

**Early Release
Incident Review Report
Department of Justice
February 25, 2011**

Introduction:

This review focused on circumstances surrounding sentence calculation that led to the early release of an offender from custody on November 5, 2010.

Considerations:

The review considered:

- The complexity of sentence calculation
- The interdependence of various justice partners (Courts, Corrections, Community Corrections, the Crown)
- Processes required to be in place and if followed
- Staff knowledge of the procedures involved
- The computer program (Justice Enterprise Information Network - JEIN)

Issue:

An offender who was sentenced to a four month conditional sentence¹ on July 5 2010, allegedly breached his sentence in August 2010. As a result, a Warrant for Arrest was issued. The offender went on to appear in court and on October 26, 2010, was ordered to spend the remainder of his sentence in custody.

¹ A conditional sentence is served in the community under specific terms and conditions, instead of in a correctional facility. A Conditional Sentence Supervisor monitors the accused for compliance. If there is a breach of the sentence, an arrest warrant may be issued.

The Facts:

At the October 26th hearing, there was a lack of clear information in respect to the number of days that the offender had remaining to serve on his sentence. Community Corrections thought that there were approximately 3 months remaining and that he had served approximately 22 days.

As per Conditional Sentences policies and procedures (Appendix A), the necessary paperwork was completed, including a Breach of Conditional Sentence Order and a Warrant of Committal. Paperwork was prepared based on incorrect information from JEIN, not on the information provided in Court (about 3 months). This paperwork was then forwarded to the Central Nova Scotia Correctional Facility, with a copy to the accused.

The court administrative staff person noted a discrepancy between the JEIN computer system (20 days) and court documents (three months) and brought it to the supervisor's attention. A request for the correct time remaining was made to the Crown, and it was confirmed that 84 days were remaining. The court administrative staff person prepared an Amended Breach of the Conditional Sentence Order, which was then forwarded to Central Nova Scotia Correctional Facility (CNSCF) on October 29th, with a copy sent to the accused.

The court administrative staff person did not prepare an amended Warrant of Committal for CNSCF. This Warrant provides CNSCF its authority to hold an individual in custody.

On November 5, 2010, CNSCF released the offender. The court administrative staff person checked the computer system and confirmed that the amended Breach of Conditional Sentence Order referenced 84 days. The court administrative staff person then referenced the court file, where it was identified that an amended Warrant of Committal had not been prepared. As a result, the offender was released early.

Findings:

There is a reliance on other partners to contribute to sentence calculation including Courts, Corrections, Community Corrections, Public Prosecution, and the Judiciary.

Through this process, it was clear that several things contributed to the inaccurate sentence calculation that led to the early release of this particular offender.

Computer system – Incorrect information was obtained from the computer system and therefore the data used to generate the original Breach of the Conditional Sentence Order (CSO) and the Warrant of Committal was inaccurate.

Process – Although Court staff do not terminate CSOs, the staff person involved was not familiar with the paperwork process associated with the decision to terminate a CSO (ie. Warrant of Committal).

Justice partners – The precise time remaining on the sentence was not provided to the court by those in the court room on the day of the hearing. This led to inaccurate information being taken from JEIN and used in documentation.

Court Staff – did not have sufficient knowledge of Conditional Sentence Order procedures. Also, on the particular day of sentencing, there were staff shortages.

Recommended Improvements:

Computer program (JEIN)

- Consolidate existing computer program (JEIN) information for Court Services into one separate and distinct manual.
- Remove Court Services administrative access to the Sentence Order Calculation feature on JEIN.

- Improve communications with Corrections and expand the JEIN User Committee to include other partners and share among appropriate personnel.
- Enhance the computer system so that a Breach of Conditional Order amendment prompts the automatic creation of an amended Warrant of Committal.

Process

- Develop a more detailed and consolidated Breach of Conditional Sentence Policy to be used by all appropriate partners: Corrections, Courts and the Crown.
- Update and clarify the current JEIN Courts Manual in relation to conditional sentences.

Justice Partners

- Create a policy that will see regular meetings between appropriate justice partners to build better relationships, share information and address issues.

Staff

- Continue to provide the necessary training of court staff and work to back-fill empty positions.