


Chapter:	YCJA Orders	Classification:	Public Document
Subject:	Custody and Supervision Orders – Breach Process		
For:	Community Corrections and Youth Correctional Facilities	 Authorized by Executive Director	

1. Policy

1.1 Where there are reasonable grounds to believe that a young person (YP) has or is about to breach the conditions of a custody and supervision order, the probation officer will take reasonable steps to prevent the breach or have the YP returned to custody for review of the circumstances by the Youth Justice Court.

2. Authority

2.1 Custody and supervision orders may be breached, YPs apprehended and remanded into custody, and their cases reviewed in accordance with Sections 102, 103, 107 and 108 of the *Youth Criminal Justice Act* (YCJA).


3. Criteria for Breach of Conditions

- 3.1 All reasonable steps to maintain the YP in the community will be taken before a decision is made to initiate breach proceedings.
- 3.2 Where necessary, an application may be made to the manager, Correctional Services to set new or modify existing additional conditions to assist in maintaining the YP in the community.
- 3.3 When the probation officer is made aware that a breach has taken place or is about to take place, and where it is determined that the nature of the breach significantly increases the level of risk the YP presents to public safety, the probation officer will, within 24 hours of notification of the breach, prepare a breach report under the YCJA Breaches Tab in the Justice Enterprise Information Network (JEIN) for approval by the senior probation officer.

4. Review by Senior Probation Officer


- 4.1 The senior probation officer will review the JEIN breach report and select one of the decision options listed below
 - 4.1.1 Warrant of apprehension and remand
 - 4.1.2 Order of remand
 - 4.1.3 Provincial Director change or vary conditions
 - 4.1.4 Written warning

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- 4.1.5 No action
- 4.2 If the senior probation officer believes the breach does not present undue risk to the community nor is there any indication of a return to criminal activity, the decision will be recorded as no action.
- 4.3 If there are reasonable grounds to believe that a YP has breached or is about to breach a condition of an order made under Section 42(2)(n) of the YCJA, the senior probation officer may
 - 4.3.1 permit the YP to continue to serve a portion of their sentence in the community
 - 4.3.1.1 on the same conditions
 - 4.3.1.2 on different conditions approved by the Manager, Correctional Services or other designated provincial director
 - 4.3.2 where the YP is in custody, if satisfied that the breach increases the risk to public safety, order that the YP be remanded to a youth correctional facility by selecting 'order of remand' in the appropriate section in JEIN
 - 4.3.3 where the YP is at large, issue a warrant in writing, authorizing the police to apprehend and deliver the YP to a youth correctional facility by selecting 'warrant of apprehension and remand' in the appropriate section in JEIN
- 4.4 Where the YP is in custody, the order of remand will be forwarded to the appropriate youth correctional facility.
- 4.5 Where the YP is at large in the community, the original apprehension and remand warrant will be forwarded to the police agency.
- 4.6 From the time the warrant is issued until the YP is apprehended, the YP will not receive credit for that time against the sentence.
- 4.7 Where the nature of the breach involves new offences by the YP, breach proceedings will be initiated by the probation officer with primary consideration to the level of risk presented to the community.
- 4.8 When issuing the warrant, the probation officer will
 - 4.8.1 fax a copy of the warrant to the local police agency

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- 4.8.2 ask that the local police agency enter the warrant on the CPIC
- 4.8.3 advise the Nova Scotia Youth Centre (NSYC) of the YP's pending remand
- 4.8.4 provide a copy of the warrant to the supervising probation officer if the breach was completed by another probation officer
- 4.8.5 forward copies of the order or warrant, the original custody and supervision order, the breach of custody and supervision report and presentence report to the Manager, Correctional Services and the NSYC

5. Setting New Additional Conditions

The procedures for setting additional conditions in accordance with Policy and Procedures, Subject No. 20.01.00, *Custody and Supervision Orders – Setting Additional Conditions* will apply when the senior probation officer determines new or changed conditions to the community supervision order are required following consultation with the supervising probation officer.

6. Responsibilities of the Nova Scotia Youth Centre Upon Admission of Young Person

- 6.1 Upon arrival at the NSYC, the officer in charge (OIC) will ensure the YP in custody is the person with respect to whom the warrant was issued, and if the OIC is not satisfied in this respect, will consult with the youth custody manager or manager, Correctional Services to determine if the YP should be released. The decision to release will be
 - 6.1.1 recorded on the appropriate form in accordance with Policy and Procedures, Subject No. 20.02.00, *Release to Conditional Supervision* (see form 20.02.00 - A)
 - 6.1.2 communicated to the appropriate director and the senior probation officer
 - 6.1.3 conducted in accordance with Policy and Procedures, Subject No. 38.01.00, *Discharge from a Correctional Facility*
- 6.2 As soon as practical, designated NSYC staff will ensure that the manager, Correctional Services is notified of the YP's apprehension and return to custody.


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7. Review by Provincial Director

- 7.1 Where the YP's custody and supervision order has been suspended and the YP has been apprehended and remanded to custody, the manager, Correctional Services, or other designated provincial director will review the breach report and other relevant information within forty-eight (48) hours and either
 - 7.1.1 cancel the remand, and release the YP under the same or different conditions
 - 7.1.2 continue the remand and refer the case to the youth court for review
- 7.2 The manager, Correctional Services or other designated provincial director, will
 - 7.2.1 Record the date notified the YP was admitted to custody in JEIN under the YCJA Breach, Provincial Director Review tab
 - 7.2.2 record their review decision on form 20.04.00 - B in accordance with Policy and Procedures, Subject 20.04.00, *Review by Provincial Director* and email a copy of it to the NSYC and the senior probation officer

8. Referral to Court

- 8.1 Where the provincial director decides to refer the YP's case to the youth justice court, designated NSYC staff will
 - 8.1.1 obtain a court date for the youth justice court review hearing from the appropriate court clerk
 - 8.1.2 ensure the days remaining in the custody and supervision order on the date of review are calculated and documented on the Notice of Review (see form 20.01.01 - A)
 - 8.1.3 issue a formal notice to the YP (Link 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
- 8.2 The probation officer preparing the breach documents will ensure that the youth justice court is provided with
 - 8.2.1 all reports, including relevant attachments relating to the breach

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8.2.2 a copy of the decision by the Manager, Correctional Services or other designated provincial director

8.2.3 copies of remand orders and warrants

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

9. Review of Custody and Supervision Breach by Youth Justice Court - Section 103(2) YCJA

9.1 The youth justice court may

9.1.1 order that the YP continue to serve the remainder of the sentence in the community

9.1.2 vary the existing conditions or impose new conditions, or

9.1.3 order that the YP remain in custody for a period of time not to exceed the remainder of the youth sentence

10. Standard Operating Procedures

10.1 Superintendents or the Manager, Correctional Services will establish such local standard operating procedures as may be required to ensure YPs are

10.1.1 remanded into custody as a result of a breach of custody and supervision orders

10.1.2 processed in accordance with applicable legislation and this Policy and Procedure