

Chapter:	YCJA Orders	Classification:	Public Document
Subject:	Conditional Supervision – Breach Process		
For:	Community Corrections and Youth Correctional Facilities	<i>Authorized by Executive Director</i>	

1. Policy

- 1.1 If a young person (YP) breaches a condition of a conditional supervision order while under supervision in the community, the designated probation officer will initiate a review which may result in a change of supervision conditions or in the YP being returned to custody.


2. Authority

- 2.1 **Discretionary:** Conditional supervision orders may be breached, YPs apprehended and remanded into custody, and their cases reviewed in accordance with sections 106 through 109 of the Youth Criminal Justice Act (YCJA) as appropriate.
- 2.2 **Non-Discretionary:** In accordance with section 45(3) YCJA, if a youth sentence is imposed under section 42(2)(n), (o), (q) or (r) on a YP who was released to conditional supervision under section 94(19)(b) or subsection 96(5) following a review of sentence, the YP is to be remanded to custody subject to a review by the provincial director within 48 hours. All applicable breach options as outlined in this section apply.

3. Criteria for Breach of Conditions

- 3.1 In reviewing the request to suspend, the supervising probation officer will consider whether the breach presents an increase in the level of risk to the community, whether there is any indication of a return to criminal activity and the YP's overall compliance with the conditions of the order.
- 3.2 All reasonable steps should be taken to maintain the YP in the community before a decision is made to suspend.
- 3.3 Where the nature of the breach involves new charges that have been brought against the YP, a suspension will normally take place.

Page 1 of 5	Dated Issued: March 1, 2008 Date of Last Revision: July 27, 2009 Current Revision Date: September 15, 2021	Subject No. 20.04.00
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Chapter:	YCJA Orders	Classification:	Public Document
Subject:	Conditional Supervision – Breach Process		
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3.4 Where a YP serving a conditional supervision order is sentenced to custody as per 2.2. above, an order of suspension and remand will be initiated and the matter referred to the provincial director for review.

3.5 Having determined the appropriateness of a breach the probation officer will prepare a breach report on JEIN as per section 4 below.

4. Breach Report

4.1 The PO will access and complete the breach report located under the YCJA Breaches Tab on the Justice Enterprise Information Network (JEIN) and recommend either

- 4.1.1 warrant of suspension and apprehension or
- 4.1.2 order of suspension and remand

5. Suspension of Conditional Supervision Order


5.1 The senior probation officer will access the above noted breach report and enter name and date and select one of the decision options listed in 4.1 above.

5.2 If the senior probation officer believes the breach does not necessarily present undue risk to the community and there is no indication of a return to criminal activity, the suspension will be cancelled and the decision recorded on the JEIN breach report as 'no action'.

5.3 If the senior probation officer is satisfied there are reasonable grounds to believe that a YP has breached or is about to breach a conditional supervision order and has determined a suspension is appropriate, the senior probation officer will, where the YP is

5.3.1 in custody, suspend and remand the conditional supervision in accordance with 106 of the YCJA until a review is conducted under Section 108 or 109 of the YCJA. Select decision option 'Order of Suspension and Remand'

5.3.2 at large, issue a warrant in writing, authorizing the suspension and apprehension of the YP in accordance with Sections 106, 107 and 109 of the YCJA as applicable to a youth correctional facility until

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a review is conducted under Section 108 or 109 of the YCJA as appropriate. Select decision option "Warrant of Suspension and Apprehension"

- 5.4 Where a warrant has been ordered, the supervising probation officer will
 - 5.4.1 fax a copy of the warrant to the local police agency
 - 5.4.2 advise the youth custody manager, Nova Scotia Youth Centre of the YP's pending remand
 - 5.4.3 forward copies of the warrant, breach of conditional supervision suspension report, conditional supervision order and presentence report immediately to the manager, Correctional Services and the Nova Scotia Youth Centre
- 5.5 Where the YP is in custody, the original order of suspension and remand will be forwarded to the youth custody manager.
- 5.6 Until the YP is apprehended, the YP is deemed not to be continuing to serve the sentence. The YP will not receive credit for the time between the issuance of the warrant and apprehension.

6. Superintendent's Responsibilities Upon Admission of Youth

- 6.1 Upon arrival at the NSYC or other designated youth facility the youth custody manager or delegate will confirm the YP is the person in respect of whom the warrant was issued, and if not satisfied in this respect, the YP will be released. The decision to release will be
 - 6.1.1 recorded on the Release of the YP from Detention form, (see form 20.04.00 A)
 - 6.1.2 communicated to the manager, Correctional Services and the supervising probation officer and appropriate senior probation officer forthwith by the superintendent
 - 6.1.3 conducted in accordance with Policy and Procedures, Subject No. 38.01.00, Discharge from a Correctional Facility
- 6.2 The youth custody manager or delegate will ensure the manager, Correctional Services is notified of the YP's apprehension and return to custody.

Page 3 of 5	Dated Issued: March 1, 2008 Date of Last Revision: July 27, 2009 Current Revision Date: September 15, 2021	Subject No. 20.04.00
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Chapter:	YCJA Orders	Classification:	Public Document
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7. Review by Provincial Director

- 7.1 Where the YP's conditional supervision has been suspended and the YP has been apprehended and remanded to custody, the Manager, Correctional Services, or other designated provincial director will, upon being notified, review the breach within forty-eight (48) hours and either
 - 7.1.1 cancel the suspension of the conditional supervision, or
 - 7.1.2 continue the suspension and refer the case to the youth court for review
- 7.2 The manager, Correctional Services or other designated provincial director, will record their review decision on the Review by Provincial Director form (see form 20.04.00 - B) and fax or email a copy to designated Nova Scotia Youth Centre (NSYC) staff and the senior probation officer.
- 7.3 The name of the provincial director and the date of notification will be entered on the JEIN breach report form.

8. Referral to Court

- 8.1 Where a decision by the provincial director is made to refer the YP's case to the youth justice court, the youth custody manager or designated staff will
 - 8.1.1 obtain a court date for the youth justice court review hearing from the appropriate court clerk for the earliest possible date
 - 8.1.2 ensure the days remaining in the deferred custody and supervision or conditional supervision order on the date of review are calculated and documented on the Notice of Review form (see form 20.04.00 C)
 - 8.1.3 issue a formal notice to the YP using Notice of Review of Custody and Supervision or Conditional Supervision/Deferred Custody & Supervision form, to the YP, the YP's parent(s) or guardian, the manager, Correctional Services, the crown attorney, probation officer and the senior probation officer.

Chapter:	YCJA Orders	Classification:	Public Document
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- 8.2 The probation officer will ensure that the youth justice court is provided with
 - 8.2.1 all reports, including relevant attachments relating to the breach
 - 8.2.2 a copy of the decision by the Provincial Director
 - 8.2.3 copies of the warrants and orders of suspension, apprehension and remand
 - 8.2.4 necessary sentence calculations to assist the court in determining the number of days remaining on the sentence

8.3 The PO will attend court on the date set for the review.

9. Review by Youth Justice Court

- 9.1 Upon review, the youth justice court may
 - 9.1.1 cancel the suspension and reinstate the conditional supervision order on the same or different conditions, or
 - 9.1.2 continue the suspension and issue an order returning the YP to custody for a period of time not to exceed the remainder of the youth sentence

10. Standard Operating Procedures

- 10.1 The youth custody manager will establish such local standard operating procedures as may be required to ensure YPs are remanded into custody as a result of a breach of conditional supervision, are processed in accordance with applicable legislation and this Policy and Procedure.