



Section 810 Peace Bonds: Stakeholder Perceptions and Experiences

Prepared by André Z. Solecki, MA

**Research and Statistics Division
Department of Justice Canada**

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1. Introduction

Under Section 810 of the *Criminal Code of Canada*, a peace bond can be ordered to prevent an individual from causing personal injury to another individual. When issuing a section 810 peace bond, the court orders the individual, herein referred to as the respondent, to abide by specific conditions. These conditions, designed to protect individuals and/or property, may include weapons prohibitions, the surrendering of licenses and passports, geographic and travel restrictions, the prohibition of communication directly or indirectly with specified individuals and groups, the need to report to police and probation authorities, as well as alcohol and drug prohibitions.¹ Failure to abide by the court ordered conditions can result in a court administered penalty, often a custodial sentence. According to the *Criminal Code*, section 810 peace bonds can be valid for 12 to 24 months. When they expire, applications for renewal can be made by police authorities or federal and provincial Crown prosecutors.

The application and management of section 810 peace bonds is a complex process that involves a number of key players, namely, police agencies, Crown prosecutors, correction officials, and federal high-risk offender management units. Applications for sex offence and personal injury bonds, in particular, require time, analytical skill, and legal experience.

This study examines two types of section 810 peace bonds: section 810.1 peace bonds, where there is “fear of a sexual offence on a person less than 16 years of age,” otherwise referred to as “sex offence bonds,” and section 810.2 peace bonds, where there is “fear of a serious personal injury offence,”² otherwise referred to as “personal injury bonds.” These peace bonds specifically focus on deterring offenders from committing further violent and sexual offences. Applications for these particular types of bonds are made by Crown prosecutors, often at the request of police agencies. It is important to reiterate that the present study only considers section 810.1 and 810.2 peace bonds.

The present study was designed to supplement earlier quantitative research on peace bonds conducted by the Department of Justice Canada.³ Where the earlier study provided aggregate characteristics concerning offenders and cases, this study provides detailed information concerning the application and management processes related to section 810 peace bonds. Drawing upon the knowledge and experience of key players in these processes, this study looks at the players’ perceptions of peace bond respondents; the section 810 peace bond application process; the managing of peace bond respondents and their adherence to court ordered conditions; and the perception of challenges in the Canadian peace bond regime.

¹ A complete list of bond conditions can be found in the *Criminal Code of Canada* under sections 810.1 and 810.2.

² The definition for a “serious personal injury offence” (SPIO) can be found in section 752 of the *Criminal Code*. A SPIO is an indictable offence, other than treason or murder, where violence was used or there was an attempt to use violence. The offence could also be of the nature that it caused severe psychological damage or was likely to endanger life.

³ Karen Beattie and Lisa Ha, *An Examination of Section 810 Peace Bonds: Selected Jurisdictions* (Ottawa: Research and Statistics Division, Department of Justice Canada, 2011).

2. Method

This study used interview data to produce findings. Thirteen members of the National Flagging System (NFS),⁴ many of whom were also provincial Crown prosecutors, and seven members of various local and federal law enforcement agencies were interviewed for this study. All interviews were conducted by telephone. The Crown prosecutors/NSF members interviewed were chosen from the participant list of the federal/provincial/territorial Working Group on High Risk Offenders (WGHRO) and from participants suggested by the interviewees themselves. The law enforcement interviewees were identified through the use of police agency organizational charts and word-of-mouth recommendations from Crown prosecutors and other police interviewees. All interviewees participated voluntarily and consented to the recording of the interviews and the publication of the study's findings.

The interviews were semi-structured and were an average of 40 minutes in duration. Two different interview questionnaires were administered: one interview for Crown prosecutors and NFS and another interview for police interviewees. Separate interview questionnaires were necessary as each interview group has differing responsibilities with respect to 810 bond respondents. All remarks and comments mentioning specific geographic locations were omitted from this report in order to preserve the anonymity of the participants.

The findings of this study cannot be generalized due to the small number (20) of participants interviewed. Nevertheless, the findings in this study are based on the experiences and practices of key players in the peace bond administration and management regime and, as such, the findings contribute to the ongoing federal, provincial, and territorial dialogue concerning peace bonds.

3. Findings

The interviewees in this study shared their perceptions regarding the Canadian peace bond regime. The particular offenders the interviewees referred to are those offenders who served a federal custodial sentence to their warrant expiry date and who were not awarded parole or early release by the Parole Board of Canada. These offenders are those who served their entire custodial sentence and were released into the community by federal correctional authorities without any community supervision. The peace bond is used to monitor these released individuals as well as to provide structure to their post-incarceration life and assist with their reintegration into Canadian society.

3.1 Peace Bond Respondents

The typical peace bond respondent is male, according to the interviewees. Women are rarely the respondents to section 810.1 or 810.2 peace bonds. As interviewees stated, "women are not often put under bond" and "compared to [those] who are male ... we're talking 2% or 3%." The interviewees' perceptions of female bond respondent rates were not different from the findings

⁴ The National Flagging System was established to track high-risk, violent offenders. It consists of a network of Crown prosecutors responsible for maintaining and sharing information on the movement and activities of high-risk offenders.

of prior quantitative research in the area.⁵ According to Beattie and Ha's research, 97% of peace bond respondents were identified as male. Female offenders are statistically less likely to serve their full sentence and are more likely than males to be granted early release and, as a result, may be less likely to be the subjects of a peace bond.⁶

With respect to case management, two police officers indicated that the management of female respondents differed little from those who were male. One interviewee indicated that it "doesn't matter who or what sex the violator is," and another indicated that "the supports we would access in the community might be somewhat different for females, but the way we monitor them is exactly the same."

Perceptions were mixed regarding the number and proportion of peace bond respondents who were Aboriginal. One interviewee first indicated high levels of Aboriginal respondents, yet after consulting documentation on the subject indicated that "about one third were Aboriginal ... You know, I'd say it's definitely under 50%... I guess it's still fairly high, but it's not as high as I would have thought." Another interviewee stated "my guess would probably be 80-85% Aboriginal defendants in an 810 matter." Another interviewee suggested that the proportion of Aboriginal respondents may relate to the type of bond ordered by the court.

I would say my perception is that there are a higher percentage [of Aboriginals] in the 810.2 bonds [fear of a serious personal injury offence]... In the 810.1 bonds [fear of a sexual offence on a person less than 16 years of age], there is a much more diverse population... maybe more Caucasian than Aboriginal.

The different responses provided suggest that the levels of Aboriginal Canadians in the peace bond system vary across the country. Little data have been collected on the actual number of section 810 respondents who are Aboriginal Canadians. Beattie and Ha did not report what proportion of peace bond respondents were Aboriginal Canadians.⁷ It is possible that the perceived level of Aboriginal s.810 bond respondents is a function of geography and an interviewee's proximity to First Nations and Aboriginal populations in Canada.

According to most interviewees, peace bond respondents have serious alcohol, drug, and poly-substance abuse problems. NSF members and Crown prosecutors indicated that the majority of accused have substance-related problems. Interviewees stated that "the majority of people who are flagged have drug and alcohol problems" and "you rarely find just one, like alcohol or just drugs... They're for the most part... you know, they're a combination of these factors." One NFS interviewee noted that "when you're dealing with the 810.1 [sex offence bonds], it's a different kind of population; their pathology is different... so they don't see as much alcohol and drug abuse in the 810.1." This opinion was also voiced by a police officer responsible for managing high-risk offenders, stating that "sex offenders, the majority of them don't use, because crack cocaine is just too addictive, same with heroin... It actually lowers your sex drive when you're using those drugs." Although only two interviewees mentioned this difference with

⁵ Beattie and Ha, *An Examination of Section 810 Peace Bonds*.

⁶ *Corrections and Conditional Release Statistical Overview: Annual Report 2011* (Ottawa: Public Safety Canada, 2011), 85.

⁷ Data concerning the Aboriginal status of peace bond respondents were unavailable to the Beattie and Ha study.

regard to sex offenders, it may suggest that there are different factors involved in substance abuse patterns amongst peace bond respondents. Further research in this area may validate this finding.

Most police officers interviewed indicated that the rate of prevalence of drug abuse amongst peace bond respondents was generally high. All police officers interviewed indicated alcohol was problematic. One interviewee pointed to the nature of alcohol and aggression and its possible contribution to an offender's crime cycle.

It may not necessarily be that the defendant himself is an alcohol abuser, but by placing himself in and around alcohol or venues where alcohol may be offered for sale, the potential for him to engage in more criminal activities is there.

Alcohol and drug abuse are focal problems to be addressed when managing peace bond respondents and helping them to prevent the commencement of their offence cycles.

3.2 The Peace Bond Application Process

The interviewees in this study were asked how the need for a peace bond is determined, what steps are taken to secure a peace bond, what particular information is required for a peace bond application, and what agencies and institutions are involved.

According to the interviewees, information concerning the release of offenders who have served their full custodial sentence is transmitted to both law enforcement officials by the Correctional Service of Canada (CSC). Corrections officials prepare a Warrant Expiry Package (WEP) and send it to the police agency in the community where the released offender has stated they will reside following their release. This WEP contains much information on the offender and is used by police and Crown prosecutors to decide whether a peace bond is an appropriate response to the offender's release; the WEP is discussed in more detail in the following section.

Upon receiving the WEP from CSC, local police typically contact Crown prosecutors and share the WEP. In most cases, the police are the first to identify the need for a peace bond based on the information they read in the WEP. Police interviewees also indicated that they often make this decision based on supplementary advice and counsel provided to them by Crown prosecutors and NFS members.

A police interviewee noted, however, that other groups can identify the need for a peace bond.

We get referrals from the parole officers... Say a guy is in the community and they are worried that his sentence is now finishing and he still poses a risk... So then the referrals would be from the field, would be just contacts from the [law enforcement and corrections] agencies.

One Crown prosecutor also cited parole and provincial probation services bringing the WEP to their attention, though this was secondary as "mostly it's the police and CSC." The findings of this study suggest that it is rare for groups other than the police to bring the need for a bond to the attention of Crown prosecutors.

3.2.1 Importance of the Warrant Expiry Package

According to the interviewees, the Warrant Expiry Package (WEP) produced by the Correctional Service of Canada is a very important document in the peace bond application process. One police officer described its relevance:

All the information that is required... So that consists of a package of certain documents that I need to glean the information from... We need a letter from the parole officer explaining why they believe the person should be on an 810; any of their criminal profile reports, the correctional plan, correctional plan progress reports; all programs that the offender takes and sort of the outcome [*sic*]; all psych assessments, assessments for decisions and National Parole Board decisions; and then any other thing... community assessments, intake assessments, other kinds of assessments and documentation. There are about ten things that I for sure need and then from there anything else is gravy.

The WEP has a strong impact on the quality of the application for a section 810 peace bond. Though the police use the WEP to inform Crown and NFS officials of a need for a peace bond, it is the NFS and the Crown prosecutors who use the WEP to prepare a legal package for submission to a judge. The WEP is used to tailor the bond application and to justify the request for specific types of conditions. A Crown prosecutor/NFS member discussed how the WEP is used:

We go through the WEP and find out what sort of crimes of violence [were committed]. Are they serious personal injury offence convictions? And then if the information's not readily available in the WEP package then we go to the [provincial justice] or the [provincial corrections] databanks... And those circumstances will then tell you the time of day it happened, whether a weapon was used or not; whether intoxicants or drugs were involved at the time; the amount of violence, whether it was knives or firearms that were used; you know, whether more than one person was involved; what time of day or time of the night that it occurred. So those are the things that you've got to pull out of the circumstances to say, okay, his crime cycle involves, you know, these aspects, right? And so then we can go back and say okay, if we're going to try to keep this guy from offending again we've got to zero in on, on those crime cycle aspects and say okay, this is where your conditions are going to be, right?

Interviewees also noted that using the WEP creates efficiencies. "Without it we simply don't have time to gather material from old prosecution files or courts or things like that to learn about the history of the fellows." One NFS member sums it up best, stating that the WEP contains "a lot of information summarized and it certainly cuts down on the work."

3.3 Managing Peace Bond Conditions

The conditions placed on an offender are decided upon by the court and are often the result of consultations with police, Crown, and defence counsel. After considering the information presented, the court decides upon conditions deemed sufficient to help prevent the offender from re-offending upon release.

Interviewees noted that all possible conditions are necessary and useful. However, Crown interviewees note that particular conditions requested are generally based on the pattern of offending in the offender's criminal history.

We do not impose a condition unless it is a part of the crime cycle. If he offends at night there will be a curfew. We've even had ones that he offends only when he's been in a motor vehicle. So there'll be, maybe a condition that he can't be in a motor vehicle alone. Every condition has to have a connection to the crime cycle.

Although there are many conditions that can be imposed on peace bond respondents, in the interviews conducted for this study, the conditions eliciting the strongest responses were those conditions that restrict alcohol and drug use, that require regular contact with police, and those conditions that restrict geographic movement and association with specified individuals.

3.3.1 Alcohol and Drug Prohibitions

Prohibiting the use of alcohol and drugs is a common condition imposed on peace bond respondents. Many interviewees were supportive of the court imposing this condition on released offenders. There was some consensus of opinion among NSF members that the prohibition order, if followed and enforced, would reduce the likelihood of recidivism. However, opinions varied concerning what are effective methods to enforce this order.

Some NFS and Crown interviewees indicated that alcohol and drug prohibitions can severely reduce the chances of successful reintegration into society for those offenders with life-long substance abuse problems. "A person that's had a lifelong substance abuse problem... is undoubtedly going to have some real challenges with that one [condition]." Given the perceived prevalence of substance abuse problems in the peace bond respondent population, the prohibition of alcohol and drugs poses certain challenges. The most common concern is enforceability. As one participant put it, "You know, really, unless you're holding hands with this guy 24/7, it's a little harder to enforce." Police interviewees noted that drug and alcohol use was most likely detected through direct contact with the offender. "The only way we can enforce the alcohol and drug prohibitions is through observation." This observation can only occur through planned contact, such as a "door knock" visit to the offender's place of residence, or inadvertent contact, such as when the police meet the offender on the street or during the commission of an offence.

Several police respondents noted that the ability to legally administer a breathalyser test would help monitor compliance with this condition as well as deter peace bond respondents from breaching this particular condition. However, there is no legal avenue for administering breathalyser or drug recognition tests on peace bond respondents: unless a respondent has committed or is suspected of committing an offence where a breathalyser can be legally administered, the police cannot request such a test.

3.3.2 Reporting, Door Knocks, and Curfews

Another group of conditions dictates that bond respondents must report to police and probation officers at regular intervals, must answer the door and submit to inspection upon the demand of police and probation officers (door knocks), and/or must obey a curfew. Interviewees indicated that these were common and important conditions. These conditions expose the respondent to scheduled and unscheduled interaction with regular uniformed police officers and/or police offender management units. These conditions also provide an opportunity for the police to question the respondent and evaluate his or her compliance with other court-ordered conditions.

Comments from NFS members were generally supportive of these conditions as these conditions increased the offender's exposure to police. One interviewee noted the effects such conditions can have on offenders:

I'm a strong believer in the reporting requirement, and at least we know they are there. And if they don't sign in... I know for a fact quite a few agencies, they will call and verify, and they'll report it if they haven't signed in... I think the fact that they [the offenders] know they're being watched or they're being held accountable by somebody helps them to stay on track with their conditions.

From the policing perspective, reporting conditions involve having officers schedule regular meetings with offenders. These meetings typically involve a visit to the police detachment by the offender. During such a visit, the offender signs in and makes contact with police. The frequency of reporting varies, though most police respondents indicated that once per week was the norm. Door knocks involve directly contacting the offender at a scheduled or unscheduled time. Curfews are monitored through the use of surveillance, door-knock checks, as well as phone calls.

Interviewees consider the conditions requiring contact between the offender and police officers critical in helping ensure the safety of the community and the reintegration of peace bond respondents.

3.3.3 Geographic Restrictions

Respondents can also be ordered to avoid specified geographic locations. These locations often have significance with respect to the respondent's crime-cycle. For instance, respondents with a history of sexual offending may be required to stay away from areas where children and youth congregate. Respondents may also be required to stay away from locations where their past victims reside or work.

Police interviewees noted that geographic restrictions are typically enforced through passive observation, active surveillance, or through an alert made to police by a citizen. One officer stated that surveillance methods were the best method for ensuring that peace bond respondents remained away from locations identified in the bond. However, some police interviewees were quick to assert that surveillance requires extensive human resources. It appears that the enforcement of geographic proximity conditions was, in some cases, perceived as a function of the surveillance resources available to police units. Electronic monitoring devices might provide police with a more efficient method for monitoring peace bond respondents who are prohibited from being at or near specified locations.

3.3.4 Association Restrictions

Interviewees noted that the condition prohibiting a respondent's communication directly or indirectly with specific individuals and groups is necessary. The individuals who the respondent

is restricted from communicating with are often individuals who have criminal histories or who are engaged in criminal activity. The named individuals may also be past victims, their friends, or family members. Interviewees noted that contact with named individuals and groups may expose respondents to situations where criminal activity may be occurring. Contact with named individuals and groups may also place the respondent in situations that may trigger their crime cycle.

There are indications that this condition may limit the respondent's social contact with people on the "outside," as it was speculated that most of the people that these respondents would know are those with criminal histories. One NFS member stated that this condition can help set the peace bond respondent up for failure for this reason. Though the interviewee acknowledged the necessity of segregating the peace bond respondent from other criminals, the condition was nevertheless described as problematic. More evidence detailing the difficulty of enforcing this type of condition was provided by another NFS member.

Police love [the condition], but I'm afraid it is just about impossible to enforce because it would be almost impossible to prove [in certain instances] that the person you're having coffee with is a gang member and that [the gang] is the purpose of your discussion. . .

A police interviewee noted that the association restriction was ineffective unless one could dedicate surveillance resources to the various gangs to ensure no contact occurred. This is, however, not possible for most police agencies due to human resource and budget reasons.

3.4 Challenges

All interviewees highlighted various challenges facing the peace bond regime. Although the interviewees spoke of the successes of the peace bond regime, they highlighted three main aspects that remain challenging: the interprovincial enforceability of bonds, knowledge of the section 810 legislation, and the need for testing for alcohol and drugs.

3.4.1 Interprovincial Enforceability

The inter-jurisdictional nature of peace bonds is not clearly understood. This was evident in the different responses that were given concerning the enforcement of peace bonds outside of the jurisdiction in which they were ordered:

We want a section under 810 that deals with cross-jurisdictional enforceability and in particular the variation applications, because we waste a lot of time and resources duplicating efforts amongst the jurisdictions.

We have talked about people who have gotten an order in one jurisdiction who want to move to another jurisdiction... There is not a clear legislative authority for the movement to another jurisdiction... And because they're an order from a provincial court, can you bind another agency to be doing something in another province?

[Peace bonds] are enforceable throughout Canada... I don't hesitate to bring it before the court. As long as we get a certified copy of it to prove it, I don't see any issues with it.

3.4.2 Knowledge of the Section 810 Legislation

Interviewees from each group indicated that they are concerned that officers in the policing community may not be fully aware of section 810.1 and section 810.2 legislation and the responsibilities these *Criminal Code* bonds impose on the policing community and the respondent. One respondent noted that smaller police services may not have the resources to dedicate to high-risk offender management.

I just don't think their units are as funded and experienced as [a major urban centre's]. Like some of the ones I've talked to in some of the rural areas, they treat it as if it is another job on top of the job that they are already doing.

Some interviewees stressed that individual police agencies need to ensure that their officers are trained to understand the use of peace bonds and the best ways of monitoring peace bond respondents in the community.

3.4.3 Testing for Alcohol and Drugs

The majority of police interviewees indicated that detecting alcohol use by a respondent was difficult unless the respondent was in a state of inebriation. Several police interviewees indicated that having legislative authority to use an Approved Screening Device (ASD),⁸ to use a breathalyser, or to administer a urinalysis test would help to ensure that peace bond respondents are respecting alcohol and drugs conditions.

We had often discussed here within the office the legality of taking a roadside screening device with us where alcohol conditions are present and asking the subject to provide a sample right then and there.

Legislative authority to use such screening tests and tools would allow police officers to know if respondents were drinking or were in the presence of alcohol and to determine whether a bond violation had occurred.

One of the things that we desperately need here that we don't have access to right now is urinalysis testing... It would really help if we could do urinalysis. It's very quick.

Regardless of which test is administered, many police officers interviewed indicated that some method of scientifically testing for alcohol and/or drugs would be useful to ensure that peace bond respondents were complying with the conditions of their bond.

4. Conclusion

⁸ An ASD detects latent alcohol on a test subject's breath or in the air around the subject. Note that being in the presence of alcohol is also a violation of the 'no drugs/no alcohol' condition.

According to the Crown prosecutors/NSF members and police officers interviewed for this study, one of the most useful aspects to the peace bond application process is the Warrant Expiry Package. It has a positive impact on the quality of the peace bond application and it helps prosecutors tailor the application to the respondent. In addition, the WEP summarizes a lot of information and creates efficiencies in the peace bond application process. However, as it is law enforcement that monitors peace bond respondents and manages the conditions imposed on them, the application process itself could be further enhanced by adding a consultation with the police agencies that will be monitoring the offender before deciding what regime of conditions to request.

According to those interviewed, most section 810.1 and 810.2 peace bond respondents are male offenders with serious alcohol and drug abuse problems. Substance abuse problems are viewed as central in the management of peace bond conditions. Monitoring alcohol and drug prohibitions without the legislative authority to use tools such as the ASD, the breathalyser, and urinalysis tests remains a challenge.

One theme that was of concern throughout the interviews and that applied to almost all conditions was the difficulty in monitoring offenders following their release. According to both NFS and law enforcement interviewees, scheduling regular visits and check-ins by peace bond respondents reminds offenders of the bond that has been imposed on them and helps to reduce the likelihood of re-offending. However, the level of resources required for surveillance of peace bond respondents is a challenge for many police agencies. Since most peace bond conditions require interaction with the police, actively or passively, these conditions may be creating unrealistic demands on the police agencies that are responsible for enforcing such conditions.

Providing law enforcement with augmented bond enforcement powers and resources, such as alcohol and drug compliance testing, electronic monitoring devices, and increased budgets for surveillance, may help to reinforce the peace bond's importance in the minds of offenders and to apprehend those who have breached the conditions of their bond. Research into more effective ways of observing peace bond respondents and enforcing the conditions imposed on them may be useful in this regard.

Interviewees highlighted a few challenges that warrant further research and discussion. In addition to pointing to the need for more efficient monitoring solutions, the results of the interviews suggest there is a need for greater clarity concerning the interprovincial enforceability of section 810 peace bonds as well as a need for a better understanding of the peace bond regime on the part of law enforcement. In general, however, the interviewees noted the exceptional professionalism of all groups involved in the peace bond regime and the general efficiency of bonding respondents and monitoring them upon their release into Canadian society.