
Chapter: **Probation Orders**

Classification: **Public Document**

Subject: **Probation Following Custody – Incarceration During Probation**

For: **Correctional Services Division**


Authorized by the Executive Director

Policy

- 1 It is the policy of Correctional Services to ensure the transition from a custody sentence to probation occurs in accordance with governing legislation.

Definitions

- 2 **Earned Remission:** Time off an adult sentence to custody pursuant to Section 6(1) of the *Prisons and Reformatories Act*, a sentenced adult or a young person serving an adult sentence in a provincial correctional facility, may, through positive conduct and industry, reduce their period of time in custody by a maximum of one-third of the total sentence.
- 3 **Warrant Expiry Date:** The final date when an adult may be released from custody in the event that no remission is earned.
- 4 **Earliest Release Date:** The earliest possible date an adult may be released from custody based on ongoing calculations pursuant to the earned remission program.
- 5 **Sentence Expiry:** The date a young person completes both the custody and supervision, custody and conditional supervision, or deferred custody and supervision portions of a sentence made pursuant to YCJA.

Commencement of Probation Following Custody in a Provincial Correctional Facility

- 6 In situations where an individual is sentenced to a period of custody in a provincial correctional facility followed by a period of probation, the commencement of the probation order is effective:
 - (a) on the warrant expiry date (WED) if the adult or young person serving an adult sentence completes their custody disposition under the parole supervision of Correctional Service Canada,
 - (b) upon earliest release date (ERD) if the individual or young person serving an adult sentence, completes their period of custody solely on the basis of earned remission,
 - (c) upon the custody termination date where section 51(2) of the Correctional Services Act is applied to an adult sentence being served in an adult correctional facility

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- (d) on the day after their WED if the young person completes both the custody and supervision, custody and conditional supervision, or deferred custody and supervision portions of a sentence made pursuant to YCJA,
- (e) on the date the review of sentence is granted, where the young person is released to probation
- (f) pursuant to section 56(6) YCJA, the day of sentencing where the youth justice court has ordered the young person to serve a period of probation prior to the start of a period of custody, and the remainder of the probation commencing the day after the end of the custody and community supervision order.

Commencement of Probation Following Custody in a Federal Correctional Facility

- 7 In situations where an individual is sentenced to incarceration in a federal institution for two years, any probation order not yet in effect becomes effective on the WED.
- 8 In situations where an individual is sentenced to two or more periods of consecutive custody, and the totality of the merged sentence exceeds two years, any probation orders issued with sentences of less than two years remain valid and commence on the WED.

Incarceration During Probation

- 9 Where a period of incarceration has been ordered following the commencement of a probation order, the custody order and the probation order continue in effect simultaneously.
- 10 If an individual is placed in custody and is subsequently released on parole prior to expiration of the probation order, the probation order and the parole order continue in effect simultaneously. In such circumstances,
 - (a) the correctional case worker will notify the probation officer of the upcoming release
 - (b) the probation officer will establish contact with the individual to inform that the probation order continues to be in effect
- 11 In the event of violation, the probation officer will enforce the order as required, despite any further action which may be taken by Correctional Service Canada.

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Probation and Parole Overlap

- 12 Where a period of probation follows a period of parole supervision or they run simultaneously, the probation officer will contact the parole officer for information sharing purposes in order to ensure consistent and effective supervision is provided.
- 13 When a parole and probation order are in effect simultaneously, the probation officer will establish contact with the individual to inform them that the order continues to be in effect.
 - (a) In the event of violation, the probation officer must enforce the Probation Order as required, despite any further action which may be taken by Correctional Service Canada.

Reporting Schedule

- 14 At minimum, within 30 days of release or WED the probation officer will provide the facility probation officer/designated facility staff or parole officer with a release reporting letter to be reviewed and signed with the individual.
- 15 The signed letter will be uploaded to JEIN by the probation officer and an activity note entered documenting the letter was provided.