
Chapter: **Conditional Sentences**

Classification: **Public Document**

Subject: **Conditional Sentence Orders – Case Management**

For: **All Community**


Authorized by the Executive Director

Policy

- 1 Correctional Services provides supervision of individuals placed on conditional sentence pursuant to section 742 of the Criminal Code of Canada (CC).

General

- 2 Supervision of a Conditional Sentence Order will commence on the date the order is issued, unless otherwise instructed, by the court.
- 3 All conditional sentences will be supervised at the maximum level until assessed in accordance with the *Level of Service/Case Management Inventory*, see Chapter 28, [Risk and Needs Assessments](#).
- 4 In all cases where the conditional sentence case results from a spousal/partner violence incident, the probation officer will contact Victim Services section to ensure that they have received a copy of the conditional sentence order.
- 5 Individuals placed on conditional sentence will be required to report to the probation officer within one week of sentence, unless otherwise directed by the court.
- 6 Supervision of individuals subject to a Conditional Sentence Order will occur in accordance with Policy and Procedures, Subject No. 14.03.00, [Standards for Supervision, Intervention Modes, and Offender Management Plan](#).
- 7 In exceptional circumstances, requirements for the individual to report in person may be varied, where approved by the senior probation officer. Any such request as well as the accompanying decision and rationale will be documented on JEIN, case management activity list tab. All case activity, amendments and notifications etc. will be documented on JEIN under CM activity list.

House Arrest and Curfew


- 8 The probation officer may approve exemptions to the house arrest or curfew condition where the conditional sentence order permits.

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- (a) all such approvals will be provided in advance by the probation officer, documented on JEIN and necessary changes made in the electronic supervision software
 - (b) personal time exemptions will only be used for the purposes of attending to personal needs which cannot be reasonably attended to at home and does not include recreation or leisure activities
- 9 In cases where house arrest or curfew has been ordered by the court and it is unclear if the intent of the court was for the individual to be restricted to their residence or property, the probation officer will refer the matter to the local court for assistance in gaining clarity.
- 10 Where a curfew is a requirement of the conditional sentence, and a condition for electronic supervision does not exist, the probation officer may use voice verification and smartphone facial recognition technologies with GPS location verify to enhance supervision as they deem appropriate based on the specific case.

Community Checks

- 11 All community checks will be conducted in keeping with established procedures regarding staff safety as outlined in Policy and Procedures, Chapter 12, [Staff Safety and Wellness](#).

Variation of Optional Conditions

- 12 When the probation officer deems a variation of the conditional sentence optional conditions is appropriate, a variation request will be completed on a *Notice to Change Optional Conditions of Conditional Sentence Order* form ([19.00.00-A](#)).
- (a) The form will be completed in full and include a brief summary of the individual's behavior while on the conditional sentence order.
 - (b) A copy will be provided to the individual, the crown attorney and the court.
- 13 The probation officer will attend the scheduled hearing if required and be prepared to provide the court with testimony regarding the proposed variation.
- 14 The probation officer will ensure a copy of the amended order is retained for file purposes.
- 15 Where, upon providing notice of the proposed variation, no request or order for a hearing is

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made within the seven-day period, the proposed change automatically takes effect fourteen days after receipt by the court of the notification of the proposed change. In this situation, the probation officer will

- (a) provide the individual written notification of the change and the effective date
- (b) file a copy of the notification with the court

- 16 Where an individual's request for a variation is not supported by the probation officer, the individual will be informed of the option under section 742.4(5) CC to apply to the court in respect of the proposed change.
- 17 Upon receiving notification that the individual has requested a variation, the probation officer will provide information in writing to the crown attorney outlining the position of Correctional Services with respect to the proposed change.
- 18 In cases involving High Risk for Domestic Violence, the probation officer will notify the victim of a variation to conditions in accordance with Policy and Procedures, Subject No. 30.00.00 [High Risk for Domestic Violence Initial Designation/Critical Development Ongoing Information](#).

Intermittent Sentences

- 19 In cases where an individual is simultaneously serving an intermittent sentence and a conditional sentence, the probation officer will ensure the conditional sentence is suspended during the period of imprisonment, unless the judge orders the two sentences to be served concurrently.

Sentenced to Custody on Another Offence

- 20 If an individual with an active conditional sentence order is sentenced to a period of custody unrelated to the conditional sentence order, the probation officer will ensure the conditional sentence order is suspended until warrant expiry date or early release date is reached.

Breach of Conditions


- 21 Upon learning of an alleged breach of a conditional sentence the probation officer will

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investigate the allegation immediately and determine what action, if any, will be taken. The following will be considered

- (a) the circumstances of the allegation, including events leading up to it
 - (b) the individual's risk level and criminogenic needs
 - (c) public safety
 - (d) if the individual has, without reasonable excuse, clearly failed or refused to comply with the condition
- 22 Where it is determined the circumstances surrounding the breach are of a serious nature and it is believed the individual presents a significant and immediate risk to the community, the probation officer will advise the appropriate police agency without delay and request the individual be arrested in accordance with section 742.6(1) CC. In these circumstances, the police agency may arrest without a warrant.
- 23 Where the probation officer determines that an individual has breached a condition of the Conditional Sentence Order, they may
- (a) provide the individual with a verbal or written warning (Conditional Sentence Written Warning, [19.00.00-F](#))
 - (b) refer the individual to the adult restorative justice program
 - (c) file an allegation of breach of conditional sentence with the court
- 24 The probation officer will document any action on JEIN under case management activity list tab.
- 25 In initiating allegation of breach of conditional sentence proceedings, the probation officer will prepare and file with the court, an
- (a) Allegation of Breach of Conditional Sentence Order ([19.00.00-B](#))
 - (b) Allegation of Breach of Conditional Sentence Order–Report of Supervisor ([19.00.00-C](#))
- 26 The Allegation of Breach of Conditional Sentence Order–Report of Supervisor will
- (a) outline the circumstances of the breach
 - (b) identify witnesses

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- (c) provide information regarding witnesses' comments relevant to the breach
- 27 Where the police have been involved and have obtained signed statements from witnesses, the probation officer will
- (a) undertake to obtain copies of the signed witness statements from the police
 - (b) attach them to the Allegation of Breach of Conditional Sentence Order–Report of Supervisor
- 28 In all allegation of breach of conditional sentence proceedings, the individual's appearance will be compelled by way of a warrant of arrest if they are not already in custody.
- 29 When requesting a warrant, probation officers will
- (a) follow the process outlined in the Justice of the Peace Centre Operational Procedures Guide
 - (b) complete and submit the *Fax Cover Sheet - Request for Justice of the Peace Services* ([19.00.00-D](#))
- 30 In all cases where the individual is charged with a new Criminal Code or other federal statute offence, the probation officer will prepare an Allegation of Breach of Conditional Sentence Order form in relation to the new charge, alleging the individual has *failed to keep the peace and be of good behavior*
- 31 In preparation for a hearing, the probation officer will provide the crown attorney with the following documents
- (a) Allegation of Breach of Conditional Sentence Order – Report of Supervisor - to include a witness list identifying testimony that can be provided
 - (b) signed witness statements, as appropriate/available
 - (c) copy of the Allegation of Breach of Conditional Sentence Order form
 - (d) certified true copy of the Conditional Sentence Order
 - (e) copy of electronic file (JEIN) notes relevant to the breach situation Affidavits of Proof of Service where appropriate ([19.00.00-E](#))
 - (f) any other information felt to be appropriate to the circumstances

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- 32 In advance of all breach hearings, the probation officer will ensure the individual is provided with an information package containing the same information as provided to the crown attorney.
- 33 When the breach matter is before the court, the probation officer will be prepared to attend if required to do so by the crown attorney or defense counsel.
- 34 All sentence calculations related to breach activity will be completed by a probation officer and communicated to any involved Justice stakeholders. Sentence calculations will be completed in accordance with Policy and Procedures, Subject No. 25.04.00 [Sentence Calculation – Conditional Sentence](#).
- 35 Probation officers, when required or requested, will confirm the days remaining on the Conditional Sentence Order for Justice stakeholders.
- 36 Where the court terminates the Conditional Sentence Order, the JEIN, CM will be updated accordingly and closed.

Transfer of Conditional Sentence Order

- 37 Procedures for transfer of Conditional Sentence Orders within and outside the province are detailed in Policy and Procedures, Chapter 27, [Transfers](#), Subject Numbers 27.00.00 and 27.01.00.