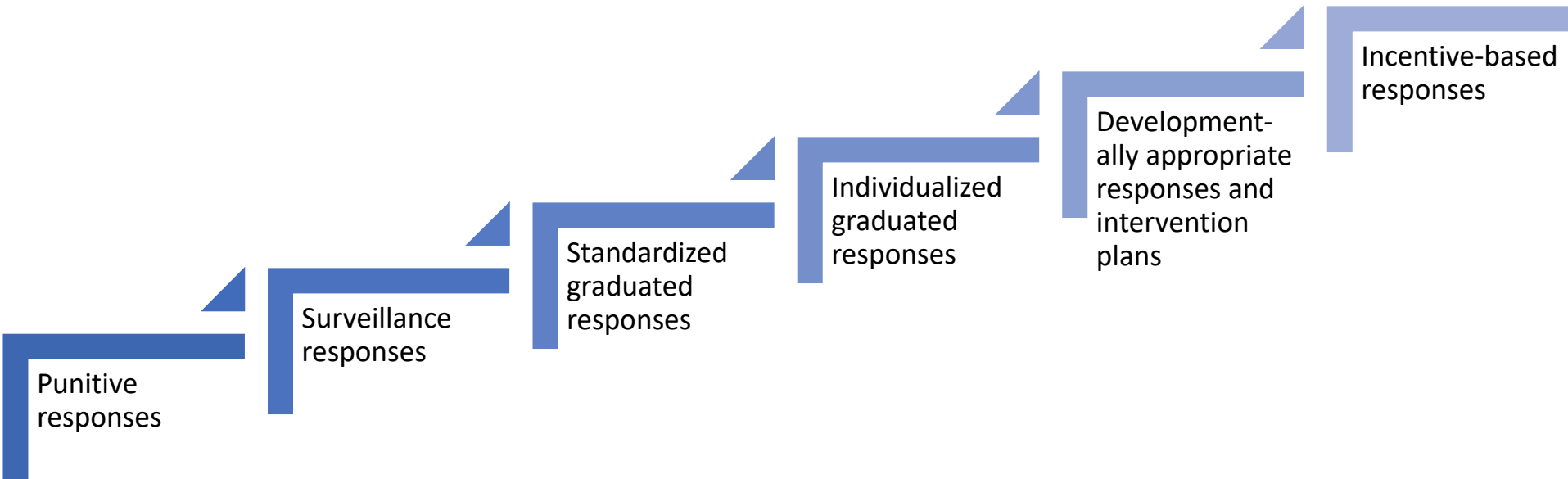
Probation officers are both enforcers and mentors, bringing in family and community organizations to expand supports.

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Siloed roles and responsibilities of system actors are not conducive to working together to support/hold youth accountable.



# 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 principles, policies, and tools, 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

# Examples of Improving the Accountability Mechanisms in Enforcement

- ✓ Support youth to understand the impact of their behavior through restorative justice and therapeutic approaches.
- ✓ Support youth to understand and address the underlying causes of their behavior to mitigate future occurrences.
- ✓ Limit the use of surveillance and punitive sanctions with youth, particularly detention and incarceration, to instances when community safety is at risk.
- ✓ Limit the use of surveillance and punitive sanctions with families; focus on family engagement, partnership, barrier reduction, and supports.
- ✓ Foster community-based accountability partners such as a credible messengers, mentors, caring adults, and positive peers.
- ✓ Incorporate accountability processes for all case partners to help youth improve their behavior.
- ✓ Track the use of incentives, sanctions, violations, and the consequences; use data for performance improvement and accountability purposes.

**Rethinking Conditions:  
The Myth of Standardization and  
Impact on System Equity**



# State Laws and Court Rules Influence Equity in Local Probation Condition Setting and Enforcement

**0:** States that require courts and/or probation agencies to assess and address youth and family's barriers to condition compliance and adjust conditions accordingly, other than ability to pay.

**4, 8, 19, 24:** Rate that White youth are detained for a technical violation compared to Hispanic, Black, and American Indian youth per 100,000 youth nationwide.

**10, 16, 38, and 39:** Rate that White youth are committed to state custody for a technical violation compared to Hispanic, Black, and American Indian youth per 100,000 youth nationwide.

**< 5%:** Of all states require at least annual reporting on technical violations for youth on probation, let alone an analysis of such rates by race, ethnicity, geography, risk level, or reason.

# Examples of Improving Equity in Condition Setting and Enforcement Strategies

- ✓ 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.
- ✓ Engage in training on system equity, implicit and explicit bias, and cultural competency.
- ✓ Include specific expectations of system, court, and service provider stakeholders in conditions.
- ✓ Review completion rates of service providers to determine if and how equitable outcomes are occurring.
- ✓ Recognize and reduce practical barriers to behavior change such as transportation and safety concerns.
- ✓ Ensure objectivity when describing youth's progress, obstacles, and reasons for behavior, including external circumstances.
- ✓ Partner with communities and leaders of color to expand and align local service systems to effectively serve youth of color.



# Key Takeaways

1. Review what “accountability” means to you/your jurisdiction.
2. Instead of a laundry list of arbitrary supervision conditions, focus on causes of behavior and restorative justice.
3. Incorporate RNR, developmental science, youth and family partnership, and procedural justice in condition setting and monitoring strategies.
4. More meaningful accountability mechanisms include those that are incentive-based and tailored to an individual rather than standard or punitive-based.

# Key Questions for Consideration for Policy Change

1. Does your state have standard probation conditions in statute or court rules?
2. Has your state established a standardized set of principles and processes for guiding condition setting?
3. What proportion of extended and new juvenile probation cases, detentions, and long-term out-of-home placements in your state are the direct result of technical violations of probation?
4. Does your state allow youth to be detained or incarcerated as a response to technical violations of probation? If so, is there research or regularly collected and reported data that supports the use of these costly interventions as effective public safety responses? And that they are used equitably in terms of gender, race, ethnicity, and geography?
5. How much time and resources (including staff and court time, interventions, and use of facilities) does your state invest in surveillance or sanction-oriented responses to youth's behavior vs. service or support responses?
6. In what ways does state law hold courts and probation agencies accountable for producing successful and equitable outcomes for youth on probation? How is this tracked and reported?

