

# RACIAL AND ETHNIC DISPARITIES AND PROBATION PRACTICE

RFK Probation Symposium  
April 7, 2016

# Workshop goals

2

- Define RED/DMC
- Understand why it is important to address RED
- Understand ways that bias contributes to RED
- Learn strategies for talking about race
- Explore tools and strategies for enhancing equity in probation practice and juvenile justice

# Why is it important to focus on racial and ethnic disparities?

3

- Fairness
- Effectiveness
- Accountability
- Support

# How do we define RED/DMC?

4

1. Over-representation of youth of color
2. Disparate treatment of youth of color
3. Unnecessary entry and moving deeper into the juvenile justice system

The goal is to reduce all three types of disparities, but reduction of any type of disparity is a significant achievement.

# What is the scope of racial and ethnic disparities?

5

- ❑ Youth of color are over-represented at every stage of the juvenile justice system.
- ❑ Youth of color are treated more harshly than white youth in similar circumstances.
- ❑ Disparities are greater at the front end of the system.
- ❑ Disparities cumulate in the system.
- ❑ Youth of color are about one-third of the adolescent population, but two-thirds of incarcerated youth.

# What are the causes of racial and ethnic disparities?

6

- ❑ Differential risk factors
- ❑ Differential offending
- ❑ Differential enforcement of the law
- ❑ Negative stereotypes and media imagery of youth of color
- ❑ Differential processing by the JJ system
- ❑ Other systems feeding the JJ system

What are effective ways to reduce racial and ethnic disparities in the juvenile justice system?

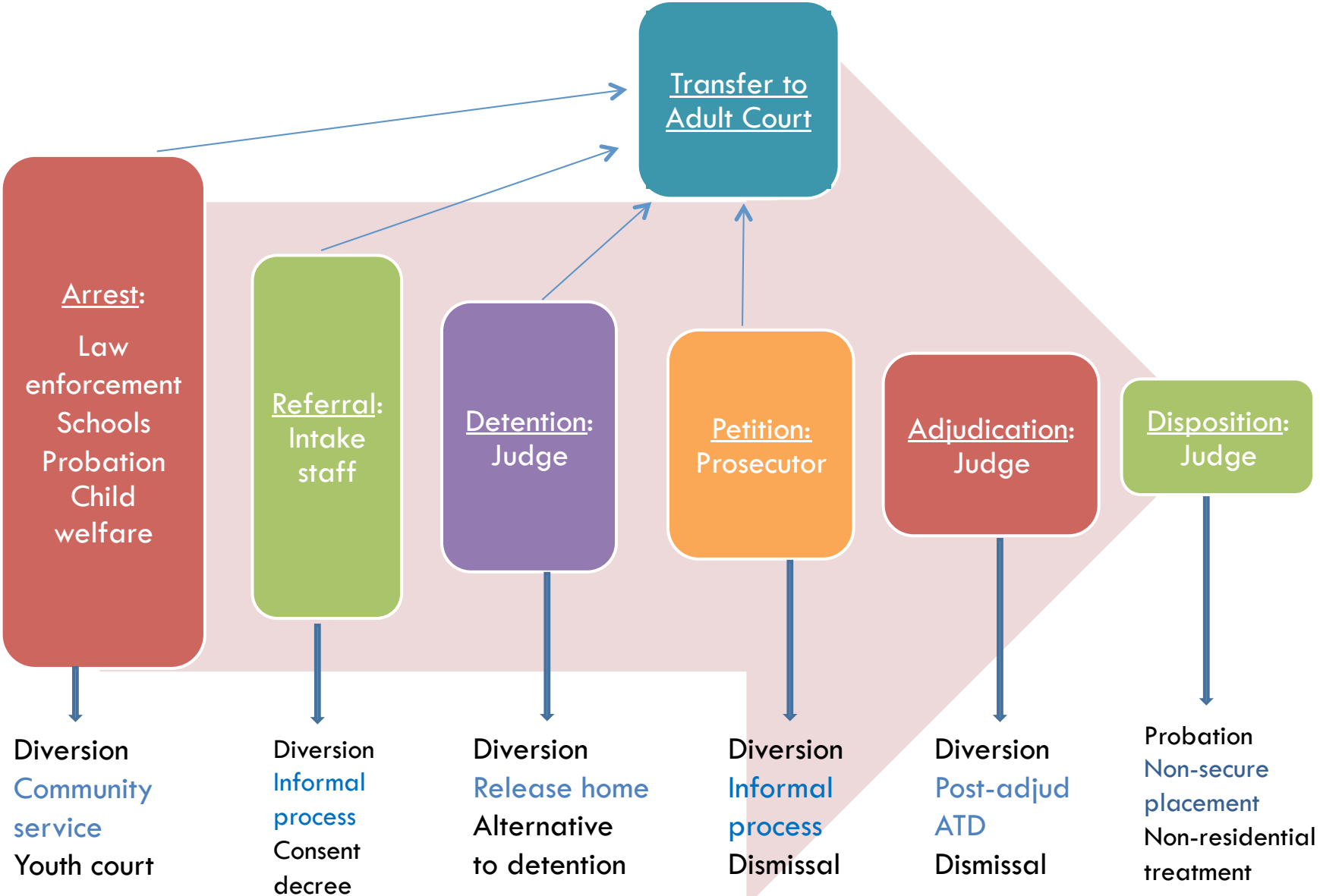
# Effective efforts to reduce RED

8

- Governance, oversight, and collaboration with all stakeholders, including families and youth
- Intentional about changing the system's impact on youth and communities of color
- Local focus
- Regular collection, analysis, reporting of data at key decision points
- Data-driven interventions
- Focused on targeted system reform
  - ▣ Policy
  - ▣ Practice
  - ▣ Programs



# The Juvenile Justice Process: Key Decision Points and Pathways Out



# Strategic approaches for addressing RED

## Cross System Collaboration

- Improve collaboration and communication among agencies within the juvenile justice and with other child-serving systems (i.e. Schools, Child-welfare)

## Data Practices

- Establish a structure and process for regular use of data in system management

## Cultural and Community Responsiveness

- Improve cultural competence and responsiveness of juvenile justice programs and services

## Policy and Practice

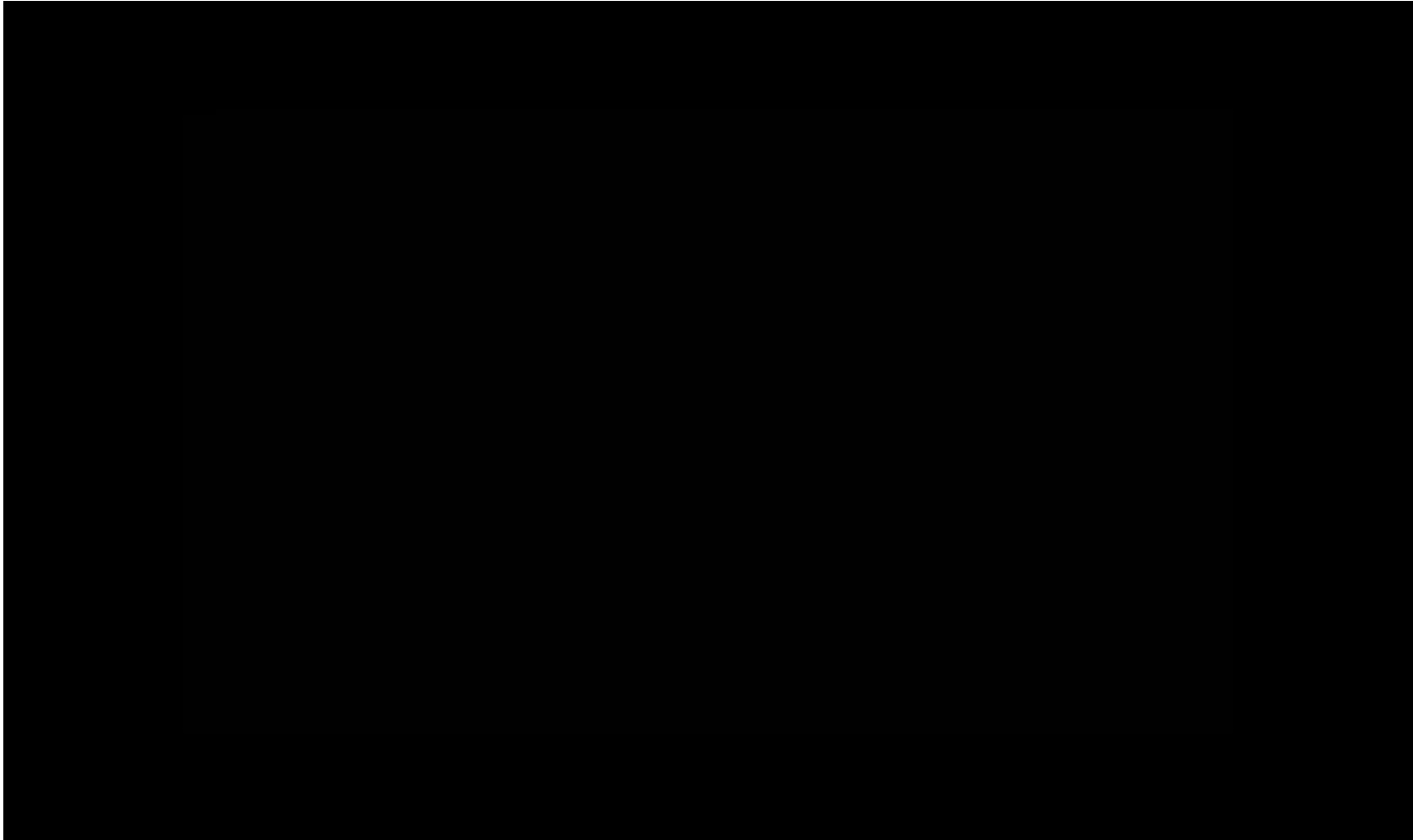
- Structure policies, protocols and practices to facilitate objective and consistent decision-making and service delivery to all youth

## Programs

- Increase capacity and improve access to culturally responsive programs and services that prevent deeper involvement or enhance diversionary pathways out of the system for youth of color

# What would you do? (ABC News)

11



<http://www.youtube.com/watch?v=ge7i60GuNRg>

# What is implicit bias?

12

- Attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner
  - Pervasive
  - Do not necessarily align with conscious beliefs
  - Can skew in positive and negative directions
  - Favor one's own ingroup

# Implicit bias: How does it occur?

13

Schemas- Mental maps or templates



Stereotypes- Traits we associate with a particular group of people



Prejudice- **Feelings** associated with a group of people



Discrimination/Disparate Treatment - How one **acts** toward the members of a group

# Implicit bias

14



**BE MINDFUL ABOUT STEREOTYPES!  
ONLY ONE OF THEM IS A CONVICTED FELON.**

# Implicit bias is more likely to occur:

15

- In cognitively taxing environments
- With complex decisions under time pressure
- With imperfect information
- When decision-makers are cognitively depleted, anxious, or distracted



# Research on bias: Police and probation officers

16

*Research on police and probation officers' perceptions of crime reports:*

**Does race affect judgments  
about culpability and  
punishment?**



# Research on bias:

## Police and probation officers

17

- ❑ Police and probation officers who were primed to think about race were less likely to judge the offender as immature (by virtue of adolescence) and more likely to perceive him as culpable and deserving of punishment.
- ❑ Consciously-held beliefs about African Americans (e.g., to avoid racial prejudice) did not influence these judgments.

Graham, S., and Lowery, B.S. (2004). Priming unconscious racial stereotypes about adolescent offenders. *Law and Human Behavior*, 28 (483-504).

# Research on bias: Probation officers

18

*Research on pre-disposition reports  
by probation officers:*

**Bad kids or bad  
environments?**

# Research on bias: Probation officers

19

## Findings:

- ❑ Reports on **black youth** were more likely to include negative internal attributions (personality, values) than reports on white youth.
- ❑ Reports on **white youth** were more likely to include negative external attributions (environment, peers) than reports on black youth.
- ❑ **Black youth** were judged to have a higher risk of re-offending than white youth.

# Cleaning the lens of implicit bias

20

- **Education**
- **Exposure**
- **Cognitive load**
- **High Effort Processing**
- **Mindfulness**
- **Environment**
- **Organizational Review**
- **Checklists**
- **Debriefing**

Source: Marsh, S. (Summer 2009). "The Lens of Implicit Bias", *Juvenile and Family Justice Today*, NCJFCJ

# Key points to keep in mind

21

- ❑ Systems don't make decisions – people make decisions.
- ❑ Systems provide opportunities for people to use discretion when they make decisions.
- ❑ People have implicit biases.
- ❑ The intersection of discretionary decision-making and implicit bias is where most RED occurs.

# Video: The R-Word (The Daily Show)

22



[http://www.cc.com/video-clips/g65t3j/the-daily-show-with-jon-stewart-the-r-word?](http://www.cc.com/video-clips/g65t3j/the-daily-show-with-jon-stewart-the-r-word?xrs=share)  
[xrs=share](#) [copy](#) [email](#)

# Difficulties in talking about race

23

- **Avoidance** – “It’s really about poverty.”
- **Denial** – “They commit more crimes.”
- **Distraction** – “What name for the committee?”
- **Defensiveness** – “I don’t discriminate against anyone.”
- **The “blame game”** – video games, TV violence, rap music, poor schools, bad parents
- **“The culture of politeness”**
- **“Motion without movement”**
- **Data without Direction** – Analysis Paralysis

# Making conversation about race more productive

24

- Diversity collaborative group
  - ▣ Include All Stakeholders
- Use Data
- Identify Shared Goals
- Conversation Starters
- Use research to support conversations
- Seek external support
- Establish ground rules of engagement







RED  
PRACTICE  
MANUAL

Introduction and Chapter 1:  
Beginning or Restarting Work to  
Reduce Racial and Ethnic Disparities

CENTER FOR Children's  
Law and Policy

# Racial and Ethnic Disparities Practice Manual

<http://cclp.org/practicemanual.php>

# RED Practice Manual- Overview

26

- History of bias against youth of color in the juvenile justice system
- Definitions of key terms
- Research on implicit bias
- Getting started
  - Collaboration
  - Using Data

# RED Practice Manual-

## Decision Point-Specific Content

27

- Arrest, detention, disposition, post-disposition and transfer
- Sample tools such as diversion criteria, detention screening instruments, and graduated response grids;
- Examples of successful efforts to reduce racial and ethnic disparities;
- Contact information for organizations working on racial equity reforms in juvenile justice.

# Engaging the process to shift practice

28

The Graduated Responses Tool is an example of intentional effort to impact racial and ethnic disparities





## Graduated Responses Toolkit

New Resources and Insights to Help Youth Succeed on Probation

CENTER FOR  
**Children's**  
*Law and Policy*

# Graduated Responses Toolkit:

New Resources and  
Insights To Help Youth  
Succeed on Probation

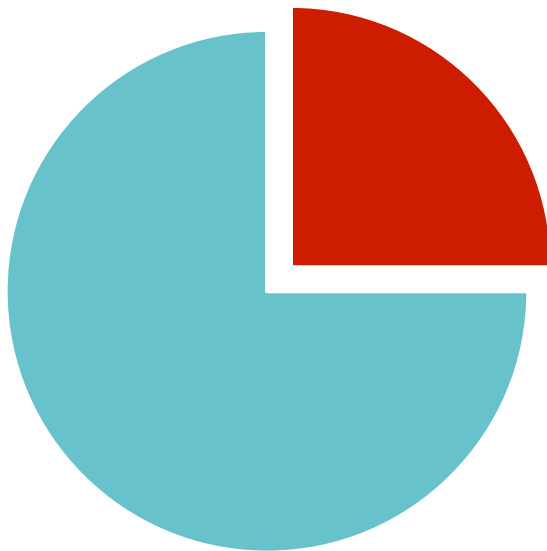
[http://www.cclp.org/  
graduatedresponses.php](http://www.cclp.org/graduatedresponses.php)

**Range of Responses for Technical Violations**

Technical Violation Level	Supervision Level			
	Minimum	Medium	Maximum	Intensive
<b>Low</b> <ul style="list-style-type: none"> <li>• Curfew</li> <li>• Changing residence without notice or permission</li> <li>• Driving without permission</li> <li>• Reporting</li> <li>• School Attendance or behavior</li> <li>• Positive drug screen for Alcohol/marijuana</li> <li>• Individual/Group/Family Counseling</li> <li>• Alcohol/marijuana (possession/presence)</li> <li>• Community Restoration                             <ul style="list-style-type: none"> <li>○ Community Service</li> <li>○ Restitution</li> <li>○ Fines</li> </ul> </li> <li>• Parents</li> <li>• Associates</li> <li>• Travel</li> <li>• Associates</li> </ul>	<ul style="list-style-type: none"> <li>• Warning (verbal or written)</li> <li>• Written Assignment</li> <li>• Literacy/Tutoring</li> <li>• Parent-Child-JPPO-Supervisor Conference</li> <li>• Restrict/control driving privileges</li> <li>• Weekly attendance/behavior/verification reports for school and counseling</li> <li>• Mediation</li> <li>• Community Service</li> <li>• Parent/Child Conference</li> <li>• Increase Drug and Alcohol screens</li> <li>• Increased phone contact</li> <li>• Curfew-adjust</li> <li>• Day Reporting, including school</li> <li>• Limit contact with friends</li> <li>• AA/NA</li> <li>• MADD panel</li> <li>• Parenting classes</li> <li>• Day Treatment</li> <li>• Increased face to face contact</li> <li>• Referral for Special Ed. Testing</li> <li>• SASSI-A</li> <li>• Food bank donation</li> <li>• Restrict travel</li> <li>• Parent/Child Mediation</li> <li>• Submit proof of employment application</li> </ul>	<ul style="list-style-type: none"> <li>• Warning (verbal or written)</li> <li>• Written Assignment</li> <li>• Parent-Child-JPPO-Supervisor Conference</li> <li>• Literacy/Tutoring</li> <li>• Restrict driving</li> <li>• Mediation</li> <li>• Parent/Child Mediation</li> <li>• Community Service</li> <li>• Parent-Child Conference</li> <li>• Curfew Adjustments verbal/written warning</li> <li>• CSO(non-traditional hours) Adjustment to Curfew</li> <li>• Increase Drug and Alcohol screens</li> <li>• Increased phone contact</li> <li>• Submit proof of employment application</li> <li>• Day Reporting, including school</li> <li>• Limit contact with friends</li> <li>• Community Corrections</li> <li>• AA/NA</li> <li>• MADD panel</li> <li>• Parenting classes</li> <li>• FFT(Family Functional Therapy)</li> <li>• Increased face to face contact</li> <li>• Judicial Review</li> <li>• Referral for Special Ed. Testing</li> <li>• SASSI-A</li> <li>• Food bank donation</li> <li>• MST(Multi-systemic therapy)</li> </ul>	<ul style="list-style-type: none"> <li>• Community Service</li> <li>• Parent-Child-JPPO-Supervisor Conference</li> <li>• Literacy/Tutoring</li> <li>• Restrict driving</li> <li>• Parent/Child Mediation</li> <li>• Curfew Adjustments</li> <li>• House arrest</li> <li>• CSO (non-traditional hours)</li> <li>• Electronic Monitoring</li> <li>• Revocation</li> <li>• House Arrest</li> <li>• Day Reporting</li> <li>• Increased face to face contact</li> <li>• Referral to CSW</li> <li>• Drug and Alcohol assessment</li> <li>• Submit proof of employment application</li> <li>• Community Corrections</li> <li>• JIPPS</li> <li>• MADD panel</li> <li>• Parenting classes</li> <li>• SASSI-A</li> <li>• FFT(Family Functional Therapy)</li> <li>• MST(Multi-systemic therapy)</li> <li>• JJS Triage Referral for group home/RTC placement</li> </ul>	<ul style="list-style-type: none"> <li>• Community Service</li> <li>• Parent-Child-JPPO-Supervisor Conference</li> <li>• Literacy/Tutoring</li> <li>• Restrict driving</li> <li>• Curfew Adjustments</li> <li>• House arrest</li> <li>• Electronic Monitoring</li> <li>• Revocation</li> <li>• House Arrest</li> <li>• Day Reporting</li> <li>• Request Petition to Revoke</li> <li>• Judicial Review</li> <li>• Mental Health Referral</li> <li>• Increased daily face to face/phone contact</li> <li>• Drug and Alcohol assessment</li> <li>• Submit proof of employment application</li> <li>• 48 hour detention</li> <li>• Community Corrections</li> <li>• JIPPS</li> <li>• MADD panel</li> <li>• Parenting classes</li> <li>• MST(Multi-systemic therapy)</li> <li>• FFT(Family Functional Therapy)</li> <li>• JJS Triage Referral for group home/RTC placement</li> </ul>
<b>High</b> <ul style="list-style-type: none"> <li>• Failure to complete any sex offender treatment</li> <li>• Failure to complete treatment in an out of home placement</li> <li>• Failure to comply with ISS</li> <li>• General behavior</li> <li>• Positive drug screen for Narcotics</li> <li>• Narcotics/Inhalants (Possession/Presence)</li> <li>• Failure to submit to drug screen</li> <li>• Weapon (possession/presence)</li> <li>• Driving (Adjudicated DWI, Vehicular Homicide, Leaving the scene of an accident (Great Bodily Harm)</li> </ul>	<ul style="list-style-type: none"> <li>• House Arrest</li> <li>• Day Reporting</li> <li>• Judicial Review</li> <li>• Referral to BHC (CSW)</li> <li>• Request Petition to Revoke</li> <li>• Increased drug tests</li> <li>• Gun Safety course</li> <li>• MADD panel</li> <li>• 4 day holds</li> <li>• Warrant</li> <li>• SASSI-A</li> <li>• FFT(Family Functional Therapy)</li> <li>• MST(Multi-systemic therapy)</li> <li>• JJS Triage Referral for group home/RTC placement</li> </ul>	<ul style="list-style-type: none"> <li>• House Arrest</li> <li>• Day Reporting</li> <li>• Electronic Monitoring/GPS</li> <li>• Judicial Review</li> <li>• Referral to BHC (CSW)</li> <li>• Request Petition to Revoke</li> <li>• Increased drug tests</li> <li>• Gun Safety course</li> <li>• MADD panel</li> <li>• 4 day holds</li> <li>• Warrant</li> <li>• SASSI-A</li> <li>• FFT(Family Functional Therapy)</li> <li>• MST(Multi-systemic therapy)</li> <li>• JJS Triage Referral for group home/RTC placement</li> </ul>	<ul style="list-style-type: none"> <li>• House Arrest</li> <li>• Day Reporting</li> <li>• Electronic Monitoring/GPS</li> <li>• Warrant</li> <li>• Increased CSO Monitoring</li> <li>• Referral to BHC (CSW)</li> <li>• Request Petition to Revoke</li> <li>• Increased drug tests</li> <li>• Drug Court</li> <li>• MADD panel</li> <li>• 4 day holds</li> <li>• SASSI-A</li> <li>• FFT(Family Functional Therapy)</li> <li>• MST(Multi-systemic therapy)</li> <li>• JJS Triage Referral for group home/RTC placement</li> </ul>	<ul style="list-style-type: none"> <li>• Warrant</li> <li>• House Arrest</li> <li>• Request Petition to Revoke</li> <li>• Detention Hearing</li> <li>• Judicial Review</li> <li>• Electronic Monitoring/GPS</li> <li>• Referral to BHC (CSW)</li> <li>• Increased drug tests</li> <li>• Drug Court</li> <li>• MADD panel</li> <li>• 4 day holds</li> <li>• SASSI-A</li> <li>• FFT(Family Functional Therapy)</li> <li>• MST(Multi-systemic therapy)</li> <li>• JJS Triage Referral for group home/RTC placement</li> </ul>

# Graduated responses toolkit

31



- Violations of Probation
- All Other Offenses

- Many jurisdictions have “implemented” graduated responses ...
- But in the most recent federal census of youth in residential placement, 25% of youth were incarcerated for technical violations of probation or court orders . . .
- And in many jurisdictions, VOPs and VCOs represent the leading reasons for detention and commitment . . .
- Youth of color are often overrepresented among youth incarcerated for this reason.

# Where to Start

32

Review existing incentives and sanctions grids and compare with other models



Determine whether structure will change



Plan for communication with youth, families and court stakeholders



Identify and define behaviors to incentivize and sanction



Work from master lists to identify potential incentives and sanctions



Develop policy and training materials



# Why?




33

- Reforms to policy, not practice
- Staff buy-in
- Skeptical stakeholders
- Meaningful incentives
- Alignment with policies and practices
- Lack of intentionality
- Not data driven approaches

# Staff Buy-in: Resources

34

- Staff Training Curriculum
  - ▣ PowerPoint with trainer notes
  - ▣ New research on effective behavior change
  - ▣ Outline of benefits to staff
  - ▣ Built-in interactivity
  - ▣ Practice scenarios with discussion guide
  - ▣ Purposeful RED lens



We  
already  
do this...

# Skeptical Stakeholders: Resources

35

- Fact sheet for judges, prosecutors, and public defenders
- Courtroom scenario designed to help staff practice explaining their approach to a “zero tolerance” judge



# Identifying Meaningful Incentives

36



- Appeal
- Availability
- Accessibility
- Accountability

# Alignment with Other Policies and Practices

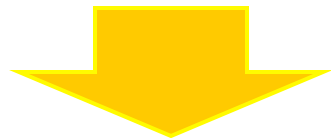
37

Court orders

Probation orders

Case plans

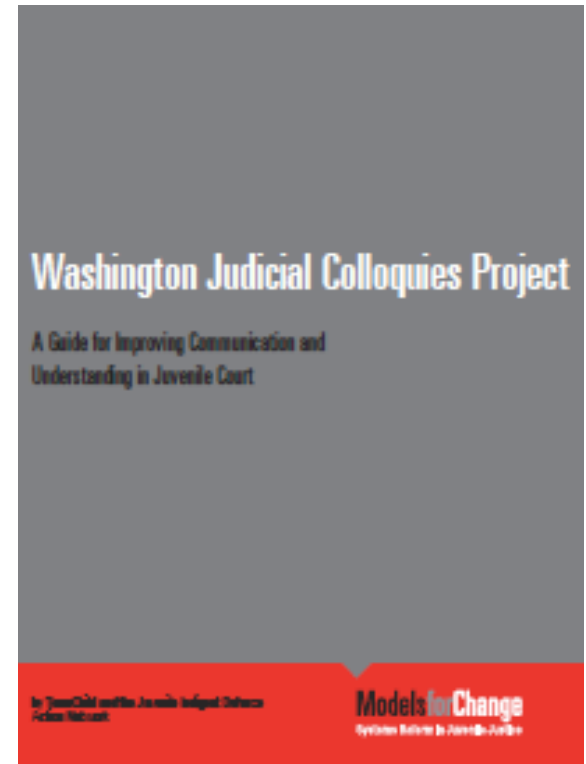
Other documents



**Do these reflect the spirit of  
the graduated responses system?**

**Are they youth- and family-  
friendly?**

**Are they culturally responsive?**



[http://www.teamchild.org/docs/uploads/JIDAN\\_Judicial\\_Colloquies\\_FINAL.pdf](http://www.teamchild.org/docs/uploads/JIDAN_Judicial_Colloquies_FINAL.pdf)



# Roadmap for a Tune-Up

38

- 1) Define the purpose of the graduated response system
  - Purpose of probation
  - Terms and conditions
  - Alignment with reform values
- 2) Gather data
  - Ensure race, ethnicity and gender are collected
- 3) Interview stakeholders
  - Sample focus group questions
- 4) Form a committee
  - Internal and External stakeholders



# Roadmap for a Tune-Up

39

- 9) **Test draft materials**
  - Checklist of key considerations
- 10) **Develop capacity to evaluate implementation and effectiveness**
- 11) **Train staff and educate youth and family members**
  - Staff training curriculum
  - Practice scenarios
  - Family member fact sheet
- 12) **Evaluate implementation and make adjustments**

# Next Steps

40

Racial and ethnic disparities are improved by the practice of intentionality.

- ✓ Get more information
- ✓ Ask questions
- ✓ Apply what you learn
- ✓ Be a champion of change

*intentional* (adj.)

an action performed with awareness; done deliberately, consciously, on purpose





# Contacts

41

Tiana Davis, Policy Director for Equity and Justice  
tdavis@cclp.org, (202) 637-0377 ext. 103

Roxana Matiella, Director of Alternatives to Incarceration  
rmatiella@cclp.org, (202) 637-0377 ext. 107

[www.cclp.org](http://www.cclp.org)

CENTER FOR  
Children's  
Law and Policy