

Conditional Sentences

Survey of Probation and Parole Officers In Ontario (September 2000)

INTRODUCTION:

The Probation Officers Association of Ontario (P.O.A.O.) is a voluntary non-profit organization representing the professional interests of Probation Officers and Probation/Parole Officers across this province. Established in 1952, P.O.A.O. has formulated a number of position papers on issues within the criminal justice system. Our history indicates that successive governments have encouraged our input and incorporated our ideas into various program initiatives.

Issues to which P.O.A.O. has responded in recent years include: the Community Corrections Model, Strict Discipline Facilities, the parole internal review process, credentialism, Ministry directives, the Phase Two review of the Young Offenders Act, the expanded Alternative Measures programs, the Crime Control Commission, Safety in our Profession, and Conditional Sentence issues. In addition to specific policy issues, P.O.A.O. strives to enhance public awareness regarding the important role of the Probation Officer in offender rehabilitation and public safety.

Mission Statement:

Through professional development, education, fellowship and policy design, the Association is an autonomous representative of Probation Officers in this province. P.O.A.O. is committed to the preservation of the fundamental role of the Probation Officer within community corrections. At the same time, we are supportive of efforts for positive changes. In order to maintain our credibility and professional status, we are proactive in addressing issues and concerns that arise.

Values:

In conducting its business, the P.O.A.O. prescribes to the following set of values:

- that Probation Officers achieve professional status and continue to receive ongoing education;
- that its members are fully committed to the Code of Ethics;
- that community corrections programs retain their validity as an effective means of rehabilitation for offenders;

- that autonomy be maintained, while at the same time the responsibilities of the Ministries, OPSEU, and other components of the Criminal Justice System be acknowledged;
- that involvement in the decision-making process be democratic and participatory at all levels.

Structure:

The provincial executive is comprised of the President, Vice-President, Secretary, Treasurer, Past President and six Directors, each with a specific portfolio. The Association's structure also includes eleven branches, each representing a specific geographical region. Each branch has an elected Chair who is assigned to the provincial executive. Individual branches provide professional development days, recreational/fellowship activities including charity events, and responses to local issues. P.O.A.O.'s official publication, The Monitor, is issued quarterly.

Each year, P.O.A.O. hosts a symposium dedicated to the professional development and educational enhancement of our members and the broader criminal justice community. The Association continues to prove itself as the leader in the development and delivery of training for professionals in community corrections.

Conditional Sentence Survey

In May of 2000, the Director of Policy and Protocol prepared a survey, with input from the provincial board. This survey was sent electronically to branch chairs for distribution across the province. A copy of the survey is appended to this document.

The response to the survey from MCS officers was excellent – we received approximately sixty completed surveys within the allotted two weeks. Several more trickled in later, and these responses were also considered in this summary.

Several major concerns were identified with respect to the supervision of Conditional Sentence Orders. In order of frequency, the responses were as follows:

1. We currently have no mechanism in place to monitor curfew and house arrest conditions.
2. Workload issues have yet to be addressed. Conditional Sentence Orders are perceived as being more labour-intensive than Probation Orders.

3. Consequences for breaching the terms of the Conditional Sentence are often inadequate. For example, why is there a “no action” option?
4. Inappropriate offenders/offences being placed on Conditional Sentence Orders.
5. Lack of training for Probation and Parole Officers, Police Officers and Court officials (Crowns and Justices) on this sanction and, in particular, the **enforcement** aspect.
6. Cumbersome, time-consuming paperwork to initiate enforcement and then extreme delays in the actual results.

The concerns expressed by Probation and Parole staff in the survey were indicative of a mounting frustration felt at the field level by those attempting to work within the legal framework of this legislation without the appropriate operational support. For example, house arrest conditions have become the norm in the Toronto area, especially since the *Proulx* decision. The Ministry has failed to address this reality and the Probation and Parole Officers who are supervising these orders are acutely aware that a major aspect of the CS order is left to an “honour system” on the part of the offender. Clearly, the police are not prepared to actively monitor these conditions or curfew conditions, and yet the judiciary continues to frame their CS orders around these conditions.

Probation and Parole Officers as a group would welcome the opportunity to participate in a pilot program that would see selected (on a **voluntary basis**) PPOs working with police to make home visits to the residences of high-risk offenders at random times, to ensure they are in compliance with their curfew/house arrest conditions.

Mere telephone calls are not enough to ensure that the offender is in his/her residence, with options such as call forwarding available on a wide basis. Supervisors know that offenders can and often do forward their residence telephone to a cell phone or even a pager and can seem to be at home when they are not. In addition, the bulk of the curfew conditions list times that are long after the most diligent Probation and Parole Officer has finished for the day. Most curfew conditions range from 9:00 p.m. to midnight or later. Therefore, even if PPOs were inclined to make telephone calls on a random basis, these calls would have to be made from home – *not an option* with the telephone technology available to the general public today.

In order to adequately and realistically address the issue of house arrest/curfew conditions on CS orders, it is imperative that the Ministry of Correctional Services take the lead in this area and invite the major stakeholders to find ways to make this sentencing option work. It is the position of the Probation Officers Association of Ontario that the only way that the issue of public confidence in this sentencing option can be improved is to have representatives from MCS, MAG, MSG and IJIT sit down and plan a strategy that would allow for actual surveillance and improved enforcement of Conditional Sentence Orders. If used

correctly, the Conditional Sentence Order should be a true alternative to incarceration and should result in a reduction in institutional admissions and a corresponding savings to the Ontario taxpayer. Further, it is the position of the POAO that the surveillance part of supervision should not be contracted out to a private agency, but instead should be a combination of experienced staff from both institutional and community corrections working in partnership with local police services to provide the best evidence for enforcement purposes and to ensure that the management of offenders in the community continues to be provided in a high quality and professional manner. We have been working with this legislation for the past four years and are the best equipped to operationalize any new initiatives that may be developed.

Electronic Monitoring

The final question on the survey pertained to the use of electronic monitoring with Conditional Sentence Orders and whether or not Probation and Parole Officers should be involved in this type of surveillance. Respondents indicated their overwhelming agreement that if EM is used to facilitate the monitoring of house arrest/curfew conditions, then Probation and Parole Officers should be involved. As previously noted, consideration could be given to a different type of PPO position with different hours of work and a distinct mandate (similar to specialized positions currently in place such as Institution Liaison Officer, Court Liaison Officer, Common Services Unit, etc.). These positions, along with those Correctional Officers currently working as EM Officers, could be teamed with police, especially in larger urban areas, and could form the basis of a new approach to the concerns expressed by the public and the judiciary about the monitoring of curfew and house arrest conditions. These specialist positions would report any infractions to the case manager (the PPO responsible for the offender) and would prepare witness statements to be used in enforcement proceedings.

In summary, the results of the Conditional Sentence survey indicate that Probation and Parole Officers are interested in providing the best possible service to the communities in which they work. They want to make use of available technology and they want to see results when they initiate enforcement proceedings. They have been struggling for the past four years to supervise Conditional Sentence Orders with no additional resources and without adequate training. Most believe that this type of sentence could become more effective if changes were made at all levels. Many suggested that Probation and Parole Officers should be consulted prior to the sentencing stage (perhaps by way of a "Stand Down" Presentence Report request) when the option of a Conditional Sentence is being considered. And, of course, it is essential that the judiciary respond to breaches of the CS order with appropriate and timely sanctions. Only if all of the partners in the judicial system work together will this and other community dispositions become effective tools in the crime reduction arsenal.