

# USE OF RISK/NEEDS ASSESSMENT INFORMATION AT SENTENCING & EVIDENCE-BASED RESPONSES TO PROBATION VIOLATIONS

## California Risk Assessment Pilot Project Training Program

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CALIFORNIA RISK ASSESSMENT  
PILOT PROJECT TRAINING  
PROGRAM



JUDICIAL COUNCIL  
OF CALIFORNIA  
ADMINISTRATIVE OFFICE  
OF THE COURTS

**December 3, 2010**

Sequoia Room, Third Floor  
Administrative Office of the Courts  
San Francisco, California

## Agenda

### **USE OF RISK/NEEDS ASSESSMENT INFORMATION AT SENTENCING & EVIDENCE-BASED RESPONSES TO PROBATION VIOLATIONS**

Madeline (Mimi) Carter, Principal, Center for Effective Public Policy  
Mark Carey, President, The Carey Group  
Judge Richard Couzens (Ret.), Superior Court of Placer County  
Dr. Geraldine F. Nagy, Director, Travis County Adult Probation Department  
Judge Roger K. Warren (Ret.), Scholar-in-Residence, Administrative Office of the Courts

FRIDAY, DECEMBER 3

- |                  |   |
|------------------|---|
| 7:30–8:00 a.m.   | <b>Continental Breakfast</b> (Lunch Room)                                   |
| 8:00–8:15 a.m.   | Welcome and Introductions (Sequoia Room)<br><i>Hon. Roger K. Warren</i>     |
| 8:15–9:15 a.m.   | Use of Risk/Needs Assessment Information at Sentencing<br><i>Mark Carey</i> |
| 9:15–10:15 a.m.  | Team Meeting: Questions & Challenges  |
| 10:15–10:30 a.m. | <b>Break</b>  |
| 10:30–11:30 a.m. | Team Action Planning: Action Planning Worksheet                             |
| 11:30–12:15 p.m. | <b>Lunch</b>  |
| 12:15–1:15 p.m.  | Evidence-Based Response to Probation Violations<br><i>Mimi Carter</i>       |
| 1:15–2:15 p.m.   | Team Meeting: Questions & Challenges  |
| 2:15–2:30 p.m.   | <b>Break</b>  |
| 2:30–3:30 p.m.   | Team Action Planning: Action Planning Worksheet                             |
| 3:30–4:00 p.m.   | Next Steps and Wrap-Up  |
| 4:00 p.m.        | Adjourn   |

**Application of EBP to Sentencing**

**CAL RAPP Pilot Project**

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Judicial Council of California, Administrative Office of the Courts

December 3, 2010

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**Background: Mark Carey**

- Residential treatment counselor
- Probation/parole officer
- Director of four county Corrections agencies
- Deputy Commissioner, MN DOC
- Warden, women's prison
- Consultant/trainer

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**OBJECTIVES**

▶ Participants will learn

- Possible ways to use risk and need information at the sentencing hearing
- What other jurisdictions have done to align sentencing and violation practices with the research

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## Outline of This Section

- ▶ Benefits and challenges to using risk/need assessment at sentencing and plea negotiations
- ▶ What others have done to address those challenges
- ▶ Additional suggestions to consider during action planning

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## Recognition of Complexity

“Sentencing is a complex topic that needs to be approached with humility, an open mind and common sense.”

Michael A. Wolff, Judge, Supreme Court of Missouri

From article "Evidence-Based Judicial Discretion: Promoting Public Safety through State Sentencing Reform," The Dwight D. Opperman Institute of Judicial Administration, The Brennan Center for Justice, New York University School of Law; The 14th Annual Justice William J. Brennan Jr. Lecture on State Courts and Social Justice

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## Purposes of Sentencing

- “Just deserts”: punishment proportionate to the gravity of the crime
- Public safety
  - Rehabilitation/specific deterrence [recidivism reduction]
  - General deterrence
  - Incapacitation/Control
- Restitution/restoration

**The following information focuses on use of risk/need information to guide decision making around risk reduction; but it does not diminish the importance of the other objectives**

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### Examples of Benefits to Using Risk/Need Assessments

| In Direct Benefits to the Public   | To an Effective and Efficient Justice System Operation                     |
|--|--|
| Reduction in recidivism; fewer victims   | Reduced decision errors giving the CJS greater credibility with the public |
| Cost reduction by <ul style="list-style-type: none"> <li>- Directing those offenders toward programs that match their risk profile; don't waste resources</li> <li>- Reduction in revocations without sacrificing public safety</li> <li>- Better returns on those investments that bring the greatest returns; lower costs</li> </ul> | Better justification of actions when a case "goes bad"                     |
| Offenders who leave the CJS can become contributors to their communities and the tax base  | Increased transparency and accountability in decision making               |

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### Examples of Challenges to Using Risk/Need Assessments

| Sentencing   | Plea Negotiations  |
|--|--|
| Risk reduction is not the only sentencing purpose; what to do when response to purposes conflict such as when a low risk offender commits a serious offense? | Same as those under sentencing   |
| How to handle victim input when risk/need assessment indicates something contrary to victim situation?   | How to handle a case for which there is strong public sentiment contrary to what the risk reduction research indicates would be appropriate? |
| What to do when risk/need indicates a desired course of action for which no local resources are available?   | What to do when the risk/need information can not be acquired at the time of plea?   |

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### The Bottom Line

- Using risk/need assessments to inform decision making increases the odds of a positive outcome; it won't guarantee it

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## How Some of Your Colleagues are Applying Risk/Need

### ▶ To preserve resources

- Only do short form PSI on low risk cases (Marin Co)
- Complete a PSI prior to plea
- Conduct a brief screening tool
  - This could be done prior to sentencing or plea negotiations

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## Example

Hawaii Proxy Tool

- Three factors
- Easy but with Limitations

Using a Proxy Score to Pre-screen Offenders for Risk to Reoffend, July 11, 2005  
 Brad Bogue, William Woodward, Lore Joplin

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## Your Colleagues (continued)

### To preserve resources

- Probation cannot be used for some offenses (Maine)
- Do not load up sentencing conditions; carefully target the conditions (Taxman research: average number of conditions per order is eleven)

|  | Time Devoted Per Session | Recidivism Rate |
|--|--------------------------|-----------------|
| Probation Officers need time to work with offenders  | 0-19 minutes             | 49%             |
|  | 20-39 minutes            | 36%             |
| "Exploring the Black Box of Community Supervision"<br>Journal of Offender Rehabilitation, Vol. 47(3), 2008, Pp. 248-270. |                          |                 |

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## Your Colleagues (continued)

- ▶ **To ensure that the needs are properly targeted**
- ▶ Some jurisdictions in Illinois allow for:
  - Probation to determine treatment needs based on valid risk assessments resulting in
    - Reduction of unnecessary and sometimes counter-productive conditions being ordered
    - Reduction in the need for court reviews

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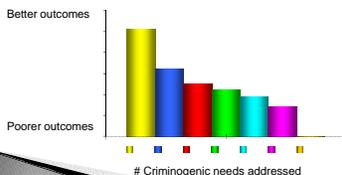
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## Your Colleagues (continued)

- ▶ **To ensure that the needs are properly targeted**
- Alter the PSI to focus on criminogenic needs



(Andrews, Dowden, & Gendreau, 1999; Dowden, 1998)

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## Travis County, Texas

| Initial Risk | SCS Score - Classification |     |    |    |    |
|--------------|----------------------------|-----|----|----|----|
|              | SIS                        | SIT | ES | CC | LS |
| Low          |                            |     |    |    |    |
| Medium       |                            |     |    |    |    |
| High         |                            |     |    | XX |    |

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**Example: Intervention Guidelines for Each Criminogenic Need**

| Criminogenic Need                   | Program/Intervention (examples)   |
|-------------------------------------|---|
| Anti-Social History                 | Electronic Monitoring, Curfew, Community Service Work   |
| Anti-Social Thinking                | Thinking for Change (CBT), Moral Reconciliation Training (CBT), Reasoning and Rehabilitation (CBT), Carey Guides (Anti-Social Thinking, Creative Thinking, Problem Solving/Decision Making, Social Skills, Moral Reasoning) |
| Anti-Social Peers                   | Thinking for Change (CBT), Carey Guides (Anti-Social Peers and Engaging Pro-Social Others)  |
| Temperament/Anti-Social Personality | Thinking for Change (CBT), Carey Guides (Empathy, Impulsivity, Emotional Regulation, Thrill Seeking)  |
| Family Stressors                    | Carey Guides (Involving Families and How to Operate in the Family)  |
| Substance Abuse                     | Pathways (CBT)  |
| Employment                          | Workforce Center referral   |
| Education                           | GED, Tutoring   |
| Leisure                             | YMCA/YWCA, Carey Guides (Pro-Social Leisure)  |

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### The Top Four

| Criminogenic Need                      | Response  |
|--|---|
| Accommodations/Anti-social history     | Build non-criminal alternative behaviors to risky situations, structure 40-70% of day             |
| Anti-social cognition                  | Reduce anti-social cognition, recognize risk thinking and feelings, adopt an alternative identity |
| Anti-social companions                 | Reduce association with criminals, enhance contact with pro-social peers                          |
| Anti-social personality or temperament | Build problem solving, self management, anger management, and coping skills                       |

Source: Andrews, Donald A. (2007). "Principles of Effective Correctional Programs", in Motiuk, Laurence L. and Serin, Ralph C. (2007). Compendium 2000 on Effective Correctional Programming. Correctional Service Canada. Available at <http://www.csc-ccc.gc.ca/text/rsrch/compendium2000/index-eng.shtml>

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### The Lesser Four

| Criminogenic Need         | Response  |
|---------------------------|---|
| Family and/or marital     | Reduce conflict, build positive relationships and communication, enhance monitoring/supervision |
| Substance abuse           | Reduce usage, reduce the supports for abuse behavior, enhance alternatives to abuse             |
| Employment/School         | Provide employment seeking and keeping skills and Enhance performance rewards and satisfaction  |
| Leisure and/or recreation | Enhance involvement and satisfaction in pro-social activities                                   |

Source: Andrews, Donald A. (2007). "Principles of Effective Correctional Programs", in Motiuk, Laurence L. and Serin, Ralph C. (2007). Compendium 2000 on Effective Correctional Programming. Correctional Service Canada. Available at <http://www.csc-ccc.gc.ca/text/rsrch/compendium2000/index-eng.shtml>

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**Do**  
**Be Flexible and Be Rigid**

- ▶ **Be Flexible:**
  - with offenders who are lower risk; and
  - with those who are higher risk and who are working their programming but have minor relapses
- ▶ **Be Rigid:**
  - with medium and high risk offenders around their criminogenic needs; and
  - with extreme high risk offenders even around minor violation matters

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**Do**  
**Use External Control for Targeted Purposes**

- ▶ Use external control (e.g., electronic monitoring, intensive supervision, curfews, jail, work release, etc.) for two primary purposes
  1. A period of time until the programs start working and the offender demonstrates internalization
  2. A high risk offender is unmotivated to work on their criminogenic needs and yet remains in the community under supervision

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**Do**  
**Use Sanctions Judiciously**

- ▶ Use short term sanctions (e.g., three days jail or EM) to
  - Express disapproval; and
  - Motivate the offender to return to programming
- ▶ Use long term sanctions (e.g., long periods of jail or prison) to
  - Incapacitate because the offender is high risk, unable or unwilling to change; or
  - Committed a crime so serious that keeping the individual in the community would be unjust

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**Do**  
**Use Sanctions AND Rewards**

- ▶ Use positive reinforcement more than negative
- ▶ Find ways to praise progress, even minor movement
- ▶ Sanction anti-social actions so all get a disapproval response

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**Do**  
**Use Risk Tools to Inform Decision**

- ▶ Use risk scores to inform the decision maker, not remove discretion
- ▶ Use risk scores to shape intervention response as opposed to the severity of the penalty
  - For example, two offenders similar offense but one is high risk, one low might result in
    - Intensive supervision for one and community work for the other

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**Do Not**  
**Use a One-Size-Fits-All Approach**

- ▶ Mix risk levels in programs
- ▶ Mix gender in treatment programs
- ▶ Put the unmotivated extreme high risk offender in programs

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### A Final Word

## REMEMBER:

- The risk tool is not everything. It is one factor of many
- Risk is dynamic and assessment information should be used throughout hearings over time using reassessment information

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**Evidence-Based  
Responses to Probation  
Violations**

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Center for Effective Public Policy**

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**Central Questions**

- **Increase public safety by equipping offenders to be successful in the community.**
  - What works in changing offender behavior generally?
  - What works in responding to offender misbehavior?
  - What are the implications of these findings on supervising offenders and responding to non-compliance?

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**Two Parts of an Overall Strategy  
to Increase Successful Outcomes**

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### Background: National Interest in Violation Practices

○

Violation decision making historically...

- ...drew minimal attention within supervision agencies
- ...was not prescribed in agency policy
- ...allowed for enormous discretion among supervising officers
- ...assumed officers would monitor offenders... and know when it was appropriate to return the violator to court (and when it wasn't)

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### Over Two Decades of Experience

○

- 1988, National Institute of Corrections; First national project to work with jurisdictions interested in examining violations
- The Center has worked with probation and parole agencies in 24 states (1988-2008)
  - Initial focus on parole violations
  - Expanded to probation

14 state paroling authorities &/or agencies  
CA, CO, CT, DC, GA, KS, NJ, PA, RI, SC, TN, UT, VA, DC  
One or more county probation systems in 10 additional states  
CO, HI, IA, MI, MN, NY, OH, OR, VA, WI

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#### DO WE ADEQUATELY DISCRIMINATE – AND CONSIDER THE APPROPRIATE FACTORS – WHEN RESPONDING TO VIOLATIONS?

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### An Evidence-Based Approach to Violation Decision Making...

...uses research-supported approaches to encourage positive behavior change.

**THE GOAL:**

**Use responses that will both hold offenders accountable *and* reduce the likelihood of future violations/new crime behavior.**

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### Key Practice #1: Don't Wait for Failure

- Often we have a good idea who will fail, and how.
- Take a proactive approach to offender management...
  - anticipate failure and intervene in appropriate ways to make the violation less likely
- Spend more time with those offenders who appear most likely to violate rules or conditions
  - establish more appropriate case plans to interrupt failure
  - work with community providers and others to address criminogenic factors.

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### Key Practice #2: Acknowledge and Encourage Positive Behavior

- The use of incentives can be a powerful tool to enhance motivation
  - Develop structured methods to identify and reward positive behavior to encourage pro-social behavior



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**Key Practice #3:  
When Violations Do Occur, Respond to Every Violation**

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- In order to demonstrate commitment to supervision rules or conditions, staff should respond to every violation promptly.
  - A primary value is letting offenders know we are paying attention.
- We want to be clear in the message we send to offenders (and staff) about rules. Rules or conditions are taken seriously (so create/ impose them wisely).
- Ignoring violations only encourages more violations – and promotes failure rather than success.

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**Key Practice #4:  
Make Responses Effective**

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- Responses do not need to be harsh to be effective.
- Respond in ways proportional to the wrongdoing.
- Resolve problems at the lowest possible level.

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**Violations of supervision conditions  
are windows on offenders' "trouble  
spots."**

**View them as opportunities to  
understand and address problem  
areas before they escalate.**

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### Key Practice #5: Use a Guideline to Support Consistency and Proportionality

- Ensures that staff are considering the appropriate factors in their decision making and weighting them in similar ways.
- Resolves internal matters such as “supervisor shopping.”
- Creates a common language and common expectations among staff and between probation and the Court.

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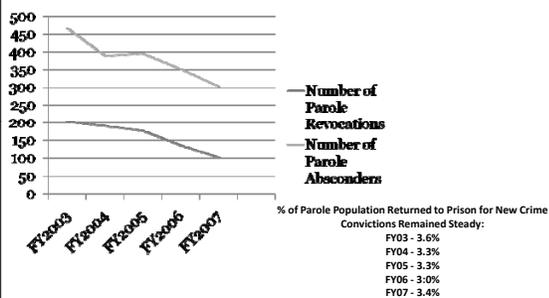
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Kansas Department of Corrections  
Policy Driven Responses to Violations  
Five Year Impact Data



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### Components of Structured Decision Making Policies/Tools

- **RISK ASSESSMENT**
  - Risk assessment tools serve as the anchor.
- **SCALED VIOLATIONS**
  - A scaled continuum of violation behavior defines for officers the relative importance of various types of non-compliant behavior.
- **CATEGORIZED RESPONSE OPTIONS**
  - An arrayed set of responses (least intrusive to most intrusive) guides officers in the selection of proportional responses, while still allowing for the selection of a response that will address individual offenders' dynamic risk factors.
- **AGGRAVATING/MITIGATING FACTORS**
  - Takes into account unique conditions in a case that may suggest that the appropriate response is more intensive or less intensive than the presumptive response level. Enables agencies to add objectivity to traditionally subjective circumstances.

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**Illustrations from Jurisdictions  
Across the Country**

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**WRITTEN POLICIES**

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**THE CALIFORNIA PAROLE VIOLATION DECISION MAKING INSTRUMENT (PVDMI) POLICY FRAMEWORK**

**Articulation of the Goals, Principles, and Assumptions Underlying CDCR/DAPO's Parole Violations Policy**

Center staff worked with the CDCR/DAPO Leadership Group to articulate the goals, principles, and assumptions that would serve as the policy's framework. The following statements were developed to represent CDCR/DAPO's goals with regard to violation decision making, as well as the principles and assumptions underlying these goals:

**Goals**  
The goal of CDCR/DAPO's violation decision making policy is to establish an approach that will result in:

- The more successful transition of offenders under parole supervision to the community, in an effort to reduce future victimization, increase public safety, and enhance the ability of offenders to become more productive members of the community;
- Greater consistency in responses;
- Responses that are based on severity and the level of risk the parolee poses to the community; and
- Efficient targeting of resources.

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**DENVER JUVENILE PROBATION  
DEPARTMENT**

Shawn Cohn, Chief Probation Officer

Policy #  
Date:

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**Need for a Probation Violation Policy**  
There needs to be a certain amount of consistency and equity in how violations are handled. Personal differences in philosophy, supervision style and interpretations of policy generate unintentional disparities in violation responses. Raised questions of fairness, absent clear rationale for these differences, can often undermine the credibility of the department, the courts and the Juvenile Justice System.  
The manner in which to respond to probation violations should be thoughtful and deliberate. It should be consistent with department policy. Violation policy should be built around such considerations as assessment of risk posed by the offender, case processing requirements, local resources available and outcomes desired by the department for certain types of violations. A violation policy guides line staff in making supervisory decisions and assists decision makers in reaching consistent and equitable dispositions.

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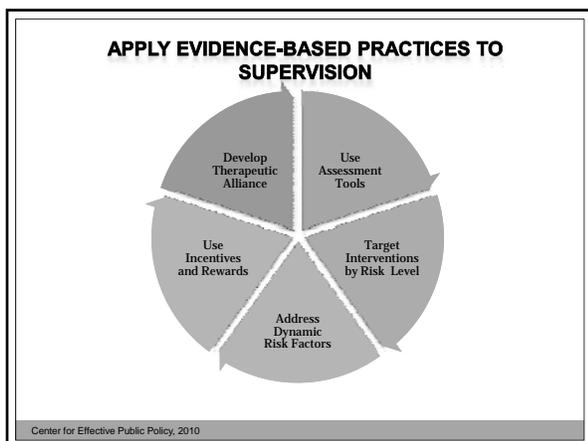












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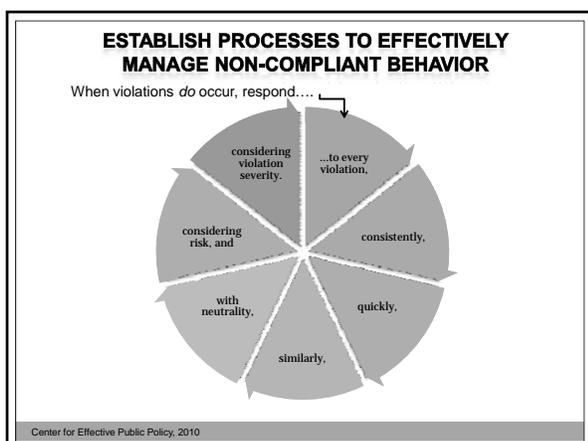
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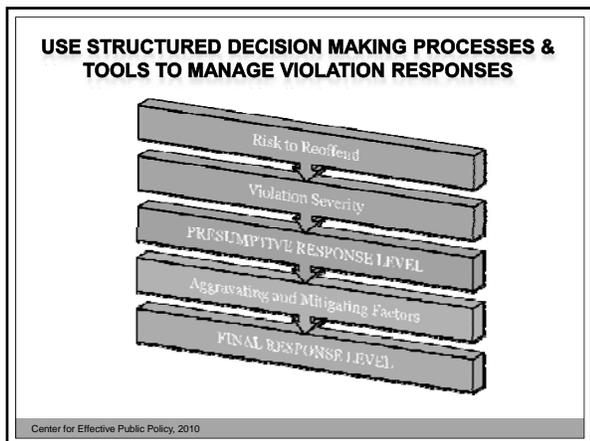
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**CAL RAPP TRAINING PROGRAM ACTION PLANNING WORKSHEET**

| <b>Use of Risk/Needs Assessment Information at Sentencing</b> |                 |             |                 |                         |                      |                             |
|---|-----------------|-------------|-----------------|-------------------------|----------------------|-----------------------------|
| <b>Goal One:</b>  |                 |             |                 |                         |                      |                             |
| <b>Objective</b>  | <b>Activity</b> | <b>Lead</b> | <b>Due Date</b> | <b>Progress to Date</b> | <b>Task On Track</b> | <b>Performance Measures</b> |
|   | 1.              |             |                 |                         |                      |                             |
|   | 2.              |             |                 |                         |                      |                             |
|   | 3.              |             |                 |                         |                      |                             |
| <b>Goal Two:</b>  |                 |             |                 |                         |                      |                             |
| <b>Objective</b>  | <b>Activity</b> | <b>Lead</b> | <b>Due Date</b> | <b>Progress to Date</b> | <b>Task On Track</b> | <b>Performance Measures</b> |
|   | 1.              |             |                 |                         |                      |                             |
|   | 2.              |             |                 |                         |                      |                             |
|   | 3.              |             |                 |                         |                      |                             |
| <b>Goal Three:</b>  |                 |             |                 |                         |                      |                             |
| <b>Objective</b>  | <b>Activity</b> | <b>Lead</b> | <b>Due Date</b> | <b>Progress to Date</b> | <b>Task On Track</b> | <b>Performance Measures</b> |
|   | 1.              |             |                 |                         |                      |                             |
|   | 2.              |             |                 |                         |                      |                             |
|   | 3.              |             |                 |                         |                      |                             |

## Evidence-Based Responses to Probation Violations

### Goal One:

| Objective | Activity | Lead | Due Date | Progress to Date | Task On Track | Performance Measures |
|-----------|----------|------|----------|------------------|---------------|----------------------|
|           | 1.       |      |          |                  |               |                      |
|           | 2.       |      |          |                  |               |                      |
|           | 3.       |      |          |                  |               |                      |

### Goal Two:

| Objective | Activity | Lead | Due Date | Progress to Date | Task On Track | Performance Measures |
|-----------|----------|------|----------|------------------|---------------|----------------------|
|           | 1.       |      |          |                  |               |                      |
|           | 2.       |      |          |                  |               |                      |
|           | 3.       |      |          |                  |               |                      |

### Goal Three:

| Objective | Activity | Lead | Due Date | Progress to Date | Task On Track | Performance Measures |
|-----------|----------|------|----------|------------------|---------------|----------------------|
|           | 1.       |      |          |                  |               |                      |
|           | 2.       |      |          |                  |               |                      |
|           | 3.       |      |          |                  |               |                      |

**EXHIBIT 5-2.**

## Georgia's Behavior Response and Adjustment Guide (BRAG)

| Suggested Response   | POSITIVE   | BEHAVIOR                               | NEGATIVE  | Suggested Response   |
|--|--|--|---|--|
| <p>Verbal recognition<br/>Letter of Recognition<br/>Certificate of Completion<br/>6-Month Compliance Certificate</p>   | <p>90 days clean<br/>90 days employed<br/>6 months stable residence<br/>Completed first school semester or 30 days regular GED attendance<br/>Outpatient program completion<br/>30 days electronic monitoring (EM) violation-free<br/>2 months perfect attendance at cognitive skills course</p>                                     | <b>L<br/>O<br/>W</b>                   | <p>Positive drug test(s)<br/>Program nonattendance<br/>Failure to report<br/>EM violations (minor)<br/>Assessment not attended<br/>Failure to support dependents<br/>Unemployed (short period)<br/>Special condition violation<br/>Fee arrearage \$60 or less<br/>Technical violation—other</p>   | <p>Specific issue hearing<br/>Outpatient program<br/>Self-help program<br/>PO letter of reprimand<br/>PO verbal reprimand<br/>Increased screening<br/>Increased reporting<br/>Verbal warning</p>   |
| <p>1-Year Compliance Certificate<br/>Mr./Ms. Clean Award<br/>Letter of Recognition<br/>EM early termination<br/>Certificate of Completion<br/>Reduced reporting<br/>Chief recognition<br/>Decrease supervision level</p> | <p>12 months stability (employment and residence, few to no violations)<br/>6 months clean<br/>2 months perfect attendance at cognitive skills class<br/>Completed 1 year of school or 6 months of regular GED attendance<br/>90 days EM violation-free<br/>Outpatient program completion<br/>Cognitive skills course completion</p> | <b>M<br/>E<br/>D<br/>I<br/>U<br/>M</b> | <p>Misdemeanor arrest<br/>Multiple positive drug tests<br/>Multiple program nonattendance<br/>EM violations (serious)<br/>Unemployed (lengthy)<br/>Assessments not attended (multiple)<br/>Sex offender violations (minor)<br/>Fee arrearage \$100 or less</p>  | <p>Administrative hearing<br/>In-house program<br/>Restart program<br/>EM extension<br/>Outpatient program<br/>Specific Issue Hearing<br/>Increased screening<br/>Increased reporting<br/>Verbal reprimand—Chief<br/>Restorative/community service work<br/>Increase supervision level</p> |
| <p>Commutation Request<br/>Donated Gift Certificate (GED/school graduation)<br/>Cognitive Skills Graduation<br/>Lifestyle Commitment Award<br/>Second Mr./Ms. Clean Award<br/>Reduced reporting</p>                      | <p>24 months stability<br/>Completed school or GED<br/>12 months clean<br/>Volunteer work, church affiliation<br/>Prosocial activities</p>   | <b>H<br/>I<br/>G<br/>H</b>             | <p>Felony arrest<br/>Violent misdemeanor arrest or DUI<br/>Positive drug tests (critical)<br/>Program nonattendance (critical)<br/>Sex offender violation (serious)<br/>EM violations (critical)<br/>Possession of a weapon<br/>Absconding TRW issued<br/>Failure to attend administrative hearing<br/>Unemployed (critical)<br/>Fee arrearage over \$100</p> | <p>Request revocation<br/>Short-term incarceration (local detention)<br/>Electronic monitoring<br/>In-house program<br/>Administrative hearing<br/>Outpatient program<br/>EM extension<br/>Whitworth Detention Center</p>  |



**Exhibit 1:**  
**Ramsey County Community Corrections**  
**Juvenile Division**  
  
**Behavior Response Grid**  
 To Assure Strategic Use of Resources  
 (Combinations of Risk and Severity of Misbehavior  
 Used to Target Behavior Responses by Risk and Need)

| Misbehavior →                   | Minor Misbehavior | Moderately Serious Misbehavior | Serious Misbehavior |
|---------------------------------|-------------------|--------------------------------|---------------------|
| Low Risk<br>YLSI Score 0-8      |                   |                                |                     |
| Medium Risk<br>YLSI Score: 9-22 |                   |                                |                     |
| High Risk<br>YLSI Score: 23+    |                   |                                |                     |

Shading Indicates:

- Least Intensive/Restrictive Responses
- Moderately Intensive/Restrictive Responses
- Most Intensive/Restrictive Responses

**Ramsey County Response Grid**

1) To use grid, determine seriousness level of violation and locate it on the horizontal axis of the grid. 2) Match youth's risk level to risk level on vertical axis. 3) Locate box at intersection of vertical and horizontal axes. The number within box corresponds to the highest sanctioning level for the violation. (\*)= Require Court Action

**Probation Violation Misbehavior Level by Intensity / Restrictiveness**

|                                |                 | <b>Minor: (Lapse in Judgment)</b>  | <b>Moderate: (Lack of Motivation or New Crime -misdemeanor)</b>  | <b>Serious: (Ongoing, Willful Disregard for Expectations)</b>  |
|--------------------------------|-----------------|--|--|--|
|                                |                 | Fail to contact PO (1 missed contact)<br>Fail to notify PO about police contact (1-2 instances)<br>Violation of Conditions (1-2 instances)<br>Curfew Violation (Parents notify)<br>Occasional truancy (3 or fewer)<br>Violation of court ordered program<br>Missed required programming or treatment/skill provider (10%)<br>Failure to complete community service / restitution<br>Used of alcohol / marijuana (parent/guardian report)<br>Association w/ gang members (1-2 instances)  | Multiple minor violations w/ no apparent response to consequences<br>Fail to contact PO (2 missed contacts)<br>Fail to notify PO about police contact (+3 instances)<br>Violation of Conditions (+3 instances)<br>Curfew Violation (law enforcement)<br>Truancy (4 or 5)<br>Violation of court ordered program (termination threatened)<br>Missed required programming or treatment/skill provider (25%)<br>Fail to complete community service/restitution (on-going/after PO)<br>Used of alcohol / marijuana (1-3 dirty UA) / Use of narcotics<br>Association w/ gang members (3-4 instances)                               | Behavior that demonstrates extreme disregard of probation conditions; failure to respond to the authority of the Court; or unauthorized contact with the victim.)<br>Fail to contact PO (+3 missed contacts)<br>Fail to notify PO about police contact (+3 instances)<br>Violation of Conditions (3+ instances)<br>Curfew Violation (law enforcement results in new charge)<br>Continued Truancy (+6)<br>Violation of court ordered program (terminated)<br>Missed required programming or treatment/ (+ 25%)<br>Used of alcohol / marijuana/ narcotics (repeated use)<br>Association w/ gang members (+4 instances) |
| <b>Risk Level (VLSI Score)</b> | Low (0-8)       | <b>USE LEAST RESTRICTIVE RESPONSE</b><br>School / Parents/ Guardian consequences (chores/ volunteer work)<br>Community service work (max 8hrs)<br>Confiscate contraband<br>Increase contact and / or discussion w/ PO<br>Essay / Homework Assignment w/PO<br>Letter of Apology<br>Community based agency referral (e.g., AA, Mentoring)<br>Children's Crisis Response (Domestic Issues, MH)<br>Restriction of contact (short term)<br>Restriction of activity (short term)<br>Restriction of curfew/grounding/house arrest (up to 3 days)<br>Screening/Assessment (CD, MH, Education, etc.)<br>School Monitoring Sheets<br>1 | <b>USE LEAST RESTRICTIVE RESPONSE</b><br>School / Parents/ Guardian consequences (chores/ volunteer work)<br>Community service work (max 8hrs)<br>Confiscate contraband<br>Increase contact and / or discussion w/ PO<br>Essay / Homework Assignment w/PO<br>Letter of Apology<br>Community based agency referral (e.g., AA, Mentoring)<br>Children's Crisis Response (Domestic Issues, MH)<br>Restriction of contact (short term)<br>Restriction of activity (short term)<br>Restriction of curfew/grounding/house arrest (up to 3 days)<br>Screening/Assessment (CD, MH, Education, etc.)<br>School Monitoring Sheets<br>1 | <b>USE LEAST RESTRICTIVE RESPONSE</b><br>Community Service (max 2 days)<br>Increase frequency of drug/alcohol screening<br>House Arrest (up to 1wk)/ PO<br>Shelter Placement<br>Require Special Programming (FFT)<br>Outpatient MH Programming<br>Intensive Truancy Program*<br>Day Treatment School (RCHSD)*<br>No Contact Order*<br>Monetary Fine *<br>All others in box 1 2   |
|                                | Moderate (9-22) | <b>USE LEAST RESTRICTIVE RESPONSE</b><br>School / Parents/ Guardian consequences (chores/ volunteer work)<br>Community service work (max 8hrs)<br>Confiscate contraband<br>Increase contact and / or discussion w/ PO<br>Essay / Homework Assignment w/PO<br>Letter of Apology<br>Community based agency referral (e.g., AA, Mentoring)<br>Children's Crisis Response (Domestic Issues, MH)<br>Restriction of contact (short term)<br>Restriction of activity (short term)<br>Restriction of curfew/grounding/house arrest (up to 3 days)<br>Screening/Assessment (CD, MH, Education, etc.)<br>School Monitoring Sheets<br>1 | <b>USE LEAST RESTRICTIVE RESPONSE</b><br>Community Service (max 2 days)<br>Increase frequency of drug/alcohol screening<br>House Arrest (up to 1wk)/ PO<br>Shelter Placement<br>Require Special Programming (ART/FFT)<br>Outpatient MH Programming<br>Intensive Supervision Program*<br>Intensive Truancy Program*<br>STS Work Crew*<br>Day Treatment School (RCHSD)*<br>No Contact Order*<br>Monetary Fine *<br>All others in box 1 2a  | <b>USE LEAST RESTRICTIVE RESPONSE</b><br>Refer to Enhanced Probation<br>CD Assessment<br>Cooperate w/ drug treatment as recommended<br><b>Community Based Programs including: Trackers; Evening Reporting Center; Weekend Accountability Waivers (ISP &amp; Enhanced Probation)</b><br>Electronic Home Monitoring*<br>Drug Court*<br>Intensive Supervision*<br>Out of Home Placement *<br>EJJ Revocation *<br>All others in box 1or 2a 3   |

|  |               |  |  |  |
|--|---------------|--|--|--|
|  | High<br>(23+) | <b>USE LEAST RESTRICTIVE RESPONSE</b><br>Community Service (max 2 days)<br>Increase frequency of drug/alcohol screening<br>House Arrest (up to 1wk)/ PO<br>Shelter Placement<br>Require Special Programming (ART/FFT)<br>Outpatient MH Programming<br>Intensive Supervision Program*<br>Intensive Truancy Program*<br>STS Work Crew*<br>Day Treatment School (RCHSD)*<br>No Contact Order*<br>Monetary Fine *<br>All others in box 1 | <b>USE LEAST RESTRICTIVE RESPONSE</b><br>Refer to Enhanced Probation<br>CD Assessment<br>Cooperate w/ drug treatment as recommended<br><b>Community Based Programs including:</b> <i>Trackers; Evening Reporting Center; Weekend Accountability</i><br>Waivers (ISP & Enhanced Probation)<br>Electronic Home Monitoring*<br>Drug Court*<br>Intensive Supervision*<br>Out of Home Placement *<br>EJJ Revocation *<br>All others in box 1or 2a | <b>USE LEAST RESTRICTIVE RESPONSE</b><br>Refer to Enhanced Probation<br>CD Assessment<br>Cooperate w/ drug treatment as recommended<br><b>Community Based Programs including:</b> <i>Trackers; Evening Reporting Center; Weekend Accountability</i><br>Waivers (ISP & Enhanced Probation)<br>Electronic Home Monitoring*<br>Drug Court*<br>Intensive Supervision*<br>Out of Home Placement *<br>EJJ Revocation *<br>All others in box 1or 2a |
|  |               | 2a   | 3  | 3  |

NOTE: Research indicates that consistent, repetitive consequences for negative, non-compliant behavior is no less effective than escalating consequences. The duration or severity of the consequences should be tailored to the case plan and the individual needs of the youth.

- All timeframes within 30 days
- Boxes with 1 in them- use on your own
- Boxes with 2 in them - require a sanctions conference
- Boxes with 3 in them - require a court appearance

## USE OF PROBATION RESPONSE GRID WORKSHEET

### Sequence of Steps in Determining an Appropriate Response to Misbehavior

When considering a Violation of Probation this worksheet is intended to assist probation officers to determine the appropriate response for a youth exhibiting misbehaviors. The grid outlines probation responses that could lead to a formal violation of probation and a court hearing. It also outlines probation responses that do not require a formal violation or a court hearing. The worksheet outlines the sequence of steps a probation officer would follow in responding to a youth's misbehavior.

1. Review **Severity Level of Misbehavior** on Ramsey County Response Grid and determine if misbehavior is:

- Minor (lapse in judgement)
- Moderate (lack of motivation) or
- Serious (ongoing willful disregard for expectations)

Repetitive misbehavior is not necessarily grounds for increasing the "rating" of misbehavior. For instance, minor misbehavior that is handled through some sanction, loss of privileges or community service work, should be considered a closed matter. A second incident can be handled with a repeated lower-level sanction. The desire is to avoid "escalation" of sanctions as a result of minor repetitive behavior. Higher level sanctions are intended for those youth who are behaving in truly oppositional and serious ways.

2. Review **Youth Level of Risk Inventory (YLSI)** to assess risk of youth and indicate.

- Assessed Risk (circle one)    Low    Medium    High

(In the absence of a YLSI, supervisors would provide guidance about how to determine risk.)

3. Identify appropriate **response level** that indicates the combination of risk and severity.

- Staff should keep in mind that a response at a lower level is permitted without a specific approval by a supervisor, although it should be recorded as a departure in the data system. This is in line with our stated principle of using the least restrictive response appropriate to the youth's level of risk and behavior (see Attachment 1).

4. Within the appropriate response level, select a response that:

- a. Protects public safety;
- b. Will address those needs evidenced by non-compliance. Look at the YLSI, MAYSI-2, substance abuse or mental health, etc., assessments that might indicate needs, etc. Your responses should be consistent with these assessments, the case management plan, and should target areas of highest need.
- c. Hold youth accountable

Note: It is important to note that the use of a least intensive / least restrictive response at lower levels of risk and severity is an important element of evidence-based practice. By utilizing this aspect of the strategy, the Division conserves precious resources to handle higher risk/higher severity situations. It also avoids increasing the risk of the youth, by avoiding using more intrusive responses with this population.

5. Is a response available within the designated category (or in a lower category) that, in the judgment of the PO, will adequately address the behavior (i.e., address assessed need and be consistent with the case management plan)? Consider the following factors
  - a. If yes, what would the response be?
  - b. If no, what factors would make responses indicated by the grid inappropriate, e.g.:
    - Circumstances of the violation
    - Community safety/risk issues not reflected in assessed risk
    - Strengths of youth that justify lesser response(s)
    - Specific instructions from the court
    - Other?
6. Identify the response recommended (including addressing incentives for successful completion of the youth's participation in the response).
7. Is an override of response grid necessary?
  - a. No:
    - If no court action required, proceed with implementation
    - If court action required, proceed to file violation with recommendation
  - b. Yes
    - Request approval from Supervisor

### **Use of Juvenile Detention**

Custody status of youth while awaiting disposition of a formal violation is not specifically addressed in the current framework. As a PO is determining where a youth should be housed while a violation is proceeding, he or she should look to the Division's "**Purpose of Secure Detention**" policy (see Attachment 4) for guidance. Unless there is a risk that the youth will commit a new offense or not appear for court, the use of detention is inappropriate.

### **Responses to Positive Behavior**

The Juvenile Violations Policy Team proposes that another dimension of the Response Grid be further developed: that is the definition of positive behavior, along with the identification of rewards that could be used to encourage and reward youth to engage in positive behavior. The Policy Team will continue work on this dimension of policy and practice to more fully implement the principles of evidence based practice.

**Probation Response Grid Worksheet**

1. Youth Name: \_\_\_\_\_

2. DOB: \_\_\_\_\_

3. Severity Level of Misbehavior (circle one):

Minor: Lapse in Judgement    Moderate: Lack of Motivation    Serious: Willful disregard

4. Youth's Level of Risk using the YLSI (circle one):      Low                      Medium                      High  
(0-8)                                      (9-22)                                      (23+)

5. Violation Specifies: \_\_\_\_\_  
\_\_\_\_\_

6. Is a response available within the designated category that, in your judgment, will adequately address the behavior? (circle one):      Yes      No

7. If yes, what would be **the least restrictive response** to achieve goals for success? (Remember the importance of including incentives for participation in the response, as well as promoting the success of the youth.)

\_\_\_\_\_  
\_\_\_\_\_

8. If no, what factors would make the response options included in the grid inappropriate (e.g., circumstances of the violation, community safety/risk issues not reflected in assessed risk, strengths/assets that justify lesser responses, specific instructions from the court, etc.)? Please list the factors in the space below:

\_\_\_\_\_  
\_\_\_\_\_

9. If no, what response (that falls outside of the grid) would you recommend and why?

\_\_\_\_\_  
\_\_\_\_\_

10. Comments:

\_\_\_\_\_  
\_\_\_\_\_

## 17<sup>th</sup> Judicial District (Juvenile Probation), Colorado Menu/Use of Incentives (Abbreviated)

There is a cloth bag that has 100 small square cubes in the bag.

Any participating Probation Officer and their client will determine the target behavior to work towards; i.e. dropping clean UA's, 5 job contacts between appointments, attending treatment appointments, completing UPS, attending 12 step program, etc. Please be sure your goal behavior fits into one of the following categories (for tracking purposes).

1. UAs
2. Attendance (group, appts, etc..)
3. School
4. Curfew
5. Financial
6. Employment
7. One Time Reward (transition to phase II, completion of UPS, etc...)
8. Behaviors
9. Coupon (this is for things like Art Reach tickets, skip an appointment, etc...)

The goals should be specific and appropriate for each individual client. There is a maximum of 2 target behavior goals for the client to work on over a period of time. Each client may pull a maximum of 2 cubes per appointment; however, there is a limit of one incentive prize per visit. All cubes that are pulled are to go directly back into the incentive bag for the next client.

The client must be attending their probation appointments in order qualify for participation in the Incentive program.

**Green =  
GOOD JOB!!!**

**Pink =  
Your choice of 2:  
Pop, Gatorade, Candy, Chips, Gum or Granola bar**

**Yellow =  
\$5 gift card  
McDonald's, Wendy's or Dairy Queen**

**Brown =  
\$10 gift card  
Walmart, Wendy's or Subway**

**Gold = Grand Prize  
\$50 gift card  
Movie Theater or Walmart**

## MEMORANDUM



TO: Chief Probation Officers  
CC: Chief Judges, PAC, Division of Probation Services, Probation Supervisors

FROM: Thomas Quinn, Director, Division of Probation Services

DATE: December 28, 2007

SUBJECT: Incentives

We have received a number of inquiries from the field seeking clarity around the use of incentives. This memo is intended to provide that added clarity.

Research has shown the “most effective way to reinforce offender behavior is to use rewards. Positive reinforcement can be either adding something positive, such as a compliment or affirmation, or taking away an existing punishment or restriction.”<sup>1</sup> Although sanctions may impact an offender’s behavior, incentives have an enduring effect. Properly applied incentives (timely and predictable) have been shown to increase success rates, thus increasing public safety and reducing recidivism.<sup>2</sup>

This memo is written to clarify the use of incentives throughout probation in Colorado, ensuring consistency and appropriateness. As reflected in Probation Standard 4.31, “To encourage offender compliance, intermediate sanctions shall be imposed in response to technical violations. Incentives may be utilized to encourage and/or reinforce compliant behavior.” In an effort to implement evidence-based practices, departments are encouraged to use incentives within the guidelines below.

Probation staff should remain sensitive to the victim and community perspectives when implementing an incentive program. At the same time we must be aware of ethical considerations. As a result, there are several issues to consider and the following guidelines are suggested:

- A. Communicate with the victim or victims’ groups, community groups, and other criminal justice professionals (such as the District Attorney) to explain the evidence behind this practice and the advantages to the probationer, victim(s), and community. It should not appear as though the offender is being rewarded for criminal behavior. Invite victims and community members to suggest incentives they believe are appropriate. It may be helpful to note that often the funds used for incentives come from offenders through their payment of supervision fees.
- B. Whenever possible, non-monetary incentives should be used, such as fewer office visits, decreased drug testing, later curfew, and early terminations. Incentives should be case specific, and their use should promote the goals of the supervision plan. A list of possible incentives can be found at the end of this memo. The list is suggestive and should not be considered exhaustive.
- C. Offender Services funds may be used for treatment vouchers or drug test costs. These funds may also be used to purchase items (gift cards, tickets, etc.) to be given as incentives; however, the cash value of these items should be nominal, with a maximum value not to exceed \$20.

<sup>1</sup> Taxman, Faye. 2004. Tools of the Trade. NIC Publication, p.64.

<sup>2</sup> Ibid.

- D. Departments may partner with non-profit organizations to issue incentives; however, the non-profit cannot be, in fact or appearance, dependent on the probation department for space, equipment, staff, etc.
- E. Departments may not raise funds for an incentive program (through bake sales or other methods) nor can departments solicit businesses for donations of any type.
- F. The use of incentives, monetary or otherwise, should be documented in the case narratives. Additionally, the behavior for which the incentive is awarded should also be noted.
- G. The list of incentives used in each district should be specifically authorized by the Chief Probation Officer.
- H. Implemented programs should be evaluated to measure the effect incentives have on the success/recidivism rates of probationers.

Possible Incentives (non-exhaustive list)

Reduced drug testing frequency  
 Reduced number of office visits  
 Early release from Electronic Home Monitoring or other technical tethers  
 Vouchers for treatment  
 Praise or affirmation of positive behavior  
 Vouchers for drug testing  
 Dental/Medical assistance  
 Request for early termination  
 Transportation tokens/passes  
 Graduation/Completion certificates  
 Gift cards of nominal value  
 Motion for fee reduction  
 Probation Graduation ceremony  
 Assistance with daycare  
 Non-appearance Review Hearings  
 Restitution reduction through mediation  
 Phase acceleration  
 Acknowledgement of clean time  
 Flexible office visit schedule  
 Evening appointments  
 Graph documenting progress  
 Report cards  
 Opportunity to mentor  
 Reduced supervision level  
 Motion for reduction in UPS hours  
 Arrange mentoring in area of interest  
 Extended curfew  
 Wall of Fame to display accomplishments  
 Teach subsequent cognitive behavior therapy classes after successful completion

# THE CALIFORNIA PAROLE VIOLATION DECISION MAKING INSTRUMENT (PVDMI) POLICY FRAMEWORK

## Articulation of the Goals, Principles, and Assumptions Underlying CDCR/DAPO's Parole Violations Policy

Center staff worked with the CDCR/DAPO Leadership Group to articulate the goals, principles, and assumptions that would serve as the policy's framework. The following statements were developed to represent CDCR/DAPO's goals with regard to violation decision making, as well as the principles and assumptions underlying these goals:

### Goals

The goal of CDCR/DAPO's violation decision making policy is to establish an approach that will result in:

- The more successful transition of offenders under parole supervision to the community, in an effort to reduce future victimization, increase public safety, and enhance the ability of offenders to become more productive members of the community;
- Greater consistency in responses;
- Responses that are based on severity and the level of risk the parolee poses to the community; and
- Efficient targeting of resources.

### Principles

Difficulties under supervision are more the rule than the exception, given parolees' deficits when it comes to substance abuse, mental health, physical health, job skills, education, prior criminal involvement, and lack of stability in housing and pro-social connections. Keeping in mind the goal of community safety, and the need to develop a strategic approach to violations, the following are the principles that underlie a violations decision making tool to assist CDCR/DAPO in its mission.

Responses to parole violations should be:

- Part of an overall supervision strategy that emphasizes reducing risk of recidivism, enhancing success on parole, and using resources wisely;
- Shaped by the principles of evidence-based practice and effective interventions with offenders;
- Guided by the level of risk of the offender, his or her criminogenic needs related to that risk, as well as by the severity of the violation behavior;

- Guided by policy in order to assure consistency, even-handedness, and effectiveness across the Division; and
- Characterized by transparency—offenders, CDCR/DAPO staff, management, and the public should be able to understand the rationale for violation responses and see them as a part of the Division’s public safety strategy.

### **Assumptions**

A violation decision making tool will:

- Guide an orderly decision process that would enable Parole Agents, Supervisors, Parole Administrators, and Deputy Commissioners to consider violation cases within a similar framework;
- Provide specific guidance to staff about the factors to consider in developing a violation response;
- Expect some response to each violation of parole;
- Allow for discretionary “override” of an indicated category of response level when, in the judgment of the Parole Agent and Supervisor—and according to definitions established by the policy—the “presumptive response” did not appropriately respond to the level of risk or seriousness of the violation;
- Identify the appropriate category of response for various combinations of assessed risk, violation severity, and significant stabilizing and destabilizing factors;
- Target revocation of parole toward the most serious and highest risk offenders; and
- Direct programmatic sanctions short of revocation to parolees at high and mid-level risk according to their assessed criminogenic need.

These goals, assumptions, and principles were adopted by CDCR/DAPO leadership and served as the foundation of the violation decision making policy framework.