



Department of Justice and Public Safety
Adult Custody Services

Policy: **Temporary Absence F6**
Effective: March 2001
Revised: December 2022

MISSION STATEMENT

Adult Custody Services is committed to providing professional practices that respect human rights and ensure safety for all. To be successful we will deliver fair practices; incorporate transparent policies and procedures; ensure independent quality assurance processes; provide program access that allows for educational, cultural, traditional, and faith-based services as well as mental wellness and community re-entry assistance.

PURPOSE

To establish procedural standards for the administration of an early release process that enables clients an opportunity to participate in community-based educational programs; in employment; to meet medical needs; or for administrative purposes or humanitarian reasons.

LEGISLATIVE AUTHORITY

[S.7, Prisons and Reformatories Act \(R.S.C., 1985, C. P-20\)](#)

[General Regulation – Corrections Act 84-257](#)

SCOPE

The policy applies to Department of Justice and Public Safety staff in Adult Custody Services, Community Services and Victim Services.

POLICY GUIDELINES

The community is recognized as having a great influence in the rehabilitation of clients and their successful reintegration into society as law-abiding citizens.

The *Temporary Absence Program* allows clients an opportunity to:

- Participate in community-based programming and employment; as well as
- Meet medical, administrative, and humanitarian goals.

A comprehensive assessment process is used to ensure public safety, while providing opportunities for the successful reintegration of qualified clients to the community.

Clients, staff, other participants in the criminal justice system and the public must be made aware of the Temporary Absence Program's purpose, eligibility requirements and application procedures.



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All matters pertaining to temporary absence decisions will be recorded and retained as part of the client's institutional record.

Clients have a right to apply for a temporary absence. This right does not guarantee their request will be granted.

PROCEDURE

Designation of Authority

In accordance with the Prison and Reformatories Act, the Minister of Public Safety has designated the authority to grant, refuse to grant temporary absences; impose conditions, vary, and remove imposed conditions; suspend or revoke a temporary absence; and issue a warrant of committal to specific Adult Custody officials as follows:

- Director of Adult Custody Services – Adult Custody Services.
- Superintendent – Adult Custody Services
- Chief Superintendent – Adult Custody Services

Categories of Release

The following categories define why temporary absences may be granted:

- To obtain and/or continue employment in the community (all costs incurred are the client's responsibility).
- To obtain necessary medical/clinical treatment which is unavailable at the institution.
- To participate in an educational or training program in the community.
- To participate in meaningful community activities such as employment searches, volunteer services, family purposes, educational testing; and
- To facilitate responsible management of the institution as determined by the Director of Adult Custody Services.

Eligibility

The eligibility criteria for a sentenced clients release on a temporary absence pursuant to Regulation 84-257 of the *Corrections Act N.B.* are as follows:

- "An offender sentenced to twelve months, or more is eligible for a temporary absence under subsection (1) upon serving at least one-third of his or her sentence or six months, whichever is greater.
- "An offender sentenced to less than twelve months is eligible for a temporary absence under subsection (1) upon serving at least one-sixth of his or her sentence".

Intermittent Sentence – Criteria

Clients serving an intermittent sentence are eligible to apply for a temporary absence/or the electronic monitoring program upon admission.



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Clients under this classification may be eligible for a temporary absence/electronic monitoring after serving their first portion of the sentence as outlined within the warrant of committal. (Ex: Friday 20:00 – Sunday 16:00 = first portion)

Limitations

A Client will normally be considered ineligible for a temporary absence under the following circumstances:

- They are on remand.
- They are sentenced but are also being held on a remand order.
- They are a federal holding.

Regarding High Profile Client: the circumstances of some criminal offences - normally associated with but not limited to sexual misconduct, arson, and serious violence - may pose as a potential risk to the community and/or the client. High profile cases will be considered only after consultation with Director of Adult Custody Services, Chief Superintendent or designate.

When to Make Application

There is no minimum waiting period before a client may apply for a temporary absence.

No Release to Staff

Clients will not be released to the custody of a staff member who is not on duty.

Superintendent

The Superintendent is the primary authority for the Temporary Absence Program within their institution. They are responsible for:

- Ensuring a description of the Temporary Absence Program is made available to all sentenced clients and members of the public.
- Forming a classification committee.
- Granting, refusing, suspending, and revoking conditions of a temporary absence; and
- Issuing a warrant of committal.

Correctional Programmer

The Correctional Programmer is responsible for:

- Coordinating the activities of the Classification Committee.
- Ensuring all relevant information and documentation is provided to assist the committee.
- Accepting temporary absence applications.
- Conducting institutional and community assessments.
- Monitoring current Temporary Absence Program.
- Making recommendations to the Classification Committee with respect to the Temporary Absence Program.



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Chief Superintendent

The Chief Superintendent is responsible for:

- Ensuring the Program complies with policy on a provincial level.
- Maintaining statistical information for analytical purposes.
- Act as a liaison with the Superintendent, community agencies, law enforcement agencies and the public in all matters related to the Program.

Probation Officer

Where deemed necessary by the Superintendent, and in high profile cases, the assistance of Probation Officers shall be requested for the purposes of conducting community investigation.

Program Description

A description of the Temporary Absence/Electronic Monitoring will be made available to all sentenced clients upon admission. The program description will include:

- Purpose of the program.
- Eligibility criteria.
- Application procedure; and
- Time frames for processing applications

Application Forms

Temporary Absence forms will be made available for distribution to sentenced clients upon request.

Application Distribution

The completed application along with any supporting documentation will be forwarded to the Superintendent or Correctional Programmer for consideration in accordance with the established decision-making process.

Processed

A temporary absence application is to be processed unless the client requests (in writing) the withdrawal of the application.

Institutional Assessment

A temporary absence requires that the Correctional Programmer conduct an Institutional Assessment within 15 days of submission for sentenced clients upon receipt of an intermittent request or as directed by the Superintendent (Designate).

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Oral or Written Submissions

Clients are entitled to make oral or written submissions to the Classification Committee or designate in support of their proposed absence. The submission may or may not be received at the discretion of the Superintendent.

Information Sources

Recommendation and decisions will be made only after consideration is given to the information in the following:

- The temporary absence application, outlining the offenders release plan.
- A pre-sentence report, if up to date.
- Clients criminal record.
- Arrest report, if available.
- Risk assessment protocols.
- Institutional reports.
- Community assessments.
- Any other information which is relevant to the application.

Factors for Consideration

When determining whether a client should be granted a temporary absence and, if recommended, the following factors will be considered:

- Risk
- Benefits
- Judicial intent
- Release plan
- Offence
- Sentence
- Criminal history
- Community performance
- Institutional performance
- Progress
- Outstanding charges
- Immigration status
- Community support
- Program availability
- Victim impact
- Other available information

Risk Consultation

Superintendents will reserve decisions until consultation has taken place with the Chief Superintendent in cases where the applicant's offence is of a sexual nature, violence, or arson. The Director of Adult Custody Services is to be verbally notified where a decision to grant a temporary absence is made in such cases.

Community Assessment

A Community Assessment will be completed by the Correctional Programmer. The report will be forwarded within 10 working days.

Note: In cases where a sentence of 30 days or less, or is an intermittent sentence, the Community Assessment may be initially delivered verbally, followed by the written report within seven (7) days.



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Mandatory Contacts

The person completing the Community Investigation - the Correctional Programmer - shall as appropriate contact:

- Law enforcement agency.
- Probation officer.
- Victim coordinator.
- Victim or guardian.
- Person/place/program of request.
- Family/friends/employer, if appropriate.

Required Information

Obtained information may include, but is not limited to:

- Address verification and suitability.
- Previous relationships.
- Interests and leisure activities.
- Previous substance abuse history.
- Finances related to future employment.
- Level of community support for temporary absence.

Confidentiality

Provisions under the Right to Information Act and Policy C-12 Access to Inmate File Information will be adhered to.

Terms and Conditions

Standard terms and conditions are listed on the Temporary Absence Certificate. The releasing authority may impose additional conditions which are to be reflected on the certificate.

Supervision

The supervision standard practices are as follows:

- The client is required to contact the supervising person/agency every 48 hours, unless otherwise specified.
- The releasing authority may contact the client, supervising agency, employer etc. any time during the release.

Retention

To ensure accountability, all submissions pertaining to an individual case will be appended to the application. A record of every authorized absence will be maintained in the client file. A copy shall be forwarded to the probation officer and placed in the client's probation file if applicable.



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Temporary Absence Conditions Explanation

The Superintendent or their designate shall review and ensure all conditions related to a temporary absence and the consequences of non-compliance are clearly understood by the client.

Client Confirmation

The client shall sign the Temporary Absence certificate, signifying that they accept and understand the explained conditions of their release.

Denied Applications

The client will normally be advised within 72 hours if their application has been denied. Written explanations shall be provided to the client within the subsequent five (5) working days.

Altered Conditions

Temporary absence conditions may be changed upon the offender providing the documentation containing the reasons for the change from the granting authority. Upon receipt of any request, the granting authority will expedite the investigation and upon a conformation issue a new certificate where applicable.

Transportation

All transportation expenses are normally the responsibility of the client. The client shall indicate their method of transportation and all details on their request form.

A Client may receive permission to drive while on temporary absence, after proof of a valid driver's license and insurance has been confirmed.

Inter-provincial Requests

The Superintendent may exercise some discretion and review individual cases. All such absences will only be authorized following full consultation with Chief Superintendent and the Director of Adult Custody Services

Inter-provincial Transfers

Subject to written approval from a receiving jurisdiction, and client may be granted a temporary absence for travelling to an institution outside of New Brunswick. Travel arrangements will be coordinated by the Chief Superintendent/Superintendent Headquarters.

Deportation

If a client may be subject to deportation, Canadian Immigration authorities will be consulted before a temporary absence is granted. In these cases, notification will be given verbally, with written response to follow to Chief Superintendent/Superintendent Headquarters before the certificate is issued.



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Civil Orders

Clients contained for civil contempt, failure to comply, and failure to pay maintenance are eligible for a temporary absence. In these cases, consultation with the issuing court should take place with final approval coming from the Chief Superintendent.

Fines

Clients serving sentences for unpaid fines are eligible for a temporary absence.

Outstanding Charges

Where a client has an outstanding charge or charges of a summary conviction nature, and the client is not being held on remand but has made reasonable efforts to resolve the charge(s), consultation with the courts will take place prior to issuing a temporary absence.

Federal Clients

Federal clients serving their sentence in a provincial facility under the provisions of the Exchange of Service Agreement between the Government of Canada and the Province of New Brunswick may be granted a temporary absence as provided in this policy, provided the client has no longer than one (1) year before parole eligibility, and in consultation with the local parole officer. Approval from Chief Superintendent/Superintendent Headquarters is required.

Certificate Distribution

The distribution of temporary absence authorizations are as follows:

- original to institutional file.
- copy to the client.
- probation/supervising agency where applicable.
- law enforcement agency where the client will be residing.
- Chief Superintendent/Superintendent Headquarters.

Denial Notice Distribution

Denied temporary absences form will be distributed to the original institutional file and the Chief Superintendent/Superintendent Headquarters with a copy to the client

Termination/Suspension

The designating authority has the right to suspend or withdraw a temporary absence at any time for specific documented reasons, which include:

- Exhibition of unsatisfactory or questionable conduct.
- Failure or inability to abide by the terms and conditions of the temporary absence.
- The educational, employment or rehabilitative program is terminated.
- Client request.

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- Reasonable and probable grounds to believe another offence has or is about to be committed.
- Circumstances surrounding the release have changed or deteriorated to the extent there is reason to believe a termination or suspension is in the best interest of public safety and/or the clients.

Interim Ruling

Suspension is an interim ruling and not a final decision. A suspension is applicable where further investigation is required. A final disposition will follow the suspension.

Suspension

Suspension for disciplinary reasons may result in one or more of the following decisions:

- revocation because of a misconduct, infraction, or further criminal charges.
- reinstatement of the temporary absence is found not guilty.
- reinstatement with more stringent conditions.
- a further period of temporary suspension.

Warrant of Committal

An client is to be returned to a correctional institution when a Warrant of Committal is issued by the designated authority as provided in Regulation 84-257 under the [Prisons and Reformatories Act \(Section 7 to Section 7.6 Subsection \(4\)\)](#). The law enforcement agency in the jurisdiction where the client is residing shall be notified immediately.

Notification

A suspension report is to be prepared within 24 hours on an incident report by the person who issued the suspension. The suspension report will be distributed as follows: original to institutional file; probation office or officer (where applicable) and Chief Superintendent.

Revocation

Revocation is a final decision based on circumstances, which are disciplinary in nature (i.e., misconducts, violation of conditions, or any further criminal activity).

Revocation Process

The designated authority will conduct a full investigation. The suspension shall either be reinstated or revoked within 20 working days.

Notification

Where a temporary absence has been suspended or revoked, reasons for this decision will be communicated to the client within 72 hours of the decision being made. A written decision with reasons will be provided to the client by the designated authority within five (5) working days.

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Limitations

Under no circumstances are supervising agencies authorized to extend, alter, suspend, or revoke a temporary absence.

Internal Disciplinary Review

When a client violates a temporary absence by committing an act, which also constitutes offence under the Criminal Code of Canada, Provincial Statutes, or an Act of Parliament, all internal disciplinary actions relating to the allegation will discontinue. However, if no criminal charges are laid, the Superintendent may re-commence internal disciplinary procedures.

Distribution

Reports on temporary absence violations will be prepared and accompanied by running and incident reports and, distributed as follows: original to institutional file; probation officer and Chief Superintendent/Superintendent Headquarters

Appeals

A client may appeal the decision of any official with respect to the temporary absence process. The appeal process consists of two (2) levels:

Level 1 - Chief Superintendent/Superintendent Headquarters: if the client is dissatisfied with the decision, they may subsequently forward the appeal to the next level.

Level 2 - Director of Adult Custody Services: the decision of the Director is final.

Monthly Summary

The Superintendent will maintain a monthly record of all temporary absence releases/denials and forward it to Chief Superintendent. Reasons for denials shall be indicated on the denial certificate.

RELATED POLICY

E8 Transfers
E19 International Transfer
E18 Inter-provincial/territorial Transfers
F1 Classification
F10 Electronic Monitoring Program
C4 Intermittent Sentence
Adult Institutional Policy Manual N.B