

Chapter: **Probation Orders**

Classification: **Public Document**

Subject: **Probation Orders and Other Court Orders – Legal Mandate**

For: **All Custody**


Authorized by the Executive Director

Policy

- 1 It is the policy of Correctional Services to provide community supervision of court orders made pursuant to the Criminal Code of Canada and the Youth Criminal Justice Act.
- 2 It is the policy of Correctional Services that community orders will be clearly and thoroughly reviewed, served, and distributed in accordance with section 732.1(5) of the Criminal Code (CC) or sections 56 (1), (2) and (3) of the Youth Criminal Justice Act (YCJA).

Receipt of a Court Order

- 3 The senior probation officer will arrange with the office of the clerk of the court, a notification process that ensures Correctional Services is promptly notified of the identity of individuals who receive a court order with a reporting requirement.
- 4 The assigned probation officer will review all orders to ensure that clerical errors or invalid dispositions, which would render the order unenforceable, are identified.
- 5 Where a court order has been prepared incorrectly by the clerk of the court, the probation officer will discuss the matter with the senior probation officer and, where appropriate, the order will be returned to the court clerk for corrective action.
- 6 Probation orders containing conditions which may be unenforceable, e.g., probation to follow penitentiary term of longer than two years, will be referred to the office of the crown attorney.
- 7 All court orders will be considered valid and enforceable unless otherwise directed by the court or by the Manager, Correctional Services, based on documented advice from Department of Justice, Legal Services.

Enforcement


- 8 Probation officers will only be responsible for the supervision of conditions contained on court orders when there is a requirement or condition requiring the individual report to a probation officer.

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Non-Reporting Orders

- 9 When the court makes an order which does not require an individual report to a probation officer, the probation officer will verify the non-reporting aspect of the order with the court and/or the crown attorney and if the intent of the court was
- 10 for the individual to report, the probation officer will request an amended court order which requires the individual to report to a probation officer
- 11 for the individual to have no reporting requirement, no further action is required by Correctional Services

Service of a Court Order

- 12 Where the court has not served the order on the individual, this function will be undertaken by the probation officer.
- 13 During the initial interview the probation officer will ensure the
 - (a) probation order is read by or to the individual
 - (b) conditions of the order are explained
 - (c) individual fully understands the
 - i. intent and requirements of the conditions
 - ii. consequences of a breach of any of the conditions
 - iii. option for variation of the order

Distribution of the Court Order


- 14 If the probation order is served by the probation officer, the distribution of the order will be as follows
 - (a) original to the sentencing court
 - (b) copy of the signed order to the individual
 - (c) in the case of a young person, a copy to the parent(s) or guardian

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Variation of Adult Probation Order

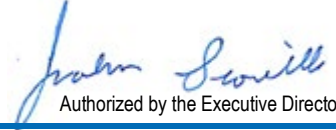
- 15 A variation of a probation order may be initiated by the individual named in the order, the probation officer or the crown attorney.
- 16 A variation of a probation order may be initiated by the individual named in the order, the probation officer or the crown attorney.
- 17 The probation officer will request a variation to the probation order if a condition(s) of the order are not enforceable, or the variation will assist in the person's completion of their case management goals.
- 18 Prior to initiating a variation of a probation order, the probation officer will
 - (a) refer to the requirements of Section 732.2(3) of the Criminal Code
 - (b) review the individual's situation, e.g., family, police, CPIC, etc., to confirm need for a variation request
 - (c) contact the victim in cases involving spousal or intimate partner violence, refer to Policy and Procedures, Subject No. 30.00.00 [High Risk for Domestic Violence Initial Designation/Critical Development Ongoing Information](#)
 - (d) in the case of a request for early termination or removal of reporting requirement, contact the crown to obtain consent
- 19 A variation of probation order for an early termination of a probation order or removal of the reporting requirement condition, may be requested by the probation officer when the following criteria are met
 - (a) all requirements of the probation order have been satisfied
 - (b) the individual requires no further supervision or guidance
 - (c) there are no outstanding charges
- 20 Where a decision is made to proceed with a variation of probation order, the probation officer will prepare a letter to the crown attorney including the following information
 - (a) the offence for which the individual was placed on probation, including the date, judge and sentence

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- (b) a summary of behaviour and any violation which may have occurred between the time the individual was placed on probation and their court appearance for variation of the probation order
 - (c) the requested variation and the rationale behind the request, e.g., relocation, addiction treatment required, extended time required to pay restitution
- 21 In circumstances where the application to vary a probation order was initiated by the individual named in the order, it is their responsibility to make the necessary arrangements with the court.
- 22 Where the request is initiated by the probation officer, a date for the appearance in court will be obtained from the court and the probation officer will inform the individual.
- 23 The probation officer will attend the court proceedings pertaining to the variation and following a variation by the court will
- (a) where the case involves spousal or intimate partner abuse, notify Victim Services and complete a Form 2
 - (b) if Victim Services has had no contact with the victim, send a copy of the amended order directly to the victim
 - (c) review the amended probation order with the individual in accordance with standard 14 of this policy.
 - (d) in the case of a request for early termination or removal of the reporting requirement, if not granted, continue supervision or, if appropriate, transfer the case to Administrative Inactive Status in accordance with Policy and Procedures, Subject No.14.03.00, [Standards of Supervision, Intervention Modes, and Case Management Plan](#).