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Behavior Management of Justice-Involved Individuals:

Contemporary Research and State-of-the-Art Policy and Practice

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"Never Events" in the Management of Behavior

The term "never events" was first introduced just over a decade ago in the field of medicine (see, for example, Landro, 2012). It is used to describe behaviors and practices that medical professionals and their organizations should avoid at all costs because of their potential to cause harm to patients. "Never events" in the field of medicine involve errors that often result in medical injuries, such as surgery performed on the wrong body part or patient. The medical field's efforts to prevent these "never events" include such practices as affixing wristbands to patients with their identifying information and asking patients their name and date of birth before every discussion and procedure. "Never events" are the reason doctors use a surgical marking pen to identify a patient's operative site. These behaviors and practices ensure that the right patient receives the right treatment.

The adoption of what many researchers call a safety culture of "zero tolerance" has dramatically changed healthcare management, reducing the incidence of medical errors and increasing patient well-being (Commonwealth Fund, 2005; Radley et al., 2012; Schoenbaum, 2006). Just like the practice of medicine, justice system officials seek to ameliorate harm and improve lives and, not unlike doctors and nurses, justice system officials can indeed increase harm if certain behaviors and practices are not steadfastly avoided.

Based upon the research that will be described in this paper, the events listed to the right should be considered "never events" in the management of the behavior of justice-involved individuals.

"Never Events"
in the Behavior Management of Justice-Involved Individuals

1. **Never fail** to make expectations around compliance perfectly clear.

2. **Never ignore** noncompliant or rule-breaking behavior.

3. **Never take more time** to respond to noncompliant behavior than is necessary to gather pertinent information.

4. **Never fail to notice** and reinforce prosocial attitudes and behaviors.

5. **Never respond disproportionately** to the behavior and circumstances when public safety is not in jeopardy.

6. **Never fail to examine—and address—** the risk factors (criminogenic needs) that drive noncompliant behavior.

Introduction

All justice-involved individuals who are under community supervision (i.e., probation, parole, or other forms of supervised release such as pretrial and diversion) are expected to abide by a set of conditions. These conditions may require, for example, that they report on schedule; follow a curfew; participate in educational, treatment, or other programs; maintain employment; remain substance-free; or avoid contact with specific victims or classes of individuals (e.g., children). There are at least four reasons for establishing conditions of supervision.[1] Conditions of supervision seek to:

▶ **provide** justice-involved individuals ("supervisees") with a clear set of expectations to follow during their supervision (e.g., for pretrial defendants, remain crime-free, appear in court as scheduled, etc.; for post-conviction offenders, remain crime-free, participate in treatment, etc.);

▶ **prevent** supervisees from becoming involved in situations that could lead to further conflicts with the law while on supervision (e.g., decreasing the likelihood that the behaviors that led to arrest will be repeated by prohibiting association with co-defendants);

▶ **encourage** supervisees to learn and practice prosocial behaviors that are likely to lead to a lifestyle free of delinquent/criminal activity (e.g., developing problem solving and conflict resolution skills through participation in anger management programming); and

▶ **engage** supervisees in activities designed to compensate/restore their victims (e.g., make restitution, provide community service).

Unfortunately, a significant portion of justice-involved individuals will, at some point during their supervision period, violate one or more of their terms and conditions of supervision. In fact, in many states, a large percent of offenders are committed to a correctional facility because they have either committed new offenses while on supervision or, more often, violated their supervision by failing to comply with conditions set by their releasing authority, typically the court or a paroling agency (i.e., they have committed "technical violations"). For example, they may have failed to attend required appointments, complete treatment, or pay fines and restitution. These technical violations are not crimes, yet they can lead to offenders' removal from the community.

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[1] A discussion of the establishment of appropriate supervision conditions—a critical area of policy and practice—is beyond the scope of this paper. For further information on this topic, see *Setting Parole Conditions to Achieve Public Safety*, produced by the National Parole Resource Center, http://nationalparoleresourcecenter.org/action-guide-series-parole, and the Model Penal Code, Draft No. 3, which "recommends that conditions of supervision be limited to those that serve genuine and identifiable purposes" (page 37, lines 10–11).
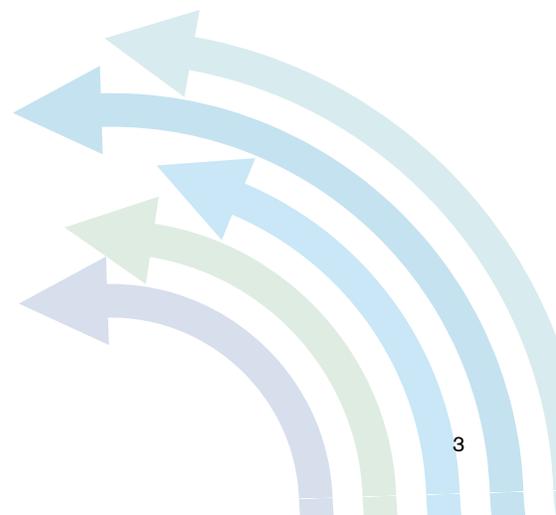
Justice system professionals often view noncompliance (violation behavior) as an indication that supervisees are unable to be successful in the community. While in some instances this may be true, in other instances violations may stem from a lack of clarity around the terms and conditions of supervision, an individual's inability to comply (e.g., restitution well beyond one's means; challenges obtaining employment in a stalled economy), or the imposition of so many conditions that compliance is untenable. Seemingly even more common, the antisocial thinking and/or poor problem solving skills that led to supervisees' initial conflicts with the law continue to lead them to repeat their past problem behaviors. While it is critically important for justice-involved individuals to understand clearly what is expected of them while they are on supervision, it is even more important that they recognize and understand the factors that contribute to their rule-breaking and illegal behavior, and gain the skills that will help them make better choices when they encounter circumstances that put them at risk in the future.

The purpose of this policy paper is to assist those responsible for supervising justice-involved individuals to understand the research on effective behavior change strategies and the state-of-the-art in implementing behavior management systems designed to increase compliance and prosocial behavior, both during and following supervision, and to outline the key elements of an effective behavior management system. Subsequent sections of the monograph:

▶ review key research related to shaping behavior and, in particular, responding effectively to both prosocial and noncompliant behavior;

▶ provide a step-by-step strategy that professionals can use to develop or advance their behavior management policies and practices;

▶ introduce the most recent advances in responding to prosocial and noncompliant behavior;

▶ identify future areas of work in the advancement of behavior management systems; and

▶ synthesize these discussions into a recommended policy and practice approach.

Why Behavior Management Matters

Despite the best efforts of justice system professionals, the fact is that many justice-involved individuals will violate one or more of their terms and conditions at some point during their supervision period. For instance, in a study of prisoners released in 30 states in calendar year 2005, at least one in four were arrested for a probation or parole violation within five years of their release (Durose, Cooper, & Snyder, 2014).[2] In another study of offenders under the jurisdiction of the Washington State Department of Corrections from 2002 to 2008, 45% of offenders had committed at least one violation while on community supervision (Drake & Aos, 2012, p. 11).[3] Similar findings are reported in Georgia, where an NIJ-funded study found 47% of parolees violated their terms of supervision and 27% were arrested for a felony offense during their parole supervision term (Meredith & Prevost, 2009).

Troublingly, a large portion of the individuals under community supervision in the U.S. are committed to a correctional facility (detention center, jail, or prison) as a result of their violation behavior (both "technical" and new criminal behavior committed while on supervision). In 2013, 15% of probationers and 30% of parolees were incarcerated either for committing a new offense while under active supervision or for violating their conditions of supervision (Herberman & Bonczar, 2014). It is most typically the latter condition—failure to comply with the "technical conditions" established by releasing authorities (magistrates, courts, paroling authorities)—that results in confinement. For instance, the U.S. Department of Justice, Bureau of Justice Statistics, reports that in 2013 the majority (63%) of parolees returning to prison did so for a violation of their terms and conditions of supervision, rather than for a new crime (Herberman & Bonczar, 2014).[4]

Also concerning is the fact that confinement for a violation does not seem to achieve a desirable public safety impact in terms of reductions in future violations and recidivism. A study conducted in Wyoming concluded that "community-based sanctions are no less effective in preventing future noncompliance than institutional sanctions" (Wodahl, 2007, p. 217). In a study conducted in Multnomah County, Oregon, researchers from the Vera Institute found that people who received jail as an intermediate sanction were 76% more likely to have their supervision revoked than those

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[2] This estimate should be considered conservative. An additional 39.9% of recidivists were charged with public order offenses, such as failure to appear and obstruction of justice.

[3] This percentage represents the 70,398 offenders who committed at least one violation while on community supervision out of the population studied (N=157,116).

[4] It is acknowledged that, in some jurisdictions, local practice may be to revoke supervisees on technical violations rather than to pursue new law violations.

who did not receive a jail sanction, even when controlling for demographic and crime-related attributes (Rengifo & Scott-Hayward, 2008). Another study, this one conducted in Washington State, found that "felony recidivism is not lowered by using confinement for offenders who violate the technical conditions of their community supervision" (Drake & Aos, 2012, p. 6). In fact, the authors report that confinement was associated with an increase in recidivism (Drake & Aos, 2012).[5]

It is for good reason, then, that justice system professionals and others are concerned about the seemingly endless "revolving door" of individuals who are placed on community supervision and who continue to engage in problematic behavior, facing revocation to a correctional facility — especially given that the goals of community supervision are to allow individuals to stabilize, receive risk-reducing services, and/or make amends for their offenses and contribute to their families and communities. The outcome is an undesirable one for everyone: justice system costs climb, court and parole hearing dockets are overrun with violators, victims do not receive restitution payments, defendants and offenders are unable to benefit from community stabilization and service opportunities, and family members lose the emotional and financial support of their loved ones.

Developments over the Past Three Decades

Encouragingly, research and field experience demonstrate that the revolving door can be slowed considerably. Over the past three decades, new learnings have emerged about what works in changing behavior generally and, as important, the steps that can be taken to prevent non-compliant and illegal behavior from occurring in the first place.

In 1988, the National Institute of Corrections (NIC) pioneered the first national effort to provide assistance to jurisdictions interested in stemming the tide of supervision violations. By 1991, NIC had sponsored work with eight state parole boards to develop methods to respond to violation behavior in consistent and proportional ways. In the ensuing years, these and other NIC-sponsored projects resulted in the provision of technical assistance to 29 probation and parole agencies across the U.S. The lessons learned from these efforts were captured in *Policy-Driven Responses*

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[5] The study looked retrospectively at violators from 2002 to 2008. It should be noted that the authors indicate that it was not possible to determine whether the increase in recidivism was the direct result of confinement (i.e., confinement was causal) or due to other factors.

to Probation and Parole Violations (Burke, 1997) and *Responding to Parole and Probation Violations: A Handbook to Guide Local Policy Development* (Carter, 2001a). Among these lessons were how to engage collaborative partnerships (among the courts, prosecutors, defenders, parole boards, and corrections/supervising agencies) and develop policies and practices based on the principles of effective responses to offender behavior.

Interest in this area has continued to grow over the last two decades. Indeed, an examination of innovations nationally reflects continuing interest in the implementation of policies and practices designed to deter violation behavior.[6]

A Summary of the Research and Frameworks on What Works in Shaping Behavior

The research literature over the past few decades has provided substantial support for the principles of correctional interventions and their impact on changing offender behavior. The groundbreaking research findings of the late 1990s (see, for example, Andrews & Bonta, 1998; Andrews, Dowden, & Gendreau, 1999) offered a framework for thinking differently about "what works" in changing offender behavior, along with key principles and tools to guide correctional practice, while drawing upon earlier theoretical frameworks such as social learning theory (Bandura, 1977).[7]

While the justice system has historically placed a great deal of emphasis on responding to violations—including technical rule infractions—through the use of punishment,[8] a growing body of research demonstrates that the use of positive reinforcement[9] and negative reinforcement[10] is more effective in changing behavior than punishment alone (Andrews & Bonta, 2006; Gendreau & Goggin, 1996).

The use of punishers, or sanctions, finds its roots in the philosophy of punishment referred to as "deterrence theory." Deterrence theory holds that people are less likely to repeat behaviors for which they are punished (specific deterrence) and are less likely to engage in behaviors for which others are punished (general deterrence).[11]

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[6] See, for example, Hawken, Davenport, & Kleiman, 2014, for a review of swift and certain programs for drug offenders underway nationally.

[7] Social learning theory asserts that behavior is learned from the environment through observation. Learning occurs through a variety of experiences including observing the consequences of behavior (see, for example, McLeod, 2011).

[8] Some examples of common punishments for violations include short stays in jail, increased reporting, and curfews.

[9] Positive reinforcement incentivizes and rewards prosocial behavior. Common positive reinforcements in the justice system include words of affirmation, certificates of achievement, and tangible items such as bus tokens.

[10] Negative reinforcement is the removal of unwanted stimulus. Common negative reinforcements include decreased urinalysis and the withdrawal of some supervision requirements (e.g., submission of verification slips).

[11] For more information on deterrence theory, see Becker, 1968, and Paternoster, 2010.

Are graduated sanctions effective? What is a "sanction"?

In the 1980s, the term "graduated sanctions" was used interchangeably with "intermediate sanctions" to reflect penalties for noncompliance that could be utilized in lieu of revocation to jail and prison (e.g., house arrest, electronic monitoring, drug testing, community service). Over time, the term evolved to suggest "structured, incremental responses to non-compliant behavior while under supervision" (Taxman, Soule, & Gelb, 1999, p. 183), or a series of escalating penalties that increase in severity with each violation. Under such an approach, for instance, a series of drug test failures might result first in a penalty of one day in jail, followed by three days in jail for a second positive drug test, followed by seven days in jail, etc.

There is a pervasive notion in the field today that if a small dose of a sanction did not net the desired results (desistance of the problem behavior), a larger dose would do the trick. With the exception of a small number of single-site studies, to date, graduated sanctions—in and of themselves—have not been empirically demonstrated to reduce future violations and recidivism. While admittedly an area in need of further exploration, some important conclusions from previous studies are noteworthy. For instance, Marlowe, DeMatteo, & Festinger (2003, p. 4) note: "Behavioral research suggests, however, that ratcheting sanctions up slowly could lead some clients to become 'habituated' (accustomed) to being sanctioned, thus making it more difficult to suppress their negative behavior in the future." Further, Wodahl (2007, p. 214) notes: "Little evidence was gleaned from this research to support the notion that graduated sanctions increase offender compliance with release conditions. In fact, findings suggest that the application of graduated sanctions can, in certain circumstances, increase the likelihood of noncompliance." A subsequent study by Wodahl, Ogle, Kadleck, and Gerow (2009) raises important questions about our notions of "sanctions" generally. To most justice system professionals, the term "sanction" is synonymous with "punishment," and punishment consists of a relatively limited band of behavioral responses, such as house arrest and confinement. Yet Wodahl's survey of probationers and parolees revealed that offenders view nonincarcerative, treatment-oriented responses—such as completing writing assignments, participating in treatment, or providing community service—as more punitive and onerous than jail.

These findings suggest that the use of different terms might be warranted. The following is suggested:

▶ Replace the term "sanction" with the term "response," to suggest that an action taken as a result of a violation need not be punitive (perceived or otherwise) to be effective.

▶ Replace the term "graduated sanctions" with "effective responses to noncompliance"— suggesting that if a previous response was ineffective in positively shaping behavior, perhaps a different approach (rather than a more severe one) is called for.

The deterrence theoretical framework raises the following question: If punishment really does deter people from rule-breaking behavior, why are there so many repeat offenders/violators (Holsinger, 2013)? While some may suggest that the reason is that the punishment is not severe enough, the answer may have more to do with our definition of "sanction"[12] (and the recipient's own perceptions about what is punitive) and in the delivery of the response. Indeed, research demonstrates that responses to violations are more likely to result in positive outcomes when they adhere to the principles of celerity (swiftness), certainty, fairness, responsivity, proportionality, and parsimony.[13]

> "It is argued that the empirical evidence does support the belief that criminal offenders are rational actors, in that they are responsive to the incentives and disincentives associated with their actions, but that the criminal justice system, because of its delayed imposition of punishment, is not well constructed to exploit this rationality."
> (Paternoster, 2010, p. 765)

Key Principles Guiding Effective Responses to Noncompliance

Principle	To increase the impact and utility of the response, respond…
The Celerity ("Swiftness") Principle	…to the behavior as quickly as possible.[14]
The Certainty Principle	…each time undesirable behavior occurs.[15]
The Fairness Principle	…in ways that are perceived to be fair[16] and consistently applied to similarly situated individuals.[17]
The Responsivity Principle	…in ways that take into consideration the characteristics of the individual.[18]
The Proportionality Principle	…in ways that are no more severe than the behavior warrants.[19]
The Parsimony Principle	…using as few interventions/resources as necessary.[20]

[12] See "Rethinking Common Terms and Approaches: Are graduated sanctions effective? What is a 'sanction'?" (page 7).

[13] See American Probation and Parole Association, n.d., and BOTEC Analysis Corporation, 2014, for a more detailed discussion of each of these principles.

[14] See Hawken & Kleiman, 2009; Paternoster, 2010.

[15] See Hawken & Kleiman, 2009; Nagin, 1998; National Institute of Justice, 2014; Paternoster, Brame, Bachman, & Sherman, 1997; Pogarsky, 2007.

[16] See Paternoster et al., 1997; Sherman, 1993 ; Tyler, 2007.

[17] See Taxman et al., 1999.

[18] See Andrews, Dowden, & Gendreau, 1999; Sherman, 1993.

[19] See Martin & Van Dine, 2008; Quirk, Seldon, & Smith, 2010; Taxman et al., 1999.

[20] See Quirk et al., 2010.

The Use of Incentives and Rewards

Key Considerations in the Effective Use of Incentives and Rewards

To be effective, incentives and rewards should be:

▶ tailored to the individual;

▶ swiftly applied;

▶ applied generously initially, and tapered over time; and

▶ provided in a manner that encourages internalizing the intrinsic benefits of the behavior.

As noted previously, an important aspect of shaping behavior—equal or perhaps even more important to the effective use of disapproval (Molm, 1988; Wodahl, Garland, Culhane, & McCarty, 2011)—is recognizing and rewarding prosocial behavior.[21] Research indicates that positive reinforcements should be used at least four times as often as expressions of disapproval in order to enhance individual motivation and encourage the continuation of prosocial behavior (Andrews & Bonta, 2006; Wodahl et al., 2011).

To be effective, however, responses to prosocial behavior should be customized to take into account that which is meaningful to the individual, rather than using a "one size fits all" approach (Bonta & Andrews, 2007; Tittle & Botchkovar, 2005). Consider, for example, how disincentivizing a "reward" of a steak dinner is to a vegetarian, a candy bar is to a diabetic, or baby formula is to a non-parent. Further, as is the case with responses to noncompliant behavior, rewards are more effective when they immediately follow the positive behavior. The impact of rewards is greatest when they are administered with regularity initially and tapered over time, once the behavior becomes habituated (Skinner, 1974).[22] Finally, rewards should be deliberately provided in a manner that facilitates the individual's ability to identify and internalize the short- and long-term benefits of demonstrating on an ongoing basis the prosocial attitude/behavior.

The Model Penal Code on Rewards and Responses to Noncompliance

"The Model Penal Code encourages state probation systems to make greater use of positive rewards for compliance, alongside consistently applied penalties for noncompliance. One of the best-known findings of behavioral psychology is that rewards are generally more effective at altering behavior than penalties—yet this principle has been underutilized in community supervision. In addition, the application of penalties for probation violations in most jurisdictions has been slow, infrequent, and unpredictable. When sanctions come, often after many violations have accumulated, they tend to land heavily on probationers, including the overuse of revocations to prison. This pattern conflicts with research findings that sanctions achieve their greatest deterrent effect when applied swiftly and certainly—while increases in the severity of penalties yield disappointingly little in marginal deterrence. Section 6.03 proceeds from the view that uses of both "carrots" and "sticks" in American probation practice are in need of reexamination." (The American Law Institute, 2014, p. 30, lines 15–26)

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[21] Contingency management, an approach to reinforcement originally used in the fields of behavioral therapy, mental health, and substance abuse treatment to manage behavior and increase treatment retention, is presently applied in courts and other justice system settings. The approach is one structured method for identifying and responding to prosocial behavior. It is based on three general behavioral principles: frequent monitoring of the target behavior; provision of tangible, positive reinforcers when the target behavior occurs; and removal of the reinforcer when the target behavior does not occur. See Viglione & Sloas, 2012.

[22] In fact, Skinner (1938) states that, unlike negative reinforcements, positive reinforcements can still be effective even when they are not applied consistently (i.e., are tapered or reduced) over time.

Putting It Together: Responding to Behavior in Ways That Produce Positive Outcomes

Mindful of the emergent research on effective responses to behavior, a variety of programs and approaches are in operation across the country that strive to reduce noncompliance and criminal behavior and increase the short- and long-term success of justice-involved individuals. Exhibit 1 reflects some of the specific models, or programs, that have been described in professional publications and some of the key results of these efforts. Exhibit 2 (page 12) reflects similar efforts that were designed to reach the same ends through the development of policy frameworks. What these programmatic and policy frameworks have in common are approaches that are evidence-based (i.e., responses to noncompliant behavior that are swift, certain, fair, responsive, and proportional) and balanced with responses to prosocial behaviors that are also evidence-based (i.e., customized, applied swiftly, delivered appropriately, tapered over time).

Making It Work: Operationalizing the Research

Experience in implementing evidence-based policies and practices over past decades—including but not limited to swift and certain behavioral responses—suggests that there is more to implementation than simply replicating programs. Success requires at least five essential elements.

▶ **Understanding the Science.** The first of these is an appreciation for the behavior change research. For behavior management systems to be successful, those responsible for designing them must have a keen understanding of the behavior change research previously described, and how it is effectively implemented.

▶ **Effective Collaborative Partnerships.** Equally important are effective collaborative partnerships. To be sure, those who manage defendants and offenders under community supervision and their justice system partners must be in alignment with each other in order to effectively implement evidence-based programs and services, including and especially consistent responses to violation behavior. For example, for pretrial and prosecutorial diversion cases—as well as many of the specialty courts—law enforcement, judges/commissioners/magistrates, pretrial agencies and/or case management staff, prosecutors, defenders, and victim advocates are all critical stakeholders. In the instance of probation, these same stakeholders have a vested interest. For parolees, parole commissioners/hearing examiners, parole board members, victim advocates, state corrections agencies, parole supervision agencies, and Governor's Offices' representatives are critical stakeholders.

EXHIBIT 1

Illustrations of Select Programmatic Efforts to Manage Behavior

State/County	Program Name	Target Population	Program Results
Alaska/Anchorage	Anchorage Probation Accountability with Certain Enforcement (PACE)	General	Preliminary results from the experimental design suggest reductions in positive drug tests (Carns & Martin, 2011).
Georgia	Probation Options Management (POM) Program	General	The POM program resulted in demonstrated reductions in the use of jail as a sanction, officer time spent in violation hearings, and time between the violation behavior and officers' responses (Speir et al., 2007).
Hawai'i	Hawai'i's Opportunity Probation with Enforcement (HOPE)	Drug Offenders	The outcomes of a 2009 evaluation of Hawai'i's HOPE program (Hawken & Kleiman, 2009) showed that close monitoring of probation conditions—coupled with swift and certain responses to violations—improved compliance with the terms of probation and decreased drug use.
South Dakota	South Dakota 24/7 Sobriety Project	Alcohol-Involved Offenders	An evaluation conducted by Kilmer et al. (2013) found reductions in subsequent arrests at the county level for driving while under the influence of alcohol (12% reduction) and domestic violence (9% reduction) as a result of 24/7.
Texas	Texas SWIFT (Supervision with Intensive Enforcement)	General	The evaluation of SWIFT showed that, compared to a matched comparison group, subjects in SWIFT were significantly less likely to violate the terms of their probation, were half as likely to be revoked, and were half as likely to be convicted of new crimes (Snell, 2007).

EXHIBIT 2

Other State and Local Efforts to Address Behavior Management Using a Structured Policy Framework Process[23]

Locally Based Efforts	
Maricopa County, Arizona	◆
Pima County, Arizona	◆
Napa County, California	◆
San Francisco County, California	◆
Santa Cruz County, California	◆
Yolo County, California	◆
Arapahoe County, Colorado	◆
Denver County, Colorado	◆
El Paso County, Colorado	◆
Jefferson County, Colorado	◆
Weld County, Colorado	◆
First Circuit Court, Honolulu, Hawai'i	■
Grant County, Indiana	◆
6th Judicial District, Iowa	◆
Macomb County, Michigan	◆
Ramsey County, Minnesota	◆
Cuyahoga County, Ohio	◆
Montgomery County, Ohio	◆
Multnomah County, Oregon	◆
City of New York, New York	◆
Dutchess Suffolk County, New York	◆
Nassau Ulster County, New York	◆
Suffolk City of New York, New York	◆
Ulster County, New York	◆
City of Charlottesville/Albermarle County, Virginia	◆
Virginia Beach Department of Corrections, Virginia	◆
Williamsburg Department of Corrections, Virginia	◆
Milwaukee County, Wisconsin	▲
5th District Department of Corrections, Wisconsin	■

Statewide Efforts	
California	●
Colorado	●◆
Connecticut	◆
District of Columbia	◆
Georgia	●
Kansas	●
Michigan	■
Missouri	■
New Jersey	●
New York	●
Oregon	■
Pennsylvania	●
Rhode Island	■
South Carolina	■
Tennessee	●
Utah	■

Key:

◆ **Probation Violations**

● **Parole Violations**

■ **Probation and Parole Violations**

▲ **Systemwide**

[23] This list is not intended to encompass all efforts conducted nationally, but instead includes those agencies with which the Center for Effective Public Policy has worked to establish policy frameworks to guide responses to violations and prosocial behaviors.

The participation of these partners varies depending upon the point along the justice system continuum where evidence-based responses to behavior will be imposed (which, arguably, should be all points in the justice system).

Experience demonstrates that genuine collaborative partnerships oftentimes must be built before work of this nature can progress, and sufficient diligence must be paid to the development of a shared understanding of the core research as well as the outcomes stakeholders hope to achieve. From this, the necessary agreements can be developed that will support effective implementation of structured and research-informed behavior management processes.[24]

▶ **Guarding Against Implementation Failure.** Change is not easy, nor is it always successful. According to Rogers, Wellins, and Connor (2002), up to 85% of change initiatives fail and up to 70% of these failures can be attributed not to bad ideas but to flawed execution. A third essential component of success, then, is the translation of research, desired goals, and working agreements into policy and practice that is successfully operationalized. This means bringing to bear the knowledge that supports successful change initiatives, as well as tools that are designed to prevent "drift" and, ultimately, implementation failure.[25]

▶ **Performance Measurement.** Successful implementation of new programmatic efforts also necessitates the ability to track and describe quantitatively the impact of the change strategies. Understanding the data elements that will support analysis of the initiative—and implementing processes and systems to ensure that these data are collected, analyzed, and used—is the fourth critical ingredient.

▶ **Communication Strategies.** The long-term viability of approaches such as these may well depend on an understanding of, and appreciation for, the fifth critical ingredient: effective and proactive communication strategies. Justice system professionals are in the risk management business. As much as the alternative would be desirable, it is not possible to predict individual human behavior with precision. This means that the likelihood is high that at some point in time an individual under community supervision will behave in an unpredictable way, and that this may come on the heels of previous noncompliant behavior. Such an occurrence will inevitably call into question the sensibility of the behavior management system that was "supposed to" hold the individual accountable and prevent problematic behavior. Anticipating such circum-stances, it is all the more essential that those who are responsible for managing the behavior of those on supervised release have a well-considered behavior management system in place; discuss its empirical basis, effective implementation, and oversight in a transparent, proactive, and ongoing way; and be prepared to communicate with interested parties—particularly the general public and the media—when the unpredictable occurs.

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[24] For a more thorough discussion about the critical role of collaboration, who to involve, and how, see Chapter 3, "Collaboration: A Central Ingredient for Success," in Carter, 2001b.
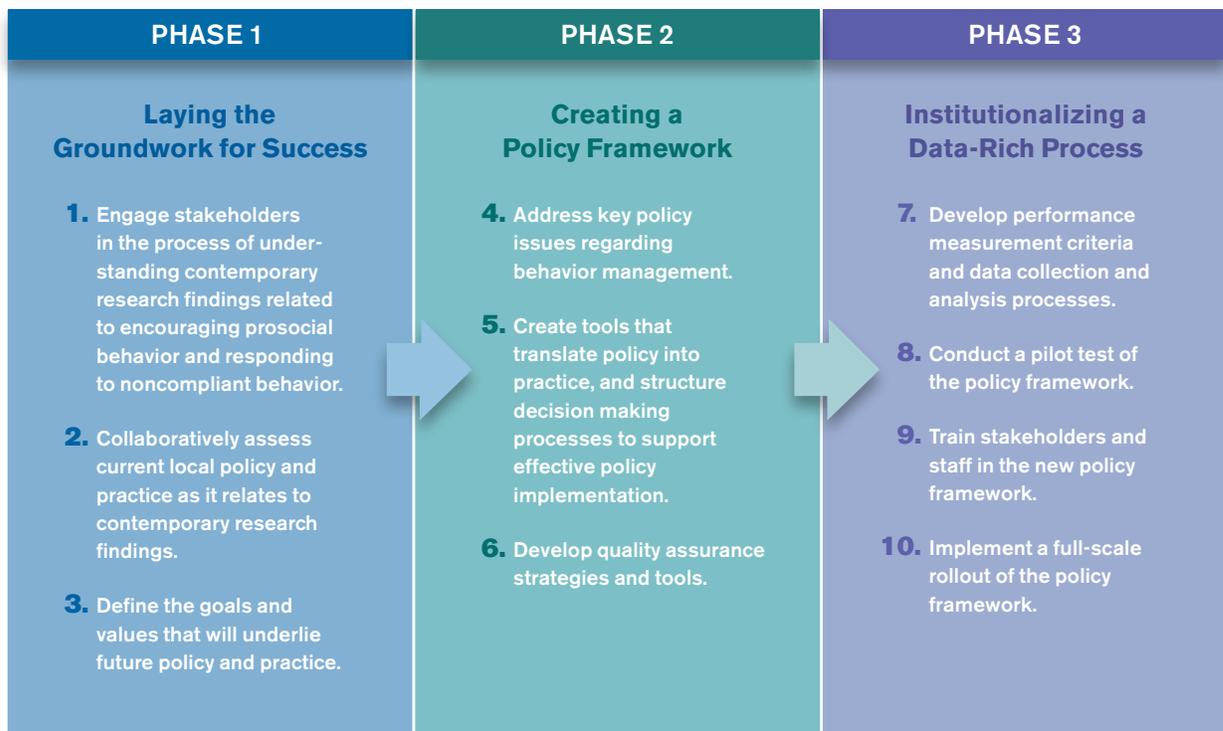
[25] For a discussion on "drift to failure," see Dekker, 2005. For additional information regarding the science of implementation, see the resources listed on the National Implementation Research Network's website: http://nirn.fpg.unc.edu/category/resource-type/articles-books-and-reports?page=1.

Advancing Behavior Management Policy and Practice

Ten Steps to Developing a Behavior Management Policy

The Center for Effective Public Policy's twenty years of experience working with more than thirty operating agencies on the development of effective behavior management systems—much of which has been guided or supported by the National Institute of Corrections—has led to the development of a ten-step strategy for building evidence-informed behavior management policies. These sequential steps are presented below in three distinct phases.

PHASE 1	PHASE 2	PHASE 3
Laying the Groundwork for Success	**Creating a Policy Framework**	**Institutionalizing a Data-Rich Process**
1. Engage stakeholders in the process of understanding contemporary research findings related to encouraging prosocial behavior and responding to noncompliant behavior.	**4.** Address key policy issues regarding behavior management.	**7.** Develop performance measurement criteria and data collection and analysis processes.
2. Collaboratively assess current local policy and practice as it relates to contemporary research findings.	**5.** Create tools that translate policy into practice, and structure decision making processes to support effective policy implementation.	**8.** Conduct a pilot test of the policy framework.
		9. Train stakeholders and staff in the new policy framework.
3. Define the goals and values that will underlie future policy and practice.	**6.** Develop quality assurance strategies and tools.	**10.** Implement a full-scale rollout of the policy framework.

Phase 1: Laying the Groundwork for Success

Critical to building a research-informed behavior management system is an understanding of contemporary research findings about what works in changing behavior and, in particular, strategies demonstrated to be effective in reinforcing prosocial behavior and responding to antisocial or noncompliant behavior. Developing a shared understanding of the key research principles—such as celerity, certainty, consistency, the optimal ratio of positive reinforcement to expressions of disapproval, etc.—will lay the groundwork for the policy development work to follow. All those who influence or are influenced by behavior management policies should be engaged in this process. By including judges, prosecutors, defenders, paroling authorities, supervision agencies, and other stakeholders such as victim advocates, a uniform understanding of the research and the opportunity for collaborative engagement in the policy development process is possible.

Within the context of this process, stakeholders as well as those responsible for day-to-day behavior management (e.g., case managers, probation/parole officers, correctional officers, supervisors/managers) should assess the extent to which current policies and practices align with research. For instance, are methods in place to ensure consistent responses by different parties in similarly situated cases? Are positive reinforcements used and, if so, are they used more frequently than punishers? Have standards been set around how quickly staff will respond to the behavior of those they supervise? Do staff uniformly respond to all noncompliant behavior, or is some behavior overlooked from time to time?

Experience has demonstrated that the single most important work product developed by those interested in advancing their behavior management strategies is a written articulation of the goals and values upon which the framework will be built, using language such as in Exhibit 3 (page 16), developed by the Cuyahoga County Common Pleas Court. Work activities include:

▶ defining key terms to ensure a shared understanding of commonly used language that is frequently interpreted differently ("violation," "revocation," "response");

▶ developing a statement reflecting the goals of supervision;

▶ developing a statement reflecting the goals of the behavior management process; and

▶ identifying the values (e.g., transparent, even-handed, evidence-based, change-focused) that will guide the behavior management system.

EXHIBIT 3

Cuyahoga County Common Pleas Court, Ohio
Key Definitions, Goals, and Values

Key Definitions

- **Prosocial behavior** is defined as behavior that comports with society's prosocial norms. Prosocial behaviors span a range of actions from those that may be considered minor (e.g., speaking respectfully, arriving for scheduled appointments on time) to those that may be considered meritorious (e.g., remaining clean and sober for a significant period of time, obtaining a GED or promotion on the job, etc.).

- **Noncompliant behavior** is defined as behavior that does not conform to expectations, rules, or laws. Like prosocial behaviors, noncompliant behavior encompasses a wide spectrum of actions, from very significant (e.g., commission of an act of violence) to important but not as critical (e.g., inappropriate dress in formal settings).

- **Incentives** are inducements for positive behavior provided to the supervised individual for prosocial attitudes/behaviors.

- **Rewards** are positive reinforcements for positive attitudes/behaviors.

- **Responses** are actions by staff that result from the demonstration of either prosocial attitudes/behaviors or noncompliant/antisocial attitudes/behaviors.

- **Revocation** is a judicial ruling terminating Community Control Sanctions (CCS) or probation, resulting in either an imposition of a prison term or the unsuccessful termination of community supervision.

The Goals of Supervision

The goals of supervision are to promote public safety by:

- reducing offenders' recidivism risk;
- using strategies demonstrated to be effective in changing offender thinking and behavior patterns;
- equipping offenders with necessary skills to be successful in the community; and
- monitoring offenders to ensure compliance with court orders.

The Goals of the Behavior Response Program

The goals of the violation process are to increase the likelihood of offender success and protect the public by:

- holding offenders accountable for their behavior by responding to all noncompliant behavior with swiftness, certainty, and consistency;
- identifying and changing thinking and behavior patterns that are antisocial or otherwise problematic;
- identifying and promoting prosocial thinking and behavior patterns; and
- implementing and assisting in the application of evidence-based practice strategies.

The Principles That Guide Responses to Behavior

In order to maximize the effectiveness of the behavior response process, responses to prosocial and noncompliant behavior will be swift, certain, transparent, consistent, efficient (use of resources), fair and proportional, legal, and goal-oriented/rehabilitative. For noncompliant behavior, the least intrusive intervention, consistent with risk and severity, will be utilized.

Behavioral responses will be formulated in such a way as to maximize effectiveness, holding individuals accountable for their actions while using interventions that are most likely to achieve long-term behavior change. Victim and community safety (i.e., consideration of the safety of the victim and general public) will be of paramount importance in the formulation of all responses.

Phase 2: Creating a Policy Framework

In the second phase of the development of a behavior management system, key policy issues must be considered and decisions documented. (Exhibit 4, on page 18, reflects the agreed-upon policy decisions by decision makers from the City of Charlottesville/County of Albemarle, Virginia.) Commonly, these are new discussions; often, agency policy will have been silent on these matters, resulting in largely disparate decision making. Key policy issues include the following:

▶ What steps are line staff expected to take to proactively work with the individuals they supervise to prevent violations from occurring in the first place?[26]

▶ Will all (or only some) violations elicit responses?

▶ Will all (or only some) positive behaviors elicit responses?

▶ How will violation/prosocial behaviors and responses be documented?

▶ Will responses be escalated for repeated violations or will each violation be treated with a "clean slate"?

▶ How will multiple violations that occur in one incident be managed?

▶ How will multiple violations that occur in different incidents but are discovered at one time be managed?

▶ What methods will be used to ensure that staff match responses to the underlying behavior(s) that may have led to them?

▶ What measures will be taken to ensure that staff do not over-respond to behavior through the selection of multiple (more than necessary) responses?

▶ What is an acceptable rate of departure from presumptive response levels?

▶ Will new crime cases always be referred to the releasing authority (court, paroling board) and when will they be referred (before conviction or after)?

▶ What role and level of decision making will line staff, supervisors, and managers/executives have in the behavior management decision making process?

To support adherence to these policies, many agencies have created tools that assist staff in consistently applying these decisions to their day-to-day decision making. These structured decision making tools are valuable for a variety of reasons.

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[26] Examples of steps that staff might take to prevent violations are building professional alliance; reviewing supervision conditions and expectations; conducting a risk/needs assessment; developing a comprehensive case plan that addresses the most significant criminogenic needs, including and especially the driver; engaging in candid discussion about the conditions that are most likely to be problematic for the individual and developing specific plans to prevent violation behavior; etc.

EXHIBIT 4

City of Charlottesville/County of Albemarle, Virginia
Key Policies

District Nine Probation and Offender Aid & Restoration (OAR)/Jefferson Area Community Corrections staff will use a structured response matrix when addressing violation behavior. The following policies support and define the use of this matrix:

1   We will respond to all violation behavior; doing so reinforces our commitment to being consistent and transparent.

2   We will respond to and reward prosocial behavior.

3   We will document violation behavior responses, indicating both the behavior and the response. This will allow us to collect the necessary data to evaluate the effectiveness of responses.

4   The use of court, prosecution, defense, and jail resources should be reserved for individuals who pose a public safety risk and for those individuals in need of risk control/stabilization conditions that cannot be imposed by probation.

5   Personal contact with the probationer will be documented by the supervising probation officer within 72 business hours of the notification of the violation; responses will be determined within 7 business days.

6   In the case of multiple violations that occur within the same incident, these violations will be addressed in their totality; the presumptive response range will be determined based upon the highest severity violation.

7   Probation officers will have discretion to select the response most appropriate under the individual circumstances; multiple responses can be selected if deemed essential to achieve the desired behavior change.

8   If probation officers determine that a response in the presumptive range is not appropriate, the officer will document both the stabilizing and destabilizing factors that influence the recommendation.

9   Immediate supervisors can approve a response one level above or below the presumptive response range; responses exceeding one level must be approved by the next person in command.

10   Overrides and underrides of the presumptive response range will not exceed 15%; these rates will be monitored on an ongoing basis.

Structured decision making tools:

▶ create a common language and understanding about prosocial and noncompliant behaviors and available responses;

▶ ensure that staff uniformly give consideration—and weight—to the conditions that should factor into their decision making; and

▶ enhance consistency among line staff and supervisors.

These tools contain other critical elements, as illustrated in Exhibit 5.

To begin the development of such tools, the group responsible for planning the policy framework should:

▶ identify, array (i.e., list, based upon the severity of the behavior), and group (i.e., low, moderate, high) all noncompliant behavior, eliminating rules that are deemed unimportant or never enforced;

▶ identify, array, and group all prosocial behaviors;

▶ identify and array all available responses to noncompliance;

▶ identify all available responses to prosocial behavior;

▶ identify new options as may be necessary to ensure a full continuum of responses;

▼ **EXHIBIT 5**

Elements of Structured Decision Making Tools

Critical elements that are commonly incorporated into structured decision making tools include the following:

■ **Risk data:** Contemporary tools are anchored by risk scores derived from empirically based risk assessment instruments.

■ **Criminogenic needs:** Recognizing that noncompliance is often an extension of the criminogenic needs that led to individuals' involvement in the justice system in the first place, the most recent generation of tools seeks to match responses to the behaviors and criminogenic need(s) that underlie them. Equally, current generation tools acknowledge the relationship between prosocial behaviors and criminogenic needs, providing more "weight" for behaviors that reflect the development of prosocial skills in criminogenic need domains.

■ **Defined and scaled behaviors:** Noncompliant/violation and prosocial behavior is identified and arrayed across a continuum, from least to most severe and least to most meritorious.

■ **Defined and scaled response options:** Noncompliant/violation and prosocial response options are also identified and arrayed across a continuum.

■ **Defined stabilizing (mitigating) and destabilizing (aggravating) factors:** Criteria that support departures from a standard course of action (i.e., departures from presumptive response levels) are specifically defined.

- identify the factors that will be considered to determine if departures from presumptive response levels are appropriate;

- decide how level of risk will be determined (i.e., through the use of existing or new empirically based assessment tools);

- determine how, if multiple assessment instruments are used and produce different results (e.g., an individual is assessed as low risk on a general assessment tool but moderate risk on a sex-offender specific tool), risk will be determined (i.e., the higher risk level prevails); and

- determine how to link responses to criminogenic needs.

Supervising agencies and their collaborative partners have been building structured decision making tools for more than two decades. Some of the earliest tools are documented in *Responding to Parole & Probation Violations: A Handbook to Guide Local Policy Development* (Carter, 2001a). Although much has changed in the ensuing years, today's tools remain largely similar to their predecessors in that they typically use a matrix approach to determine a presumptive response range based upon an individual's assessed level of risk to reoffend and the severity of the violation behavior. (See Exhibit 6 for an illustration of such a matrix.) These matrices can be adjusted to local needs to accommodate, for instance, fewer risk levels or a greater number of violation severity levels. Key to these instruments is populating the presumptive response levels with response options appropriate for each combination of risk and violation severity level to ensure that departures from these presumptive levels are minimal—with a typical target of 85% concurrence with the presumptive response level.

Presumptive Response Grid

Risk Level

Severity of Violation	Low	Medium	High	Very High
Low	Low Response	Low Response	Medium Response	Medium Response
Medium	Low Response	Medium Response	Medium Response	High Response
High	Medium Response	Medium Response	High Response	Very High Response
Very High	Medium Response	High Response	Very High Response	Very High Response

That said, exceptional cases will warrant departures. As a means of ensuring that departures are consistently considered, structured criteria are developed to guide and document decision making, typically with a requirement that a minimum number of conditions be present to support either upward departures (resulting in more intensive responses) or downward departures (resulting in less intensive responses). Common criteria for departures include positive (stabilizing/mitigating) or negative (destabilizing/aggravating) conditions related to education/employment, living environment,

mental health, the nexus of the violation behavior to the original offense and/or criminal history, family/peer relationships, substance use, and supervision compliance. Because departures represent exceptional cases, supervisory oversight is typically required before a departure is granted, and policy should speak specifically to the process for reviewing and granting it.

Phase 3: Institutionalizing a Data-Informed Process

Among the most critical steps in developing new policy to guide behavior management are those that test and ensure the integrity of the system. The most common first step in this process is to conduct a "pre-test" of the framework and decision making tools by applying them to current cases—in other words, playing out different scenarios with known cases in a test environment to ensure that the new system has face validity. Once this is done and any necessary adjustments are made, consideration should be given to planning a pilot of sufficient duration to fully test the new processes on a representative sample of cases managed by the agency. The following are questions commonly considered in planning a pilot:

▶ How long will the pilot last?

▶ Which staff will be involved?

▶ Which cases will be involved?

▶ What training is needed before the pilot begins?

▶ How will oversight and problem solving support be provided during the pilot period?

▶ What data will be collected; who will be responsible for monitoring that it is collected, complete, and accurate; and who will be responsible for determining if mid-course corrections are needed?

▶ Once the pilot is completed, how will feedback be collected from all end-users (i.e., internal staff, external stakeholders, defendants/offenders)?

▶ Who will be responsible for finalizing new, written policies?

Exhibit 7 (page 22) provides a list of other tips for conducting a pilot test.

Because the purpose of the pilot is to uncover flaws in the system—and the purpose of the behavior management system as a whole is to improve agency practice and the outcomes of the justice-involved individuals being served—the importance of quality assurance and performance measurement processes cannot be over-emphasized. Indeed, research demonstrates that when

agencies effectively train their staff in a new skill area, improved outcomes result (Bonta et al., 2010; Lowenkamp, Holsinger, Robinson, & Alexander, 2012; Robinson et al., 2012); when they establish internal quality assurance processes, recidivism rates decrease (Latessa, 2012; Lowenkamp & Latessa, 2004); and when they modify their approaches based on the results of their quality assurance processes, they realize substantially better outcomes and cost-savings (Carey, Finigan, & Pukstas, 2008).

Realizing outcomes as significant as these (i.e., reductions in violations, revocations, and recidivism; cost-benefit improvements) is not as simple, however, as implementing a new process or providing staff with a one-time introduction to a new skill set. Indeed, new skills and processes take time to fully integrate and may, at least at first, result in reluctance and discomfort among those who are

▼ **EXHIBIT 7**

Tips for Conducting a Pilot Test

- **Plan** the pilot for as long as needed to test a "sufficient" number of cases (at least 90–180 days).
- **Ensure** that staff participating in the pilot represent all types of caseloads, seniority, longevity, and philosophies to ensure diverse feedback on the process.
- **Provide** a written policy framework for staff to reference; include the goal of the new policy framework and its rationale.
- **Provide** a manual reflecting the new procedures to be followed, instructions on how to manage cases in transition, and a FAQ document.
- **Give** staff ample notice that they are participating in a pilot.
- **Take time** to train staff. Include the underlying research that supports the change, an explanation of the change, and specific training on the change itself.
- **Ensure** that there are ample opportunities for staff to practice new skills (e.g., interviewing supervisees to understand the drivers of violation behavior; matching responses to criminogenic needs) and the use of new tools (i.e., worksheets or automated systems developed to support decision making).
- **Establish** an expectation that pilot staff will raise questions and concerns as they arise throughout the pilot process.
- **Utilize** individuals who were involved in the development process (and know the new process/tools well) as points of contact/resource persons for other staff.
- **Consider** bringing pilot participants together in focus groups periodically during the pilot period to receive their feedback.
- **Inform** staff that the new processes are designed to advance practice and, in that way, they are permanent. While there may be adjustments to the processes based on the pilot, the new approaches will continue between the official end date of the pilot and the start of full implementation.
- **Consider** using pilot participants as trainers/mentors during full-scale implementation.

affected by the change. Therefore, agencies interested in improving outcomes must commit to an implementation process that ensures that staff receive adequate initial training as well as ongoing encouragement, feedback, and coaching designed to improve knowledge, skills, confidence, and competency. In fact, research suggests that the amount of time devoted to the change process is an indicator of whether or not superior results will be derived (Flores, Lowenkamp, Holsinger, & Latessa, 2006).

Key Definitions

Quality assurance (QA) is an audit process that retrospectively examines practices for the purposes of identifying and correcting divergence from policy or protocol.

Continuous quality improvement (CQI) is a set of ongoing professional development opportunities that generate current, specific feedback in order to support incremental improvements in the delivery of services and practices.

Research and practice have repeatedly demonstrated that the implementation of effective tools and practices falls far short of their potential when sufficient quality assurance (QA) and continuous quality improvement (CQI) strategies are not put in place (see, for example, Lipsey, Howell, Kelly, Chapman, & Carver, 2010; Lowenkamp & Latessa, 2004). An agency that provides adequate preparation of and training to staff, and successfully implements proper procedures on the improved practice but does not engage in QA or CQI, will often find over time that the intended practice is either performed inconsistently or not in accordance with the trained procedures. This unwelcome discovery can be mitigated through the establishment of intentional and structured quality checks designed to reinforce desired practices and expose and redirect those that are out of alignment with the desired behaviors.

Finally, to ensure that full implementation is successful, careful consideration must be given to the following questions:

- ▶ When will full-scale implementation occur (i.e., how long after the pilot test has been completed)?
- ▶ How will those not involved with the pilot be trained?
- ▶ What role will those involved in the pilot play in the training of others?
- ▶ What supports will be available for staff for whom the policy framework is new (e.g., coaching by pilot participants)?
- ▶ In what ways will staff compliance with new expectations be encouraged and rewarded?
- ▶ With what frequency will quality assurance measures be carried out?
- ▶ With what frequency will data be analyzed to determine the impact of the new policies and practices?

Recent Advances in Behavior Management

Accounting for Criminogenic Needs

As new research emerges regarding how best to shape the behavior of justice-involved individuals, so too do approaches to responding effectively to behavior. Arguably one of the most important advances in behavior management has been the development of methods to link behavioral responses to individuals' criminogenic needs. Whereas in the past corrections professionals may have viewed demonstrations of noncompliant behavior as a disregard for rules or lack of appreciation for the opportunities community release and supervision offer, today there is a greater understanding of the relationship of rule breaking while on supervision to the law-breaking behavior that originally led to criminal justice involvement. Stated differently, there is increasing clarity that the problematic behaviors that manifest themselves while an individual is on supervision are continuations of the destructive attitudes, skill deficits, and harmful decision making that resulted in contact with the justice system in the first place.

The Napa County (California) Probation Department is among the first agencies in the country to bridge the gap between identifying criminogenic needs and connecting those needs, in a systematic way, with behavioral responses to noncompliance. (See Exhibit 8.) Their structured decision making tool uses a color-coding system to visually cue staff in the selection of responses to noncompliance that link to probationers' criminogenic needs. Others have since followed with tools designed—in various ways—to support staff in recognizing the link between noncompliant behavior and assessed needs, and addressing those needs through the selection of appropriate noncompliance responses.

Moreover, an increasing number of agencies are encouraging staff members' clarity about the purposes they hope to achieve through their responses by distinguishing the available response options through placement in one of two categories. In these cases, response options are identified as "accountability responses"—those that are designed to hold offenders accountable for their wrongdoing but that have not been demonstrated through research to have a long-term behavior-changing effect (e.g., increased reporting, urine testing, curfews)—and "behavior change responses"–those that have been shown by research to have long-term behavior change potential (e.g., participation in cognitive behavioral programming, engaging in skill practice exercises).

> **Violations of supervision conditions are windows into defendants'/offenders' "trouble spots."**
>
> **View them as opportunities to understand and address problems before they escalate.**

EXHIBIT 8

Napa County Probation Department Violation Response Grid

Behavior	Suggested Responses	Criminal History	Education/Employment	Family/Marital	Leisure/Recreation	Companions	Alcohol/Drug	Pro-Criminal Attitude/Orientation	Antisocial Pattern	Control
Low — Failure to comply with case plan; Failure to obtain/maintain employment/education; Failure to comply with P.O. directive; Failure to report new police contact; Travel violation (county/state); Failure to report/provide contact information; Failure to enroll/complete community service; Failure to enroll/complete program (DDP, Theft, Anger Mngt, cog)	Thinking essay/Carey Guide	■	■	■	■	■	■	■	■	
	Increased testing						■			
	Verbal reprimand									■
	Written reprimand									■
	Letter of apology							■	■	
	Educational class	■	■	■	■	■	■	■	■	
	Increased reporting									■
	Victim Awareness Program	■							■	

Low Responses PLUS:

Behavior	Suggested Responses	Criminal History	Education/Employment	Family/Marital	Leisure/Recreation	Companions	Alcohol/Drug	Pro-Criminal Attitude/Orientation	Antisocial Pattern	Control
Medium — Violation of stay away order (gang, victim, S.O. orders); AWOL/termination from treatment/work release; Absconding; Willful failure to pay restitution; Failure to register (gang, drug, S.O., arson); Failure to comply with taking medication; Employer disclosure; Failure to comply with electronic monitoring; Failure to surrender/remand; Positive UA/failure to abstain/refusal to test/alteration of urine sample; Failure to enroll in D.V./S.O. program	Daily call-ins									■
	In-person reporting									■
	Modification of case plan	■	■	■	■	■	■	■	■	
	LS/CMI reassessment	■	■	■	■	■	■	■	■	
	Curfew restriction								■	■
	GPS (Chief approval required)								■	■
	Referral to Tx (in/out/MH Court)			■			■	■	■	
	Deny travel permit									■
	Referral to cog group	■	■	■	■	■	■	■		
	Skill practice with P.O.		■	■	■	■	■	■	■	
	Referral to CCSC			■	■	■		■	■	
	Community service				■					■
	Flash incarceration									■
	BI case management meeting		■	■	■	■	■	■	■	

Low & Medium Responses PLUS:

Behavior	Suggested Responses	Criminal History	Education/Employment	Family/Marital	Leisure/Recreation	Companions	Alcohol/Drug	Pro-Criminal Attitude/Orientation	Antisocial Pattern	Control
High — New crimes (felony or misdemeanor); Possession of a firearm or other weapon	Increased searches									■
	Flash incarceration									■
	Probation extension									■
	Probation modified				■	■	■	■	■	■
	Court reprimand, revoke & reinstate									■
	Revocation report									■
	Bench warrant									■
	Jail									■
	Prison									■

Considering the Complexity of the Behavior

Other agencies have worked to incorporate new theoretical frameworks into their decision making framework. Grant County, Indiana, for example, sought to build a policy framework that would account for the degree to which behaviors pose a challenge to an individual. (See Exhibit 9.) Incorporating recent work put forward in the drug court arena, Grant County's policy provides for variation in responses based upon an assessment of "proximal" and "distal" goals. Based upon research literature in psychology and education (see, for example, Bandura & Schunk, 1981; Schunk, 1984), Marlowe (2011) suggests that corrections professionals take into account whether behaviors are proximal—those that an individual is readily capable of performing—or distal—those that are highly challenging for the individual to perform successfully, but that are ultimately desired. These considerations modulate the response: sanctions are more severe when the behavior is proximal (less challenging) (e.g., when a non-addicted individual produces a "dirty" urine sample), whereas sanctions are less severe when the behavior is more difficult to achieve (e.g., when a chronic drug abuser tests positive for their drug of choice).

Tailoring Responses to Prosocial Behaviors

Only in recent years have prosocial behaviors been a deliberate part of agencies' strategies to shape behavior. Even in those instances where prosocial behaviors are integrated into the agency's behavior management system, the approach is often relatively rudimentary compared to noncompliance response systems. Generally presented in a grid form, low level prosocial behaviors typically earn low level responses, moderate level prosocial behaviors earn moderate level responses, and high level prosocial behaviors earn high level responses. What such a system fails to achieve is the modulation of the response based upon, for example, the complexity of the behavior for the individual (proximal and distal goals), the degree to which the behavior is mastered and habituated, and the relationship between the behavior and the individual's criminogenic needs. The challenge is that these factors pose a series of logic questions that are difficult and cumbersome to manage without automated systems to ease the burden on staff and supervisors.

EXHIBIT 9

Grant County Probation Department Violation Response Grid Overview

Step 1 Determine if the behavior is proximal or distal, then use the appropriate grid, based upon proximal or distal determination.

Step 2 Determine the probationer's risk level based upon the IRAS-CST or Static-99 assessment (low; moderate; high; very high). If the probationer is a sex offender, use the highest risk level between the two risk assessments (IRAS-CST or Static-99) on the risk/violation grid.

Step 3 Determine the violation severity, using the appropriate violation severity grid. For multiple violations, refer to the highest violation behavior severity.

Step 4 Determine the presumptive response range based upon level of risk and violation behavior severity.

Step 5 If the probationer is on informal probation and a violation is committed, a petition to revoke the probationer's probation must be filed with the sentencing court.

Step 6 If the probation officer deems the presumptive response range to be inappropriate, the probation officer may review and select stabilizing or destabilizing factors and document the override. If no override is needed and behavior control (accountability) is required, select an accountability response(s) from the appropriate response range(s).

Step 7 Identify the probationer's criminogenic needs as they relate to the violation behavior(s).

Step 8 Select an appropriate intervention response from the response range that will best address the criminogenic need driving the behavior.

Step 9 List the selected intervention response(s).

Step 10 The supervisor's approval and signature are needed for High or Very High responses.

Proximal Goals
Risk Level & Severity of Violation

Risk Level	Violation Severity			
	Low	Moderate	High	Very High
Low	1	2	3	4
Moderate	1	2	3	4
High	2	3	4	4
Very High	3	3	4	4

Distal Goals
Risk Level & Severity of Violation

Risk Level	Violation Severity			
	Low	Moderate	High	Very High
Low	1	1	2	4
Moderate	1	1	2	4
High	2	2	3	4
Very High	2	3	4	4

IRAS – CST Risk Categories

Rating	Scores	
	Males	Females
Low	0–14	0–13
Moderate	15–21	14–21
High	22–29	22+
Very High	29+	

Automating Decision Making Tools

As correctional practice evolves and our understanding of what works in shaping behavior deepens, corrections professionals are increasingly challenged to adapt their day-to-day practices to the use of new approaches and skills. Indeed, adopting evidence-based practices in many instances places an additional burden on decision makers and staff. When these additional approaches and skills are layered on top of existing duties, they can easily create resistance on the part of the best-intentioned professionals. How do we ameliorate this possible threat to advancement? By making new practices easier to implement than those they are replacing.

Increasingly, agencies are adopting automated tools that both ease staff's burden in determining and documenting responses to behavior and facilitate data collection and analysis that heretofore were not possible. Some, such as Napa County, California, have used internal expertise to develop software to capture data on probationers' behavior and staff's responses. Others, such as Colorado's Department of Corrections Parole Division, have contracted with outside vendors to develop these systems for their use. Still others use third-party software developed specifically to support their behavior management policies. All of these solutions provide agencies with the opportunity to collect and analyze data in ways that historically have not been possible. Indeed, short of conducting manual hand-counts, most agencies are unable to answer even the most basic questions about the incidence of noncompliance and prosocial behavior (e.g., the frequency of certain types of violation behavior, the number of technical versus new crime behaviors, staff responses to behavior by risk level, the proportion of affirmations to expressions of disapproval). (See Exhibit 10 for key data questions regarding behavior management.)

Consistently Addressing Behavior Across the Justice System Continuum

Perhaps one of the most exciting advances in the area of behavior management in recent years is the development and consistent application of behavior management policy across the justice system continuum. Through their work under the NIC-sponsored *Evidence-Based Decision Making in Local Criminal Justice Systems Initiative*, Milwaukee County, Wisconsin, developed a single policy framework—with program-specific variations—that applies to defendants on pretrial supervision, individuals participating in prosecutorial diversion and deferred prosecution programs, specialty (drug, veterans, and mental health) court, and offenders on probation and parole super-vision. In effect, Milwaukee County's behavioral response system addresses the entire continuum of justice-involved individuals, creating a uniform set of goals and values around identifying and encouraging prosocial behavior and using evidence-based responses to noncompliance.

EXHIBIT 10

Key Data Questions

Information on Violation Behavior

- Total number of violations reported
- For reported violations, percentage resulting from technical violations
- For reported violations, percentage resulting from new criminal activity
- Number of violations resulting from misdemeanor violations of supervision
- Number of violations resulting from felony violations of supervision
- Number of violations for specific crime categories (e.g., crimes against persons, property crimes, violent crimes, sex crimes)
- Average number of violations reported per violator
- Percentage of those under supervision with one or more violations
- Number of violators revoked to custody for their maximum term with no supervision to follow
- Number of violators revoked to custody whose supervision was reinstated
- Number of violators whose supervision was reinstated with no changes of supervision conditions
- Patterns of violations and revocations by type of offender
- Patterns of violations and revocations by offender risk level
- Patterns of violations and revocations by criminogenic need
- Time lapse between the violation behavior and the response
- Patterns of offender success/failure that are linked to unit, supervisor, agent, specific types of violations, or particular offender types

Information on Prosocial Behavior

- Identification of individual offender preferences with regard to meaningful rewards
- Total number (and average by person) of positive behaviors reported
- Total number (and average by person) of rewards provided
- Types of rewards provided
- Ratio of rewards to violations
- Patterns of prosocial behavior by type of offender
- Patterns of prosocial behavior by risk level
- Patterns of prosocial behavior by criminogenic need
- Time lapse between prosocial behaviors and rewards
- Patterns of identification of, and reward for, prosocial behaviors that are linked to unit, supervisor, agent, specific types of behaviors, or particular offender types

Information on Behavior Management Responses

- Responses chosen by type of prosocial behavior and violation behavior
- Responses chosen by level of risk
- Most frequently utilized responses
- Least frequently utilized responses
- Relationship between individual offender preferences and rewards provided
- Level of consistency exercised in violation responses to like circumstances
- Percentage of cases that were responded to within the presumptive response level
- Percentage of cases in which departures from the presumptive response level were requested
- Percentage of cases in which departure requests were granted (rate of supervisor concurrence with staff's departure recommendations)
- Stabilizing/destabilizing factors that were present in approved departure cases
- Number of cases in which violations resulted in referral to an external authority (e.g., court, paroling authority)
- Concurrence rate between external authority and supervision agency
- Number of nonincarcerative responses used (and violations noted) before a revocation to incarceration
- Number of nonincarcerative responses used before terminating a case through revocation

It also serves to create a common language among decision makers, line staff, and community service providers throughout the justice system; consistently defines behavioral expectations for defendants and offenders, regardless of the particular program or service in which they participate; and makes explicit the expectation that staff will acknowledge and reward positive behaviors, as well as consistently respond to and document noncompliant behaviors. (These goals are described in the Background and Purpose sections of Milwaukee County's Behavior Response Decision Making Process Guidelines, as shown in Exhibit 11.) Such an approach—perhaps the first of its kind in the nation—holds great promise for jurisdictions across the country that seek to use research and policy to support positive outcomes among the justice-involved individuals they serve.

▼ **EXHIBIT 11**

Milwaukee County
Behavior Response Decision Making Process Guidelines

Background

This document provides Milwaukee County criminal justice system professionals with an overview of the purposes, philosophies, and values that have been established to consistently and appropriately respond to the behavior of defendants and offenders in the county's criminal justice system. This document and the policies and practices it represents was developed by a group of dedicated criminal justice professionals that met in small and large workgroups over a period of six months to collaboratively develop the principles, policies, and guidelines it contains.

Purpose

The purpose of this document is to provide decision makers throughout the Milwaukee County criminal justice system with consistent, objective criteria that guide responses to the behavior of justice-involved individuals. It was developed in recognition of the fact that heretofore programs, services, interventions, and decision makers throughout the justice system have responded to behavior based upon varying philosophies and understandings of how best to encourage and reinforce prosocial behavior. Through this collaborative effort, Milwaukee's criminal justice system officials seek to align the philosophies, policies, and decision making practices among decision makers and across the justice system with contemporary research findings.

Future Advances in Behavior Management

Although much progress has been made over the last two decades in shaping behavior through evidence-based practices and using behavior management policy frameworks, there is still much to be done. Many agencies are understandably still grappling with training and coaching staff to use needs assessments to effectively case plan, let alone to guide responses to noncompliant behavior. And most agencies are still hampered by archaic data systems that provide little information about the nature and extent of violation behavior, let alone the degree to which their responses positively influence behavior over the short and long term. Most are unable to answer critical questions that should impact both practice and resource allocation, such as those related to the:

▶ extent to which program/service availability is a barrier to appropriate/community-based intervention and, therefore, results in more onerous responses (e.g., the frequency with which those who are in need of sober living are remanded to jail because other secure, sober living facilities are not locally available);

▶ success rates for individuals who receive departures from presumptive guidelines that increase the response level (e.g., do these individuals do better or worse over time?);

▶ success rates for individuals who receive departures from presumptive guidelines that decrease the response level (e.g., do these individuals do better or worse over time?);

▶ differences in outcomes for those who immediately receive a reward versus those who experience a time delay in reward — by risk level and by criminogenic need;

▶ differences in outcomes for those who immediately receive a response for noncompliance versus those who experience a time delay in response — by risk level and by criminogenic need;

▶ short-term impact of violation responses (e.g., are there decreases in future violation behavior, longer periods of time between violations, and/or less serious violations over time?); and

▶ long-term impact of violation responses (e.g., recidivism rates).

Both research and experience demonstrate that the science of behavior management holds great promise for improving public safety outcomes among justice-involved individuals, although further study is needed to expand our understanding of the impact on intermediate- and long-term outcomes. The existing body of research provides compelling reasons for justice system officials to avoid the "never events" of behavior management, develop evidence-informed policy frameworks, implement methods to ensure that these policies are effectively translated into day-to-day practice, and, in a field committed to evidence-based decision making, collect meaningful data to inform future policy and practice.

A Recommended Behavior Management Policy and Practice Approach

"Always Events"
in the Behavior Management of Justice-Involved Individuals

Taken together, the preceding discussion suggests the following "always events":

1. To ensure systemwide alignment, establish behavior management systems that apply evidence- and principle-based approaches across the entire justice system.

2. To ensure full support of these approaches, engage decision makers, line staff, and other critical representatives in the formulation of these approaches, including the goals and values the system is designed to achieve.

3. To ensure clarity and transparency, document the goals, values, processes, and methods of the behavior management system.

4. To increase the effectiveness of the behavior management system, ensure that:
   - justice-involved individuals understand what is expected of them;
   - expectations are reasonable and attainable;
   - prosocial behaviors are encouraged, noticed, and affirmed;
   - strategies are developed to prevent noncompliance from occurring in the first place; and
   - when noncompliance does occur, responses are
     - swift;
     - certain;
     - fair;
     - proportional;
     - parsimonious; and
     - designed to address the underlying drivers of the behavior.

5. To support understanding of the rationale of the behavior management system, provide information and training to all stakeholders.

6. To support the implementation of the behavior management system, develop processes that do not add burden to staff but, instead, simplify and streamline their work.

7. To ensure the integrity of the system, routinely monitor activities to confirm that implementation is occurring as designed and expected.

8. To support policy and practice refinement, collect and analyze performance measurement data.

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A Note to Readers:

The U.S. Department of Justice, Bureau of Justice Assistance (BJA), recently launched the Swift and Certain Resource Center. Contact BJA for additional information. In addition, the National Institute of Corrections (NIC) provides training and technical assistance to state and local jurisdictions around the development of behavior management policy and practice as described throughout this monograph. Contact Greg Crawford, *gcrawford@bop.gov*, for further information.

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