



# NEW MEXICO CORRECTIONS DEPARTMENT

Secretary  
Alisha Tafoya Lucero

CD-050500 Probation to Follow Prison, Probation to follow Jail, Multiple Conviction Cases	Issued: 04/14/90 Effective: 04/14/90	Reviewed: 11/21/23 Revised: 03/23/22
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

## AUTHORITY:

- A. NMSA, 1978, Section 31-18-15, 31-19-1, 31-20-3, 31-20-5, 31-21-10 and 31-21-14, as amended.
- B. Policy *CD-000100*

## REFERENCE:

None

## PURPOSE:

Establish procedures for supervising cases when the offender has been committed to the New Mexico Corrections Department with probation to follow release from incarceration, when an offender has been sentenced to serve a period of county jail incarceration prior to beginning a term of probation supervision or when an offender is under probation or parole supervision in two or more cause numbers.

## APPLICABILITY:

All Probation and Parole Division Staff

## FORMS:

**Offender Probation Acknowledgement form (*CD-050501.1*) (2 Pages)**

## ATTACHMENTS:

None

## DEFINITIONS:

- A. *Multiple Conviction Case*: Status occurs when an offender is under probation or parole supervision for two or more convictions (i.e. two or more Judgment and Sentences), either out of the same jurisdiction or multiple jurisdictions.
- B. *Probation to Follow County Jail (PCJ)*: Case status occurs when an offender receives a partially suspended sentence and is sentenced to a period of incarceration in a county jail followed by a period of probation supervision.

- C. Probation to Follow Prison (PTF): Case status occurs when an offender receives a partially suspended sentence and is sentenced to a period of incarceration in a Corrections Department prison institution and a probationary period is imposed after incarceration.
- D. In-House Parole (IHP): An inmate who has completed all of his or her basic sentence, including concurrent and consecutive, and who is serving his or her parole term in prison, but who can be released immediately with an approved parole plan and parole certificate.

**POLICY:**

- A. When a defendant is required to serve a period of probation subsequent to a period of incarceration:
  - 1. **The term of probation shall begin to run on the date the offender begins his or her term of parole.** The conditions of probation imposed by the court shall be deemed as additional conditions of parole.
  - 2. In the event the defendant violates any condition of the parole, the Parole Board shall cause him to be brought before it pursuant to the provisions of NMSA 1978, Section 31-21-14 and may make any disposition authorized pursuant to the section, and if the period of parole served in the custody of a correctional facility shall not be credited as time served on probation unless ordered by the courts.
- B. Probation to Follow County Jail: In the event that the court orders a period of incarceration in a county jail facility to be followed by a period of probation supervision, the term of probation shall begin to run on the day the offender completes his/her jail sentence. The Probation and Parole Division will ensure the proper tracking and opening of these cases.
- C. Multiple Conviction Case: If a probationer or parolee is under supervision for multiple cases arising out of unrelated criminal cause numbers out of the same or different jurisdictions, a policy will be followed for the case-file opening, tracking, and supervision of said offenders.
- D. Violation Reports: It will be the responsibility of the supervising Probation and Parole Officer to provide a violation report to the sentencing court.



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## AUTHORITY:

Policy *CD-050500*

## PROCEDURES:

### A. Probation to Follow Prison (PTF):

1. If an offender receives a partially suspended sentence and is required to serve a period of probation subsequent to a period of incarceration in a Corrections Department prison facility and is released on parole, the parole sentence will be the sentence of record for Probation and Parole Division (PPD) and will be used by PPD staff for all reference purposes until the parole period has been completed.
2. **The term of probation shall begin to run on the date the offender begins his/her term of parole**, even if the offender serves any of the parole term in prison as an in-house parole inmate.
3. It is the responsibility of the District Supervisor (or designee) to assure that each district adequately manages PTF cases from their district by the following methods:
  - a. Maintaining a skeleton file of the PTF case in a central location until the offender's parole expires or finalizes his number.
  - b. Advising the offender of his probation obligations by having the offender sign an **Offender Probation Acknowledgement** Attachment (*CD-050501.1*). When the offender is incarcerated, the Notification of Probation will be forwarded to the institution and the classification officer shall obtain the offender's signature and return the document (s) to the originating District Office.
  - c. Notification to the Reception and Diagnostic Center (RDC), via a cover memo attached to the case materials, that this offender has probation to follow and that the originating district office needs to be notified when the offender is paroled or finalizes their number.
  - d. Scrutinizing judgment and sentences at the time of the Parole Plan Investigation (PPI) in order to determine if there is also a term of probation involved.

- e. Review judgment and sentence and ensure that special conditions of probation are incorporated as additional conditions of parole, consistent with NMSA Section 31-20-5.
4. Opening and Maintenance of Case Files:
- a. Once a PTF parolee is identified, the probation case will be assigned to a Probation/Parole Officer, if assignment was not made at the time of sentencing.
  - b. Upon assignment of a PTF case, the Probation and Parole Officer shall ensure that special conditions of probation are incorporated as additional conditions of parole. If any probation conditions are not included on the parole certificate, the Probation and Parole Officer shall notify to Parole Board immediately and request the parole certificate be amended in accordance with NMSA 1978, Section 31-20- 5.
  - c. A semi-active probation case file shall be maintained by the originating District Office throughout the parole period.
  - d. For tracking purposes, the probation case will continue to be listed as a semi-active or active case on the client roster of the sentencing District, until the probation period has expired.
  - e. The assigned Probation/Parole Officer shall regularly review the case file to determine if the status has changed or remained the same. The Officer shall document the status in a Supervision Status in the case record and follow up accordingly.
  - f. The assigned Probation and Parole Officer shall prepare and file a probation order with the District Court pursuant to CD-050200.
  - g. Normal case closing procedures will be followed at the expiration of probation; if the probation expires prior to end of the parole term, the probation file will be kept with the parole file until expiration of parole.
  - h. When the probation term extends beyond an expired parole term, copies of relevant case materials from the parole file shall be placed in the active probation file.
5. Violations of Probation Parole:
- a. In accordance with statutes listed in *CD-050500*, Authority, paragraph A, all probation and parole conditions shall be reported to the Parole Board and the sentencing court.
  - b. The sentencing district judge shall have sole discretion of whether to proceed

with probation revocation. If the probation term ceases then a notation of parole revocation shall be made in the probation file, and the case tracking shall continue with the semi active-PTF case pending release from jail/prison procedures.

6. Parole to District Other than Sentencing District:
  - a. Upon receipt and acceptance of a parole plan that indicates a PTF case out of another district, the assigned Probation/Parole Officer shall notify the sentencing district in writing of the pending parole.
  - b. The sentencing District Supervisor will assign the probation case, if not previously assigned, to be maintained on a semi-active status until the case is either opened or expires within the parole period.
  - c. If the probation term expires before the end of the parole term, the supervising PPO shall close out the probation file and forward a copy of the probation file to the supervising district. The original probation file remains with the originating district for safekeeping until being archived.

**B. Probation to Follow County Jail (PCJ):**

1. When a District Supervisor becomes aware that an offender has been sentenced to a period of incarceration in the county jail to be followed by a period of probation supervision, he/she will assign the case to a Probation/Parole Officer.
2. The Probation/Parole Officer will go to the jail and have the offender sign the Acknowledgment form, advise him or her of how to report to the PPD office upon their release, the signed form will be placed in the offender file. The Probation and Parole Officer shall document this contact in the offender's case notes.
3. The Probation/Parole Officer will contact jail officials to inquire about projected release dates, and to request that the jail officials provide the Probation/Parole Officer written notification once the offender is released.
4. The Probation/Parole Officer will review the jail in custody list on a weekly basis to check for the release of any offenders with probation terms to follow their jail incarceration.

**C. Multiple Conviction Cases:**

Case File Maintenance:

1. Charges as noted in a single Judgment and Sentence constitute a single conviction, regardless of the number of counts or cause numbers involved.

2. A separate case file should be prepared on each Judgment and Sentence.
3. When an offender has multiple convictions, the initial Risk and Needs Assessments should be prepared on the longest running number.
4. In the event of a subsequent conviction and after the completion of previous sentences, another initial Risk and Needs Assessment will be prepared, and the officer will proceed with the protocol to open a new case.
5. A copy of the previously prepared pre-sentence report should be maintained in the case file, along with materials pertaining to the conviction.

**D. Compliance with Local Judges' Orders:**

If ordered by local judges, deviation from this policy is acceptable; but in all situations, PTF probationers must be tracked by the sentencing district for the duration of their probated sentences.

**E. Probation to Follow cases requesting an Interstate Transfer:**

Refer to CD-083000 Reentry Planning & Transition Process for Inmates Releasing to the Community from Incarceration

## NEW MEXICO CORRECTIONS DEPARTMENT

### **Offender Probation Acknowledgement**

I acknowledge that I have been notified that I have a period of probation to serve in addition to my commitment to the N.M. Corrections Department/\_\_\_\_\_County Jail, and that I am required to contact the\_\_\_\_\_Probation Office at telephone number:\_\_\_\_\_immediately upon my release from incarceration.

I acknowledge that I have read these standards and special conditions of probation and realize that they will be incorporated into my Parole Certificate if released on parole supervision.

I further understand that if I finalize my number within the confines of the institution that I still may have remaining probation time, and thus, need to contact the above office immediately upon release so that my probation case can be opened.

1. You will not violate any of the laws or ordinances of the State of New Mexico, or any other jurisdiction, and you will not endanger the person or property of another.
2. You will report to your Probation Officer as often as required and will submit completed and truthful written reports between the 1st and the 10<sup>th</sup> day of each month. All communication with your Probation Officer will be truthful and accurate, and you will promptly reply to any correspondence or communication you may receive from the probation office.
3. You will get permission from your Probation Officer before:
  - a) leaving the county where you are being supervised and/or residing;
  - b) changing jobs
  - c) changing residence; or
  - d) engaging in any major financial contract or debt
4. You will not associate with any person identified by your Probation Officer as being detrimental to your probation supervision, which may include persons having a criminal record, other probationers and parolees, and victims and/or witnesses of your crime or crimes.
5. You will follow all orders and instructions of your Probation Officer including actively participating in and successfully completing any level of supervision and/or treatment program, which may include Community Corrections, Intensive Supervision, or other supervision/treatment programs, as deemed appropriate by the Probation Officer.
6. You will permit your Probation Officer to visit you at your home or place of employment at any time, and you will permit a warrant less search by a Probation Officer of your person, automobile, residence, property and/or living quarters if he/she has reasonable cause to believe that such a search will produce evidence of a violation of your conditions of probation.
7. Unless exempted, you will make every effort to obtain and hold a legitimate job and fulfill all financial obligations required of you including support of your family. You will cooperate with your Probation Officer in any effort to assist you in obtaining employment. If you lose your job for any reason, you will report this fact to your Probation Officer within 48 hours of the change.

**NEW MEXICO CORRECTIONS DEPARTMENT**

**Offender Probation Acknowledgement**

(Continued)

8. You will not buy, sell, own or have in your possession, at any time, firearms or other deadly weapons.
9. You will not buy, sell, consume, possess or distribute any controlled substances except those legally prescribed for your use by a state-certified medical doctor. You will also provide urine specimens for laboratory analysis upon request of the Probation Officer.
10. You will report any arrest, charge or questioning by a Peace Officer to your Probation Officer within 48 hours of the incident. The toll free # 1-866-416-9867 is available for emergency contact with your Probation Officer.
11. If your probation supervision is transferred to another state, you will abide by any additional supervision conditions required by the state.
12. You will not act as an informant without the expressed permission of the sentencing judge or Director of the Probation and Parole Division.
13. You will pay probation costs in the amount of \$ on or before the tenth of each month to the Corrections Department in the form of a money order or cashier's check (when employed).
14. You will submit yourself for photographing and fingerprinting as directed by the Probation and Parole Division and may be charged a fee for photographing.

Special Conditions

A.

B. \_\_\_\_\_

C. \_\_\_\_\_

D. \_\_\_\_\_

Others as necessary

\_\_\_\_\_  
Date

\_\_\_\_\_  
Offender

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness