



Handout: Probation

A Youth Justice Court can place a young person on probation for a period of up to two years. A probation order allows a young person to be released into the community under supervision. With a view to rehabilitation, conditions are attached to the probation order. Conditions should have a clear and direct relationship to the young person's offending behaviour. It is important to remember that a probation order is part of the youth criminal justice system; conditions should not attempt to deal with issues that are related only to child protection, mental health, or other social matters.

All probation orders include orders requiring the young person to:

- “keep the peace and be of good behaviour,” which means to stay out of trouble
- appear before the Youth Justice Court when required to do so

A probation order may also require the young person to follow conditions, such as:

- report to and be supervised by a Community Youth Worker
- notify the appropriate parties of any change in address, place of employment, education, or training
- remain within a particular area
- make reasonable efforts to obtain and maintain suitable employment
- attend school or another place of learning, training, or recreation as appropriate
- reside with a parent, or another appropriate adult, who is willing to provide for the young person's care and maintenance
- reside at a specified place
- comply with other reasonable conditions as set out in the order to secure the good conduct of the young person and prevent them from committing other offences
- not own, possess, or have the control of any weapon or ammunition

Under the previous *Young Offenders Act*, failure to comply with conditions of a probation order often resulted in a separate charge of breach of probation. In fact, the Department of Justice estimates that approximately 50% of young persons found guilty of a breach of a condition of probation under the YOA received a custodial sentence and that approximately 20% of all custodial sentences were the result of a finding of guilt for breach of probation. It is important to note that the behaviour that resulted in the breach charge was not typically something that would result in a criminal charge had the probation order not existed.

For example, a young person could face a breach charge, and possibly custody, because of failing to keep a curfew or not attending school. Under the *Youth Criminal Justice Act* it is still possible for a young person to be charged with breach of probation for failing to comply with a condition of the probation order, but it is not required. The YCJA now provides for a possible review of all non-custodial sentences, including probation. So, if the young person has had a change in their personal circumstances or they are having difficulty complying with the terms of the probation order, the matter can be reviewed.

Discuss

1. Do you think a probation order is harsher punishment than a fine? Why or why not?
2. What place do you think punishment plays in a probation order? How does this fit with the principles of the YCJA?
3. What responsibility do you think parents or guardians have in relation to the actions of their children? What responsibility do they have in relation to the young person's rehabilitation? How does this relate to an order for probation?

