

## PART 1

### EXTRAJUDICIAL MEASURES

#### *Principles and Objectives*

#### Declaration of principles

**4.** The following principles apply in this Part in addition to the principles set out in section 3:

(a) extrajudicial measures are often the most appropriate and effective way to address youth crime;

(b) extrajudicial measures allow for effective and timely interventions focused on correcting offending behaviour;

(c) extrajudicial measures are presumed to be adequate to hold a young person accountable for his or her offending behaviour if the young person has committed a non-violent offence and has not previously been found guilty of an offence; and

(d) extrajudicial measures should be used if they are adequate to hold a young person accountable for his or her offending behaviour and, if the use of extrajudicial measures is consistent with the principles set out in this section, nothing in this Act precludes their use in respect of a young person who

- (i) has previously been dealt with by the use of extrajudicial measures, or
- (ii) has previously been found guilty of an offence.

#### Objectives

**5.** Extrajudicial measures should be designed to

(a) provide an effective and timely response to offending behaviour outside the bounds of judicial measures;

(b) encourage young persons to acknowledge and repair the harm caused to the victim and the community;

(c) encourage families of young persons — including extended families where appropriate — and the community to become involved in the design and implementation of those measures;

(d) provide an opportunity for victims to participate in decisions related to the measures selected and to receive reparation; and

(e) respect the rights and freedoms of young persons and be proportionate to the seriousness of the offence.

#### *Warnings, Cautions and Referrals*

#### Warnings, cautions and referrals

**6.** (1) A police officer shall, before starting judicial proceedings or taking any other measures under this Act against a young person alleged to have committed an offence, consider whether it would be sufficient, having regard to the principles set out in section 4, to take no further action, warn the young person, administer a caution, if a program has been established under section 7, or, with

the consent of the young person, refer the young person to a program or agency in the community that may assist the young person not to commit offences.

Saving

(2) The failure of a police officer to consider the options set out in subsection (1) does not invalidate any subsequent charges against the young person for the offence.

Police cautions

**7.** The Attorney General, or any other minister designated by the lieutenant governor of a province, may establish a program authorizing the police to administer cautions to young persons instead of starting judicial proceedings under this Act.

Crown cautions

**8.** The Attorney General may establish a program authorizing prosecutors to administer cautions to young persons instead of starting or continuing judicial proceedings under this Act.

**9.** Evidence that a young person has received a warning, caution or referral mentioned in section 6, 7 or 8 or that a police officer has taken no further action in respect of an offence, and evidence of the offence, is inadmissible for the purpose of proving prior offending behaviour in any proceedings before a youth justice court in respect of the young person.

#### *Extrajudicial Sanctions*

Extrajudicial sanctions

**10.** (1) An extrajudicial sanction may be used to deal with a young person alleged to have committed an offence only if the young person cannot be adequately dealt with by a warning, caution or referral mentioned in section 6, 7 or 8 because of the seriousness of the offence, the nature and number of previous offences committed by the young person or any other aggravating circumstances.

Conditions

(2) An extrajudicial sanction may be used only if

(a) it is part of a program of sanctions that may be authorized by the Attorney General or authorized by a person, or a member of a class of persons, designated by the lieutenant governor in council of the province;

(b) the person who is considering whether to use the extrajudicial sanction is satisfied that it would be appropriate, having regard to the needs of the young person and the interests of society;

(c) the young person, having been informed of the extrajudicial sanction, fully and freely consents to be subject to it;

(d) the young person has, before consenting to be subject to the extrajudicial sanction, been advised of his or her right to be represented by counsel and been given a reasonable opportunity to consult with counsel;

(e) the young person accepts responsibility for the act or omission that forms the basis of the offence that he or she is alleged to have committed;

(f) there is, in the opinion of the Attorney General, sufficient evidence to proceed with the prosecution of the offence; and

(g) the prosecution of the offence is not in any way barred at law.

Restriction on use	<p>(3) An extrajudicial sanction may not be used in respect of a young person who</p> <p>(a) denies participation or involvement in the commission of the offence; or</p> <p>(b) expresses the wish to have the charge dealt with by a youth justice court.</p>
Admissions not admissible in evidence	<p>(4) Any admission, confession or statement accepting responsibility for a given act or omission that is made by a young person as a condition of being dealt with by an extrajudicial sanction is inadmissible in evidence against any young person in civil or criminal proceedings.</p>
No bar to judicial proceedings	<p>(5) The use of an extrajudicial sanction in respect of a young person alleged to have committed an offence is not a bar to judicial proceedings under this Act, but if a charge is laid against the young person in respect of the offence,</p> <p>(a) the youth justice court shall dismiss the charge if it is satisfied on a balance of probabilities that the young person has totally complied with the terms and conditions of the extrajudicial sanction; and</p> <p>(b) the youth justice court may dismiss the charge if it is satisfied on a balance of probabilities that the young person has partially complied with the terms and conditions of the extrajudicial sanction and if, in the opinion of the court, prosecution of the charge would be unfair having regard to the circumstances and the young person's performance with respect to the extrajudicial sanction.</p>
Laying of information, etc.	<p>(6) Subject to subsection (5) and section 24 (private prosecutions only with consent of Attorney General), nothing in this section shall be construed as preventing any person from laying an information or indictment, obtaining the issue or confirmation of any process or proceeding with the prosecution of any offence in accordance with law.</p>
Notice to parent	<p><b>11.</b> If a young person is dealt with by an extrajudicial sanction, the person who administers the program under which the sanction is used shall inform a parent of the young person of the sanction.</p>
Victim's right to information	<p><b>12.</b> If a young person is dealt with by an extrajudicial sanction, a police officer, the Attorney General, the provincial director or any organization established by a province to provide assistance to victims shall, on request, inform the victim of the identity of the young person and how the offence has been dealt with.</p>