

Administrative Responses in Probation and Parole Supervision:
A Research Memo
American Probation and Parole Association

In recent years, policymakers, judges, and practitioners have considered alternatives to the traditional community supervision model in response to the high violation rates of probationers and parolees, which have been compounded by severe budgetary constraints on States and local jurisdictions. The underlying intent has been to enhance compliance and accountability among probationers and parolees, thus improving public safety, while reducing sentencing and corrections costs. At the forefront of this movement has been the implementation of evidence-based strategies and practices, which have often been based on components of the “what works” literature (Andrews, Zinger, Hoge, Bonta, Gendreau, & Cullen, 1990; Cullen & Gendreau, 2001; Taxman, 1999). In general, for individuals under community supervision, these components have included: (1) the use of risk and needs assessment tools to determine the most appropriate types of supervision, intervention, programming and services; (2) the use of cognitive behavioral and social learning models to encourage the development of insight and compliance; and (3) an emphasis on the quality of interactions between supervised individuals and their corresponding supervision officers (Taxman, 2008).

The use of administrative responses has emerged as one strategy States and local jurisdictions are using to improve community supervision. Generally defined, this practice involves the use of swift, certain, and proportionate sanctions to violations of supervision, as well as some use of incentives to reward compliance among probationers and parolees. The responses are “administrative” because authority is given to the supervision agency, supervision agent or administrative hearing officer to issue sanctions for certain violations and to grant incentives for compliance among probationers and parolees, without returning to the court or

releasing authority (e.g. parole board). This practice can strengthen community supervision services by providing probation and parole agencies greater autonomy in responding to behaviors in more effective and cost-efficient ways, and thereby avoiding a reliance and demand on the court or releasing authority to handle all violation incidents, particularly those that include technical violations.

This memo provides an overview of the rationale and research supporting swift and certain sanctions and the administrative response approach in community supervision. The memo first discusses the theoretical framework underlying effective techniques to enhance supervision compliance among probationers and parolees. This includes a description of the key principles and most effective techniques for addressing both negative and positive behaviors among individuals under supervision, as evidenced by the research. Second, the memo provides a review of the literature on the administrative response approach. This includes examples of models that have been developed and evaluated and a discussion of the general findings of the studies that have been conducted to date. Lastly, the memo summarizes key practical implications about the use of the administrative response approach in community supervision, including directions for future research.

RATIONALE AND KEY PRINCIPLES

Wodahl and associates (2011) refer to the comprehensive practices used to effectively address violations and reward positive behaviors among individuals under community supervision as “behavioral strategies.” Such strategies are based on the scientific theory that behaviors are learned and reinforced by psychological and environmental factors. In particular, operant learning theory (Skinner, 1966) posits that while learning behavior individuals will continue certain behaviors that are pleasurable to them and discontinue behaviors that have

negative effects on them; and stimuli within one's environment can manipulate this learning process, resulting in both intended and unintended consequences. Further, the stimuli can be in the form of reinforcements, both positive and negative, and punishments, all of which shape an individual's behavior. Social learning theory (Bandura, 1977) also provides insight into better understanding the components of this learning process. It maintains that individuals learn through observations and modeling during interactions with others within the social environment. This is particularly relevant to the interactions between probationers and parolees and their corresponding supervision officers.

This theoretical framework leads to several key principles and components in identifying effective strategies in promoting compliance among individuals under community supervision. These principles are rooted in the classical work on deterrence in criminology, particularly "specific" deterrence where the purpose is to deter an individual from engaging in future unwanted behaviors, such as crime. Thus, while the principles themselves are not new to the justice system, the ways in which they have been applied to practice have evolved over the years (for a review, see Paternoster, 2010).

Swiftness and Certainty

The first principle is swiftness, which means that responses by justice system agents to problematic behaviors among probationers and parolees must be prompt (see Paternoster, 2010). For example, say the issue is a positive drug test by a probationer. In the traditional community supervision model, the probationer could remain in the community for several days to await a formal hearing before the court. By the time a sanction is actually issued, its reason may not resonate with the probationer and he/she may likely continue to engage in that behavior. Instead of such a delay, the response to the initial drug use should be done swiftly and the sanction

processed within hours and days, not weeks and months. The sanction then acts as a type of nearly immediate stimuli that the probationer connects to the unwanted behavior.

Probationers and parolees also must clearly know the process for handling infractions from the outset, and this process must promote accountability and responsibility to achieve ideal outcomes. This is the certainty principle (see Paternoster, 2010). In using the example above, the probationer should understand and know the range of sanctions available to, and the process for which those sanctions will be utilized by, his/her supervision officer and the court to address the positive drug test. Again, the expected sanction issued to address the continued drug use acts as a type of stimuli that the probationer connects to the unwanted behavior. This may be likened to a child knowing about his parents' rules, knowing the consequences for breaking those rules prior to the occurrence of any infraction, and knowing that the consequences will occur if the rules are broken.

Responses must be applied consistently in order for the swiftness and certainty principles to be most effective in deterring future unwanted behaviors (Hawken & Kleiman, 2009; also, see Grasmick & Bryjak, 1980; Paternoster, 1989). Every violation must be met with a sanction each time. Swift and certain responses applied consistently improve the perception among probationers and parolees that the anticipated sanction is fair and just, which research suggests can enhance compliance and deter future criminal behavior as well (Paternoster, Brame, Bachman, & Sherman, 1997; Rhine, 1993).

Proportionality

In addition to swiftness and certainty, responses must be proportionate to the infraction committed by the probationer or parolee in the form of a graduated approach to improve the perception that responses are fair and just and deter future unwanted behaviors (see Taxman,

Soule, & Gelb, 1999). This associates the type of sanction with the severity of the violation. For example, a parolee who misses a scheduled appointment with his supervision officer for the first time should receive a sanction proportionate to this violation. In some cases, this may be a written warning, while a short jail term may be appropriate in other, more serious cases. Proportionality also considers the availability of resources to sanction a probationer or parolee for a behavioral infraction (Hawken & Kleiman, 2009). It is not in the best interest of the public to send every violator to jail or prison for lengthy periods of time. Thus, the proportionality principle enhances the validity of the sanctioning process.

That responses are proportionate also relates to the Risk-Need-Responsivity (RNR) model (Andrews & Bonta, 2006) for the assessment and treatment of criminal offenders. The risk principle indicates that the level of service should be matched to the individual's risk to reoffend. Similarly, the need principle maintains that the individual's criminogenic needs should be assessed and then targeted in treatment. The responsivity principle incorporates both risk and need with the purpose to maximize the individual's ability to learn from correctional intervention by tailoring it to suit the individual's learning style, abilities, and motivation to change his/her behavior. For probation and parole violators, these factors must be taken into account to ensure that sanctions are individualized, yet proportionate to the greatest extent possible. In other words, the appropriateness of a sanction may differ depending on the risk level of the probationer or parolee, and more intensive sanctions may be harmful for individuals assessed at low-risk.

Incentives and Rewards

The use of incentives and rewards is equally important in the administrative response approach and in promoting compliance among individuals under community supervision. Similar to how a sanction can act as stimuli to deter future unwanted behaviors, incentives ranging from

verbal recognition to early discharge from supervision can act as stimuli to reinforce positive behavior among probationers and parolees. In fact, effective correctional interventions with individuals involved in the justice system should have positive reinforcements that outnumber sanctions or punishments (Andrews & Bonta, 2006; Gendreau, 1996; Lester, Braswell, & Van Voorhis, 2004). This is particularly true of probationers and parolees assessed at low-risk, who thrive on positive reinforcements, to successfully complete the terms of their community supervision (Jacobson, 2005; Petersilia, 2003, 2007; Travis, 2007).

In thinking about the rationale and key principles collectively, sanctions and incentives should be used in conjunction with one another to promote compliance among probationers and parolees. Research indicates this approach to be most effective in achieving supervision outcomes. For instance, Wodahl and associates (2011) found that while imposing sanctions with swiftness, consistency, and proportionality and granting incentives for desired behaviors among individuals under supervision may be effective independent of one another, they work best in concert. This finding is consistent with previous research (Arzin & Holz, 1966; Marlowe & Kirby, 1999).

REVIEW OF EMPIRICAL EVIDENCE

The community corrections field is increasingly taking advantage of empirical evidence to support the implementation of practices and policy. As it pertains to the administrative response approach, such evidence has come as a result of studies that have examined programs and models that incorporate the principles of swiftness, certainty, and proportionality, as well as the use of incentives and rewards. “Problem-solving” courts, most notably drug courts, are among the types of programs to apply these principles within the context of community supervision. The drug court model has proven to be effective in deterring new offenses and

violations among program participants and reducing long-term costs for jurisdictions by using a model based on close judicial monitoring of participants combined with a graduated response approach, using both sanctions and incentives, to address relapse or behavioral problems (Anspach & Ferguson, 2003; Finigan, Carey, & Cox, 2007; Truitt et al., 2003; U.S. Government Accountability Office, 2005).

Another notable program is the Hawaii Opportunity Probation with Enforcement (HOPE). HOPE is based on a model to reinforce a strong and immediate relationship between probationers' actions and their consequences, sending consistent messages to probationers about personal accountability and responsibility, while directly involving the judge. HOPE conducts frequent and random drug tests for high-risk probationers, and responds to detected violations (including failed drug tests and missed appointments) with swift, certain and short stays in jail. HOPE also rewards probationers for negative drug tests and other compliant behavior and mandates treatment upon request for probationers who do not abstain from drug use while in the program. Hawken and Kleiman (2009) conducted a rigorous evaluation of HOPE using a randomized control trial study design and found that HOPE probationers were 55 percent less likely to use drugs, 72 percent less likely to skip appointments, and 53 percent less likely to have their probation be revoked, as compared to the control group. HOPE provides evidence of the benefit in applying swift and certain graduated, proportional punishment to improve the outcomes of drug use and crime.

Similar to the HOPE model, South Dakota's 24/7 Sobriety Project (24/7) has achieved success in effectively dealing with individuals arrested for or convicted of alcohol-involved offenses by employing close monitoring strategies in the community, such as submission to alcohol breathalyzer tests twice per day or wearing continuous alcohol monitoring bracelets.

Individuals who fail or skip tests are immediately subjected to short jail stays. Using a statewide database of all individuals assigned to 24/7 since its inception, an evaluation conducted by Kilmer and associates (2012) 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. The authors concluded that the application of swift, certain, and modest sanctions for violations can effectively reduce problematic behaviors associated with alcohol misuse. Moreover, there is evidence to suggest that public health and safety outcomes have been improved through the implementation of 24/7, including decreases in the number of people killed in alcohol-impaired driving fatalities and in the number of days individuals spend in jail (Mabry, n.d.; Talpins, Voas, DuPont, & Shea, 2011).

Other jurisdictions have used a system of administrative responses to implement swift and certain sanctions and incentives. One example is the Probation Options Management (POM) program in Georgia. In 2004, the Georgia General Assembly enacted legislation that established an administrative response process to handle probation violators. Soon thereafter, POM was piloted in multiple jurisdictions across the state for a two-year period. The original legislation articulated the following goals of POM: (1) enhance public safety by applying swift, certain, and proportionate sanctions to probation violations; (2) reduce the amount of jail time between arrest and application of sanctions; (3) reduce the amount of time spent on hearings for technical violations of probation; and (4) expand alternatives to incarceration for technical violations. The pilot evaluation indicated reduced jail time, reduced amount of time spent on court hearings, and a substantial cost savings for the local jurisdictions involved in the study (Speir, Meredith, Baldwin, Johnson, Hull, & Bucher, 2007). Since this evaluation, the POM program has been implemented statewide in Georgia.

Another example is an Intensive Supervision Program (ISP) in Wyoming. The Department of Corrections implemented the ISP in an effort to improve the supervision outcomes of probationers and parolees. The ISP is designed to last approximately one year, during which time probationers and parolees progress through a series of supervision levels that vary in intensity. The ISP closely monitors individuals to detect violations, such as alcohol or drug use. What makes the ISP in Wyoming unique is its use of behavioral interventions in the supervision of probationers and parolees. Such interventions allow supervision officers to impose sanctions for certain types of violations and grant rewards to encourage compliant behavior. A study conducted by Wodahl and associates (2011) examined the outcomes of a random sample of probationers and parolees involved in the ISP from 2000 to 2003. The authors found that the use of these behavioral interventions, both sanctions and incentives, led to higher success rates among the sample than in models in which sanctions and incentives were applied independently.

CONCLUSION AND DIRECTIONS FOR FUTURE RESEARCH

These research findings provide several key practical implications for the use of administrative responses in community supervision. One, there is strong empirical evidence to suggest that the use of swift, certain, and proportionate sanctions in response to violations among individuals under community supervision can increase compliance and deter problematic behaviors, such as crime. Research also supports the use of incentives and rewards to promote compliance among probationers and parolees. On a final note, the research is quite clear that using sanctions in conjunction with incentives can achieve the best community supervision outcomes.

Nevertheless, there are areas of the research that need further investigation. For example, the research is not conclusive on the types of sanctions that are most effective in promoting

compliance and whether these sanctions are applicable to all supervisees, regardless of risk-level, cultural nuances or convicting offenses. Moreover, the research is limited on the manner in which sanctions should be imposed administratively. For instance, how much authority should be given to frontline supervision officers to issue sanctions for certain violations? Are there some sanctions imposed administratively that are more effective in responding to violations than by the court or releasing authority? With respect to incentives, the research is quite scarce on the types that prove to be most effective in promoting compliance among probationers and parolees. Finally, the research is limited on exactly how sanctions and incentives can work in tandem to improve supervision outcomes. These are areas which future research should address.

These areas for future research are contingent upon the continuing adoption of administrative responses in States and local jurisdictions. Decisions for practice and policy in community corrections should remain informed by the empirical evidence. What is certain is that the use of the administrative responses holds great promise as an effective method for the community corrections field based on the available research to date. As compared to the traditional community supervision model, administrative responses can create a more efficient process for addressing violations and encouraging compliance, promote greater accountability and successful outcomes among probationers and parolees, and reduce costs, while continuing to uphold public safety.

REFERENCES

- Andrews, D. A., Zinger, I., Hoge, R. D., Bonta, J. A., Gendreau, P., & Cullen, F. T. (1990). Does correctional treatment work? A clinically-relevant and psychologically-informed meta-analysis. *Criminology*, 28, 369-404.
- Andrews, D. A., & Bonta, J. (2006). *The psychology of criminal conduct* (4th ed.). Newark, NJ: LexisNexis.
- Anspach, D. F., & Ferguson, A. S. (2003). *Assessing the efficacy of treatment modalities in the context of adult drug courts* (NCJ Publication No. 202901). Portland, ME: University of Southern Maine, USM Research Institutes.
- Arzin, N. H., & Holz, W. C. (1966). Punishment. In W. K. Honig (Ed.), *Operant behavior: Areas of research and application* (pp. 380-447). New York, NY: Appleton-Century-Crofts.
- Bandura, A. (1977). *Social learning theory*. New York: General Learning Press.
- Cullen, F. T., & Gendreau, P. (2001). From nothing works to what works: Changing professional ideology in the 21st century. *The Prison Journal*, 81, 313-338.
- Finigan, M. W., Carey, S. M., & Cox, A. (2007). *Impact of a mature drug court over 10 years of operation: Recidivism and costs* (NCJ Publication No. 219224). Portland, OR: NPC Research.
- Gendreau, P. (1996). The principles of effective intervention with offenders. In A. Harland (Ed.), *Choosing correctional options that work* (pp. 117-130). Thousand Oaks, CA: Sage.
- Grasmick, H. G., & Bryjak, G. J. (1980). The deterrent effect of perceived severity of punishment. *Social Forces*, 59, 471-491.
- Hawken, A., & Kleiman, M. (2009). *Managing drug involved probationers with swift and certain sanctions: Evaluating Hawaii's HOPE* (NCJ No. 229023). Retrieved April 21, 2010 from <http://www.ncjrs.gov/pdffiles1/nij/grants/229023.pdf>.
- Jacobson, M. (2005). *Downsizing prisons*. New York: New York University Press.
- Kilmer, B., Nicosia, N., Heaton, P., & Midgette, G. (2012). Efficacy of frequent monitoring with swift, certain, and modest sanctions for violations: Insights from South Dakota's 24/7 sobriety project. *American Journal of Public Health*. Advance online publication. doi: 10.2105/AJPH.2012.300989
- Lester, D., Braswell, M., & Van Voorhis, P. (2004). Radical behavioral interventions. In P. Van Voorhis, M. Braswell, & D. Lester (Eds.), *Correctional counseling & rehabilitation* (5th ed., pp. 61-82). New York, NY: Matthew Bender.

- Mabry, A. (n.d.). *South Dakota 24/7 sobriety program*. Retrieved November 26, 2012 from <http://apps.sd.gov/atg/dui247/247ppt.pdf>.
- Marlowe, D. B., & Kirby, K. C. (1999). Effective use of sanctions in drug courts: Lessons from behavioral research. *National Drug Court Institute Review*, 2, 1-32.
- Paternoster, R. (1989). Decisions to participate in and desist from four types of common delinquency: Deterrence and the rational choice perspective. *Law and Society Review*, 23(1), 7-40.
- Paternoster, R. (2010). How much do we really know about criminal deterrence? *Journal of Criminal Law & Criminology*, 100(3), 765-823.
- Paternoster, R., Brame, R., Bachman, R., & Sherman, L. W. (1997). Do fair procedures matter? The effect of procedural justice on spouse assault. *Law and Society Review*, 31, 163-204.
- Petersilia, J. (2003). *When prisoners come home: Parole and prisoner reentry*. New York: Oxford University Press.
- Petersilia, J. (2007). Employ behavioral contracting for “earned discharge” parole. *Criminology and Public Policy*, 6(4), 807-814.
- Rhine, E. (1993). *Reclaiming offender accountability: Intermediate sanctions for probation and parole violators*. Laurel, MD: American Correctional Association.
- Skinner, B. F. (1966). Operant behavior. In W. K. Honig (Ed.), *Operant behavior: Areas of research and application* (pp. 12-32). New York: NY: Appleton-Century-Crofts.
- Speir, J., Meredith, T., Baldwin, K., Johnson, S., Hull, H., & Bucher, J. (2007). *An evaluation of Georgia's probation options management act*. Atlanta, GA: Applied Research Services.
- Talpins, S. K., Voas, R. B., DuPont, R. L., & Shea, C. (2011). Smart justice for DWI offenders: Cost effective solutions that reduce recidivism and promote public safety. *The Journal of Offender Monitoring*, 23(1), 9-12.
- Taxman, F. S. (1999). Unraveling “what works” for offenders in substance abuse treatment services. *National Drug Court Institute Review*, 2, 93-134.
- Taxman, F. S. (2008). No illusions: Offender and organizational change in Maryland’s proactive community supervision efforts. *Criminology & Public Policy*, 7(2), 275-302.
- Taxman, F. S., Soule, D., & Gelb, A. (1999). Graduated sanctions: Stepping into accountable systems and offenders. *Prison Journal*, 79(2), 182-204.
- Travis, J. (2007). Reflections on the reentry movement. *Federal Sentencing Reporter*, 20(2).

Truitt, L., Rhodes, W. M., Hoffmann, N. G., Seeherman, A. M., Jalbert, S. K., Kane, M., ...Finn, P. (2003). *Evaluating treatment drug courts in Kansas City, Missouri and Pensacola, Florida: Final reports for phase I and phase II* (NCJ Publication No. 198477). Cambridge, MA: Abt Associates, Inc.

U.S. Government Accountability Office. (2005). *Adult drug courts: Evidence indicates recidivism reductions and mixed results for other outcomes* (GAO-05-219). Washington, DC: Author.

Wodahl, E. J., Garland, B., Culhane, S. E., & McCarty, W. P. (2011). Utilizing behavioral interventions to improve supervision outcomes. *Criminal Justice and Behavior*, 38(4), 386-405.