

**Department of Children,
Seniors and Social
Development**

EXTRAJUDICIAL SANCTIONS

Policy and Procedures Manual

March 31, 2018



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EXTRAJUDICIAL SANCTIONS
POLICY AND PROCEDURES MANUAL
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Section 1

Glossary of Terms



Glossary of Terms

Access Period	Length of time during which contents of a youth record may be shared with authorized individuals under provisions of the <i>Youth Criminal Justice Act</i> .
Attorney General	Attorney General is responsible for administering criminal justice in the province and the prosecution of all offences including those under the <i>Criminal Code of Canada</i> , the federal <i>Youth Criminal Justice Act</i> , and provincial <i>Young Person's Offences Act</i> .
Criminal Records / Vulnerable Sector Check	This process verifies whether an individual has a criminal record as well as any record suspensions (formerly pardons) for sexual offences and local police records for information relevant to Vulnerable Sector Check. The information that can be legally disclosed is provided to the applicant.
Case	An offence alleged to have been committed by one young person that is referred to an EJS program. Multiple offences committed by the same young person against the same victim, which are referred at the same time, are considered one case. Offences committed by the same young person against different victims that are referred at the same time are counted as separate cases. An offence with no direct victim (such as possession of a controlled drug or substance) is also counted as a case.
Charge	Refers to the formal filing of an alleged offence in a court of law.
Date of Non-Disclosure	In terms of the record retention, the actual date of non-disclosure is two years from the date of consent to participate in extrajudicial sanctions by a young person.
Department	Refers specifically to the Department of Children, Seniors and Social Development. The Department is responsible for the development, delivery and ensured maintenance of standards concerning provincial extrajudicial sanctions.
Extrajudicial Measures	Refers to a range of measures and consequences taken outside the judicial process to hold a young person accountable for offending behaviour. Extrajudicial Measures may include warnings, cautions, referral to a community agency, or formal programs of Extrajudicial Sanctions.
Extrajudicial Sanctions	Refers to a program of sanctions authorized by the Attorney General designed to hold a young person accountable for their criminal actions particularly if the young person's offence cannot be adequately dealt with by way of warning, caution, or a referral to a program designed to assist the young person not to commit crimes. An extrajudicial sanction requires that the young person, after being informed that they have a right to legal counsel, formally acknowledges their participation in a criminal act and then gives informed consent to participate in a program of sanctions. Lack of consent to participate by the young person may result in prosecution through the youth justice court.

Liaison Social Worker	Designated Children, Seniors and Social Development delegate who acts in an advisory role to the Youth Justice Committee. The liaison social worker is charged with the responsibility of ensuring that provincial extrajudicial sanctions standards are being maintained by a Youth Justice Committee.
Program Representative	Volunteer member of a Youth Justice Committee approved by the Attorney General to deliver EJS program.
Publication	Refers to the communication of information by making it known or accessible to the general public or any segment of the general public, through any means including print, radio television broadcasts, telecommunications or electronic means.
Record	Anything containing information regardless of its physical form of characteristics, including microform, sound recording, videotape, machine-readable record, any copy of any of those things, that is created or kept for any purpose of proceedings under the <i>Youth Criminal Justice Act</i> or <i>Young Person's Offences Act</i> .
Statute of Limitations	Refers to the time period in which an alleged offence has to be filed as a formal, criminal charge in a court of law.
Victim	A person who has been harmed by crime. Harms may be physical, emotional, or financial. Family and/or friends of the primary victim may be considered "secondary victims" if they have suffered as a result of harm to another.
Victim Representative	The primary victim of an offence may be unwilling or unable to participate in a mediation but can designate another person to represent them in the process. A victim representative is usually another family member or friend of the family.
Young Person	A person between the ages of 12 to 18 who has been charged or formally found guilty of an offence under the <i>Youth Criminal Justice Act (Canada)</i> would be designated as a young person. Please note Extrajudicial Sanctions clients, for purposes of programming and communication, should be referred to as <u>young persons</u> , <u>never as young offenders</u> .
Youth Justice Committee	Refers to a committee of volunteers from the community who have been approved to deliver extrajudicial sanctions services, in accordance with current Provincial Standards and Practices of the Department of Children, Seniors and Social Development, and have been authorized by the Provincial Attorney General.

Section 2

Program Parameters



LEGISLATIVE AUTHORITY

Policy no.: 2.1

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References: *Youth Criminal Justice Act*; **s.10(1)** Extrajudicial Sanctions; **s.10(2)** Conditions; **s.10(3)** Restrictions on Use; **s.10(5)** No bar to judicial proceedings; *Young Person's Offences Act*; **s.4** Extrajudicial Sanctions

PURPOSE: To provide a very general overview of the principles underlying the legislation that governs Youth Corrections practice.

POLICY:

1. There are 2 key pieces of legislation that work together to govern youth corrections matters: the *Youth Criminal Justice Act* and the *Young Persons Offences Act*.
2. *Youth Criminal Justice Act (YCJA)* is criminal justice legislation enacted by the Federal government and was implemented as law on **April 1, 2003**. It generally deals only with those transgressions that would also be criminal acts for adults. The *YCJA* provides a legal procedural framework for dealing with young persons who commit offenses against federal law, such as the *Criminal Code of Canada*, *Controlled Drugs and Substances Act*, or *Firearms Act*.
3. *Young Persons Offences Act (YPOA)* is legislation that is made by the Provincial government, and is in place to deal with the commission of offences by young persons against provincial statutes, such as the *Liquor Control Act* or *Highway Traffic Act*. This legislation is consistent with the *Youth Criminal Justice Act* in its intent and principles.
4. Both the *YCJA* and *YPOA* establish the ages of young offenders as between the 12th and 18th birthday. Children under 12 years of age cannot be charged with a criminal act, and must be dealt with by other means, such as the *Children and Youth Care Protection Act*. Any person committing a criminal act who has reached his/her 18th birthday, must be dealt with as an adult under the relevant legislation, either federally: e.g. *Criminal Code of Canada*, *Controlled Drugs and Substances Act*, *Firearms Act*; or provincially: e.g. *Liquor Control Act* or *Highway Traffic Act*.

5. The *YPOA* is not as commonly used, so most of the Manual addresses the processes and sentencing principles of the *YCJA*, but if a young person is charged with a provincial offence, the *YPOA* will govern the sentencing considerations and procedures that will apply. In many instances, this will be similar to what is in the *YCJA* but social workers should ensure that they are following the requirements of the *YPOA*.
6. The *YCJA* reflects the values that youth who commit crimes should be treated differently than adults. The creation of separate Youth Criminal Justice Courts, and special programming available to youth at sentencing, and how youth records are handled, are all measures intended to ensure that young offenders are held to account for their actions, while increasing opportunities for rehabilitation and reintegration back into their communities, to become contributing adult members of society.
7. By way of general background, the *YCJA* contains an overall Declaration of Principles at s.3 which summarizes the goals of the legislation and apply to every part of the *YCJA*:
 - a) the youth criminal justice system is intended to protect the public by
 - i) holding young persons accountable through measures that are proportionate to the seriousness of the offence and the degree of responsibility of the young person;
 - ii) promoting the rehabilitation and reintegration of young persons who have committed offences; and
 - iii) supporting the prevention of crime by referring young persons to programs or agencies in the community to address the circumstances underlying their offending behavior.
 - b) the criminal justice system for young persons must be separate from that of adults, must be based on the principle of diminished moral blameworthiness or culpability and must emphasize the following:
 - i) rehabilitation and reintegration;
 - ii) fair and proportionate accountability that is consistent with the greater dependency of young persons and their reduced level of maturity;
 - iii) enhanced procedural protection to ensure that young persons are treated fairly and that their rights, including their right to privacy, are protected;
 - iv) timely intervention that reinforces the link between the offending behaviour and its consequences; and

- v) the promptness and speed with which persons responsible for enforcing this Act must act, given young persons' perception of time.
- c) within the limits of fair and proportionate accountability, the measures taken against young persons who commit offences should
 - i) reinforce respect for societal values;
 - ii) encourage the repair of harm done to victims and the community;
 - iii) be meaningful for the individual young person given his or her needs and level of development and, where appropriate, involve the parents, the extended family, the community and social or other agencies in the young person's rehabilitation and reintegration; and
 - iv) respect gender, ethnic, cultural and linguistic differences and respond to the needs of aboriginal young persons and of young persons with special requirements.
- d) special considerations apply in respect of proceedings against young persons and, in particular
 - i) young persons have rights and freedoms in their own right, such as a right to be heard in the course of and to participate in the processes, other than the decision to prosecute, that lead to decisions that affect them, and young persons have special guarantees of their rights and freedoms;
 - ii) victims should be treated with courtesy, compassion and respect for their dignity and privacy and should suffer the minimum degree of inconvenience as a result of their involvement with the youth criminal justice system;
 - iii) victims should be provided with information about the proceedings and given an opportunity to participate and be heard; and
 - iv) parents should be informed of measures or proceedings involving their children and encouraged to support them in addressing their offending behaviour.

Extrajudicial Measures

8. Part I of the *YCJA* creates Extrajudicial Measures which exist separately from the traditional judicial measures utilized in Youth Criminal Justice such as custodial sentences, probation, etc. Extrajudicial Measures is the term given to a range of options available as alternatives to formal processing of a case through the court system. In Newfoundland and Labrador the current range of options include:
- a) a police officer can choose to take no further action;
 - b) a police officer can choose to give an informal warning;
 - c) with the young person's consent a police officer can refer him or her to a community program; or

- d) a crown prosecutor can refer the case to an Extrajudicial Sanctions program authorized by the Attorney General.

Judicial Measures

- 9. The other means of dealing with young offenders are considered Judicial Measures and involve matters coming forward in a charge, and in some instances, end in a sentencing process not unlike what occurs in the adult criminal system. However, the *YCJA* mandates the use of a number of different tools in resolving criminal complaints involving youth, including additional information that may come forward to the court during the course of a matter, requirements that have to be met prior to sentencing being undertaken by a judge, and prescribed rules on the types and duration of sentences that can be imposed. The social worker has a role in both the proceedings and information gathering that occurs prior to sentencing, as well as working with a young offender once a sentence has been imposed.

By way of general information, s.38 of the *YCJA* sets out the overall purpose of a youth sentence as well as the principles that a judge must use when imposing a sentence:

“The purpose of sentencing under section 42 (youth sentences) is to hold a young person accountable for an offence through the imposition of just sanctions that have meaningful consequences for the young person and that promote his or her rehabilitation and reintegration into society, thereby contributing to the long-term protection of the public.”

The *YCJA* imposes certain thresholds are met, and special consideration be given by Youth Court Judge before either an order of open custody or closed custody be given. These are set out in s.39 (1) of the *YCJA*:

A Youth Justice Court shall not commit a young person to custody under section 42 (youth sentences) unless

- a) the young person has committed a violent offence;
- b) the young person has failed to comply with non-custodial sentences;
- c) the young person has committed an indictable offence for which an adult would be liable to imprisonment for a term of more than two years and has a history that indicates a pattern of either extrajudicial sanctions or of findings of guilt or of both under this Act or the Young Offenders Act, chapter Y-1 of the Revised Statutes of Canada, 1985; or
- d) in exceptional cases where the young person has committed an indictable offence, the aggravating circumstances of the offence are such that the imposition of a non-custodial sentence would be inconsistent with the purpose and principles set out in section 38.

The *YCJA* establishes the position of “youth worker” and specific roles/responsibilities have been attached to this position. In Newfoundland and Labrador social workers, with assigned youth corrections caseload responsibilities, have been delegated the roles/responsibilities of youth worker under the Act. They will be referred to as Social workers in this Manual.

The role of “youth worker” under the *YCJA* includes:

- a) completion of Pre-Sentence Report;
- b) arranging court requested psychological and/or medical assessments to assist with sentencing;
- c) arranging a court requested conference;
- d) completing application for non-custodial reviews including required progress reports;
- e) completing application for custodial reviews including required progress reports;
- f) overseeing the preparation and implementation a reintegration plan for youth in custody; and
- g) ensuring the confidentiality of youth corrections information including tracking and monitoring non-disclosure dates.

This Policy Manual will outline the role of the Social worker through the youth criminal justice process at each of these steps and provide guidance as to the preparation, assessment and internal accountabilities for this work.

The *YCJA* references the role of the Provincial Director of Youth Corrections, but gives authority to each province to designate other persons to fulfill some or all of this role. In accordance with this provision, authorization has been given for the delegation of authority in Newfoundland and Labrador to various Regional management and staff of the CSSD and to the staff of the secure custody and remand facilities of JPS (refer to Policy 9.12)

10. The *YCJA* provides for a number of remedial options for young offenders, not all of which are available in this Province. Social workers will need to know what programming/sentencing options are available in this Province. Specifically:

- a) province has not introduced a formal police or crown cautions program;
- b) province has not introduced a formal police warning program;
- c) extrajudicial sanctions are delivered through the mechanism of volunteer youth justice committees;
- d) referrals to youth justice committees are primarily through crown prosecutors;
- e) youth remand services are the responsibility of the provincial JPS;

- f) as no formal program exists referral to an attendance program, under Section 42.2 (m) of the Act, is not available as a sentencing option;
- g) as no formal program exists, an intensive support and supervision order, as per section 42.2(1) of the Act, is not available as a sentencing option;
- h) youth secure custody services are the responsibility of the provincial JPS;
and
- i) intermittent custody is not available as a sentencing option.

PROCEDURES:

1. All social work staff are to be familiar with the provisions of section 38 of the *YCJA* on sentencing and section 39 of the *YCJA* regarding the criteria to be met for a Custody and Supervision Order to be imposed, the roles and responsibilities of a youth worker under the *YCJA*, the role of the Provincial Director of Youth Corrections and how that function is delegated, and what remedial options are available in this Province.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

ORGANIZATION OF YOUTH JUSTICE SYSTEM

Policy no.: 2.2

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To summarize key components of the Youth Justice System.

POLICY:

1. The Youth Justice System is intended to:
 - a) prevent further crime by addressing the underlying causes of a young person's offending behavior;
 - b) provide opportunities to promote and support rehabilitation;
 - c) support the successful reintegration of young persons, who have been in custody, back into the community; and
 - d) ensure the consequences of a young person's behavior are meaningful so that they contribute to, and promote to, long term protection of the public.
2. The term Youth Justice System encompasses the spectrum of activities related to young offenders from their first contact with police to the completion of their sentences.
3. Responsibility for the administration of the Youth Justice System in the province is shared between the Department of Children, Seniors and Social Development (CSSD) and the Department of Justice and Public Safety (JPS). JPS has responsibility for policing, prosecutions, legal aid, the courts, secure custody and remand services. The CSSD has responsibility for Extrajudicial Sanctions Programs, community-based sentences, and court-ordered services including open custody.

Department of Justice and Public Safety

1. The Royal Canadian Mounted Police (RCMP) and Royal Newfoundland Constabulary (RNC) share policing responsibilities in the province in separate, defined geographic locations. Although each police force operates in an independent fashion, the ultimate responsibility for law enforcement rests with the Minister of Justice and Public Safety.

2. Crown Attorneys are employees of JPS, and are located throughout the province. Provincial Crown Attorneys are generally responsible for all Criminal Code and Provincial Statute prosecutions. This includes prosecutions under the *YCJA* and the *YPOA*. Offenses against laws other than the Criminal Code, under federal jurisdiction, such as the *Drugs and Controlled Substances Act* or *Fisheries Act*, are prosecuted by a Federal Prosecutor, employed by the federal JPS. Lawyers in private practice may be appointed as “Federal Standing Agents” for prosecutions, as required.
3. Youth Justice Court is created under the *YCJA*, and in the Province of Newfoundland and Labrador is a division of the Provincial Court. Each Provincial Court Judge has the designation of Youth Justice Court Judge pursuant to the *YCJA* and *YPOA* and can sit as a Judge in Youth Justice Court.
4. Legal Aid lawyers are employees of the Legal Aid Commission, which receives funding from JPS but acts separately from JPS. Youth charged with a crime may be eligible for legal representation at no charge by a lawyer assigned to them. Typically, Legal Aid has one lawyer assigned to Youth Justice Court who will represent most youth who are charged in that court, and address issues arising with sentences from that court (eg. breaches, reviews etc.).

Department of Children, Seniors and Social Development

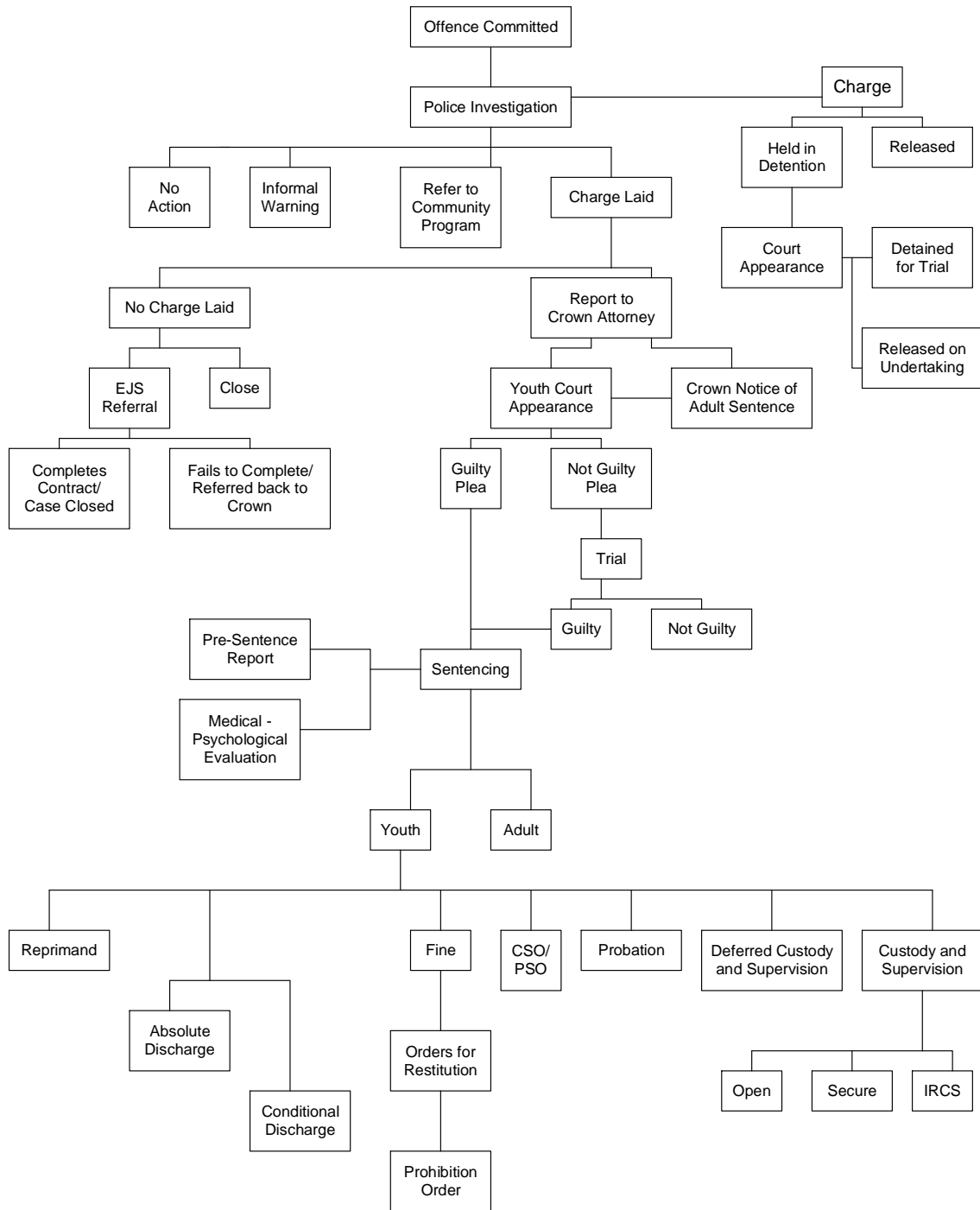
1. The CSSD, through its Regional structure, has responsibility for the following services to young offenders:
 - i) specific court services including preparation of pre-sentence and progress reports;
 - ii) supervision of judicial interim release where specified by the court order;
 - iii) monitoring of placements in designated police lock-ups;
 - iv) supervision of most court ordered sentences excluding monitoring of fine payments and separate prohibition orders; and,
 - v) support of alternatives to court specifically, the provincial Extrajudicial Sanctions program.
2. The CSSD – Community Youth Corrections Program, Provincial Office has overall responsibility for the development, planning, research and evaluation of provincial policies to ensure that programs are integrated and evidence based. This includes responsibility for interprovincial and intergovernmental consultation and management of the main federal-provincial cost sharing agreement.

PROCEDURES:

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

Youth Justice Process in Newfoundland and Labrador: At A Glance



Legend

EJS = Extrajudicial Sanction

PSO = Personal Service Order

CSO = Community Service Order

IRCS = Intensive Rehabilitative Custody and Supervision Order

ORGANIZATION OF YOUTH CORRECTIONS SYSTEM

Policy no.: 2.3

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To summarize the broad elements of the provincial youth corrections system and key goals for service delivery.

POLICY:

The Youth Corrections program includes a band of services and functions as follows:

- a) program administration;
- b) financial planning and budget management;
- c) establishment and maintenance of information and management systems;
- d) federal-provincial relations and inter-jurisdictional relations (Provincial-Territorial);
- e) negotiations and administration of federal-provincial cost-sharing arrangements;
- f) provision of extrajudicial sanctions programs;
- g) provision of “youth worker” services as defined under the *YCJA*, including preparation of court-ordered reports, coordination of case assessment and involvement of other agencies, overall case management and supervision of probation and other types of community-based sentences, and where required, providing testimony to the court;
- h) provision of delegated responsibilities and authorities of the “Provincial Director” (within the meaning of the *YCJA*);
- i) establishment and supervision of sentencing options programs;
- j) provision of counselling and support services to young persons and their families, including young persons at risk of offending;
- k) development and implementation of individual service plans aimed at helping young persons achieve an optimal level of social adjustment;
- l) establishment and maintenance of effective residential services for young persons, including pre-sentence detention, open custody, secure custody, and, where appropriate, non-custodial residential services;
- m) on-going needs assessment and program evaluation;
- n) establishment of program standards and policies;

- o) research and planning directed at meeting present and future service requirements within the Program;
- p) all other services and activities deemed necessary to the effective achievement of the mandate of the Program.

Program Components

The Youth Corrections program has four main components:

1. Extrajudicial Sanctions (formerly Alternative Measures) encompasses the researching of need, evaluation, and development of programs, through the development and mobilization of Youth Justice Committees in certain communities.
2. Community Corrections Services refer to direct services to youth and their families delivered within the community by social workers with CSSD. These services include the supervision and support of (i) probation, (ii) the community supervision component of custody and supervision, (iii) deferred custody and supervision, (iv) intensive support and supervision, and (v) community and personal service orders. Also in this mandate of direct service delivery are included a variety of supportive services to the Youth Justice Court that ensure the court's ability to utilize a range of non-custodial/community based sentencing options.
3. Open Custody refers to a range of residential options, both custodial and non-custodial, delivered through a network of Group Home facilities and private home arrangements (community custody homes). These arrangements may be utilized for (i) young people with open custody and supervision order; (ii) as a form of community detention; and; (iii) as a short term placement for youth with an 'order to reside' as part of a court order or a condition of community/conditional supervision.
4. Secure Custody and Remand Services falls under the Division of Corrections and Community Services, JPS, and, includes the Newfoundland and Labrador Youth Centre in Whitbourne, the St. John's Youth Detention Centre, and specific police lock-ups duly designated for young persons pursuant to the *YCJA*.

Program Goals and Objectives

1. The Youth Corrections program endeavours to provide a service delivery system which meets the requirements of the law, and maximizes opportunities for rehabilitation of the young person. Services must be provided in a manner which is least intrusive, and reduces the need to remove youth from their families and/or home communities.

2. The specific objectives of the Youth Corrections Program are stated as follows:
- a) ensure that young persons under court order are sufficiently supervised to protect the safety and security of the public;
 - b) adhere to the principle of the least restrictive level of intervention in administering the sentence of the court, in preparing pre-sentence reports and in making application for review of sentences;
 - c) involve the families of young persons at all stages of the judicial process;
 - d) ensure that the original sentence of the youth court is properly fulfilled and that it is reviewed as the needs and circumstances of the young person change;
 - e) provide sufficient open custody to meet the sentencing needs of the youth court as outlined in the *YCJA* and *YPOA*;
 - f) cooperate and collaborate with other partners in the Youth Justice system;
 - g) provide appropriate services, especially in the community, to young persons from distinct cultural groups or geographical areas, in response to their special service needs;
 - h) involve community members, including non-government agencies, to enhance or supplement the programs and services by Government;
 - i) involve other government departments in jointly providing programs and services to young persons or in carrying out the principles of the *YCJA* and the *YPOA*;
 - j) complete thorough social histories and, where required, co-ordinate the completion of psychiatric and psychological assessments on young persons appropriate to their degree of involvement in the system, and/or their needs;
 - k) provide a consistent standard of service in all aspects of program delivery;
 - l) provide opportunities for young persons to learn more positive behaviour and the make amends for their actions;
 - m) provide opportunities for young persons to learn personal accountability and the concept of individual responsibility;
 - n) promote greater community awareness of the principles that underlie both the *YCJA* and the *YPOA* and program objectives of Community Youth Corrections; and
 - o) provide all community-based and custodial programs in a humane, caring fashion, in which each young person is treated with respect, courtesy, and dignity.

PROCEDURES:

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

Section 3

Alternatives to Court



EXTRAJUDICIAL MEASURES

Policy no.: 3.1

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References: *s.2 Interpretation, Youth Criminal Justice Act; s.4 Declaration of Principles; s.5 Objectives; s.6 Warnings, Cautions, and Referrals; s.7 Police Cautions; s.8 Crown Cautions, s.10 Extrajudicial Sanctions*

PURPOSE: To summarize the range of service options that constitute Extrajudicial Measures under the *Youth Criminal Justice Act*.

POLICY:

1. The *Youth Criminal Justice Act* sets out a series of principles underlying Extrajudicial Measures (including Extrajudicial Sanctions):
 - a) the Act presumes that, they are often the most appropriate and effective way to hold a young person accountable for his/her actions for non-violent offences;
 - b) they are an essential part of the overall response to youth crime; and,
 - c) they are most effective when delivered in a timely fashion.
2. Extrajudicial Measures is the term given to a range of options available as alternatives to formal processing of a case through the court system. In Newfoundland and Labrador the current range of options include: a) a police officer can choose to take no further action; b) a police officer can choose to give an informal warning; c) with the young person's consent a police officer can refer him or her to a community program, or, d) a crown prosecutor can refer the case to an Extrajudicial Sanctions program authorized by the Attorney General.
3. Eligibility for the use of Extrajudicial Measures is based on the offence not the offender. Extrajudicial Measures are not meant to be limited to first time offenders. The intent of the legislation is that the offence is what should be considered. For that reason under section 4(d) of the Act, an Extrajudicial Measure may be considered for an individual who a) "has previously been dealt with by use of an Extrajudicial Measure; or, b) who has previously been found guilty of an offence.

4. Under section 6(1) of the Act, police officers are required to consider the appropriateness of using an Extrajudicial Measure as a way to hold a youth accountable.

PROCEDURES:

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

EXTRAJUDICIAL SANCTIONS

Policy no.: 3.2

Effective Date: April 1, 2003

Date Revised: March 31, 2018

Policy Cross References:

Legislative References: *Youth Criminal Justice Act*; **s.10(1)** Extrajudicial Sanctions; **s.10(2)** Conditions; **s.10(3)** Restrictions on use; **s.10(5)** No bar to judicial proceedings; *Young Person's Offences Act*; **s.4** Extrajudicial Sanctions

PURPOSE: To summarize, for information purposes, key aspects of the provincial Extrajudicial Sanctions program.

POLICY:

1. For this province, alleged offences that cannot be adequately dealt with through other extrajudicial measures will have two routes:
 - a) a charge in Youth Justice court.
 - b) a referral to a Youth Justice Committee from the Crown Attorney for extrajudicial sanctions.
2. An extrajudicial sanction is a province's regulated and formal extrajudicial measures strategy that can be permitted as a non court option to deal with an alleged criminal offence. It must be authorized by the provincial Attorney General. This province has an extrajudicial sanctions program in place which was formerly known as Alternative Measures.
3. Section 18 of the *Youth Criminal Justice Act* allows the province to establish volunteer Youth Justice Committees which are vehicles for the delivery of extrajudicial sanctions. This entails the acceptance and processing of crown authorized referrals on youth criminal matters.
4. 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 because of the seriousness of the offence, the nature and number of previous offences committed by the young person or any other aggravating circumstances.

5. In accordance with s.10 of the Youth Criminal Justice Act, 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 subjected 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.
6. An extrajudicial sanction may not be used in respect of a young person who
 - a) denies participation or involvement in the commission of the offence; or
 - b) expresses the wish to have the charge dealt with by a Youth Justice Court.
7. 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.
8. 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.
9. The use of an extrajudicial sanction in respect of a young person is not a bar to judicial proceedings under this Act. However, if a charge is laid against the young person in respect of an offence for which they are completing or have completed an extrajudicial sanction:
 - a) the youth justice court shall dismiss the charge if it is satisfied on a balance of probabilities that the young person has complied with the terms and conditions of the extrajudicial sanction; and
 - 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.

10. A Youth Justice Committee may be formed to as a result of either a community or departmental initiative. A committee should include interested representatives from a broad spectrum of the community and include support and input in the form of liaison with the local office of the Department of Children, Seniors and Social Development. Community representatives should be chosen to pursue the objectives of the program and assist in the program's operations.
11. The Youth Justice Committee assumes the role of representing the community at large in determining what extrajudicial sanctions are appropriate in response to illegal behaviour by young persons.
12. Within guidelines of eligibility established by legislative and provincial requirements, the Youth Justice Committee reserves the right to accept, or not to accept referrals that are authorized by the Crown Attorney. Only referrals from the Crown Attorney will be considered by a Youth Justice Committee.
13. Within the parameters established by legislation and provincial policy, committees will review individual referrals and determine appropriate sanctions (e.g. community/personal service work, education, financial restitution, informal essay, apology). The range of potential options may include the establishment of community service placements within the voluntary sector.
14. While all Youth Justice Committees that deliver Extrajudicial Sanctions programs must be authorized by the Provincial Attorney General, it is the Department of Children, Seniors and Social Development that determines and defines the eligibility standards that a committee of persons must adhere to before they can be authorized to deliver extrajudicial services.
15. The Youth Justice Committee will recruit and train community representatives either as program volunteers or program volunteer mediators depending upon the wishes of the volunteer recruit. This is done in partnership with the liaison social worker from the local office of the Department of Children, Seniors and Social Development.
16. The Youth Justice Committee is responsible for ensuring that its program adheres to established youth corrections policies and procedures as well as the provisions of the *Youth Criminal Justice Act* and the *Young Persons Offences Act* or any other legislation affecting young people.

PROCEDURES:

Request for Authorization of New Extrajudicial Sanctions Program

1. Any request to authorize a program of extrajudicial sanctions must include the following information:

- a) a description of the geographical boundaries of the program;
 - b) a detailed listing of referral criteria, including a list of referable offences;
 - c) a description of the roles of the Youth Justice Committee and Youth Justice Professionals;
 - d) a general program description;
 - e) a description of the process to be followed in dealing with individual referrals, including an outline of the possible contract terms/activities into which young persons may be directed;
 - f) any forms the program plans to utilize;
 - g) a listing of all individuals/volunteers involved with the Youth Justice Committee; and
 - h) a statement of measures designed to safeguard confidentiality of both referred young persons and volunteers that are in accordance with legislative requirements and provincial policy.
2. The above documentation is reviewed by provincial office of the Department of Children, Seniors and Social Development. If the program proposal meets all requirements the following two (2) recommendations are made:
- a) a recommendation to the Minister of Children, Seniors and Social Development that the program be authorized as a designated Youth Justice Committee under section 18 of the *Youth Criminal Justice Act*; and,
 - b) upon receiving the above required approval, a submission is made to the Attorney General that the program be authorized as an Extrajudicial Sanctions program under section 10(2)(a) of the *Youth Criminal Justice Act*.
3. Upon receipt of the written authorization of the province's Attorney General, the Youth Justice Committee may begin operation of its programs. The Department of Children, Seniors and Social Development shall provide a one time grant of \$500.00 to assist with startup costs. Subsequent grants are based on a base annual rate of \$650.00 plus \$10.00 for each referral received. Funding shall be provided through provincial office.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

EXTRAJUDICIAL SANCTIONS CASE FLOW

Policy no.: 3.3

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To summarize key activities connected to the processing on an extrajudicial sanctions referral.

POLICY:

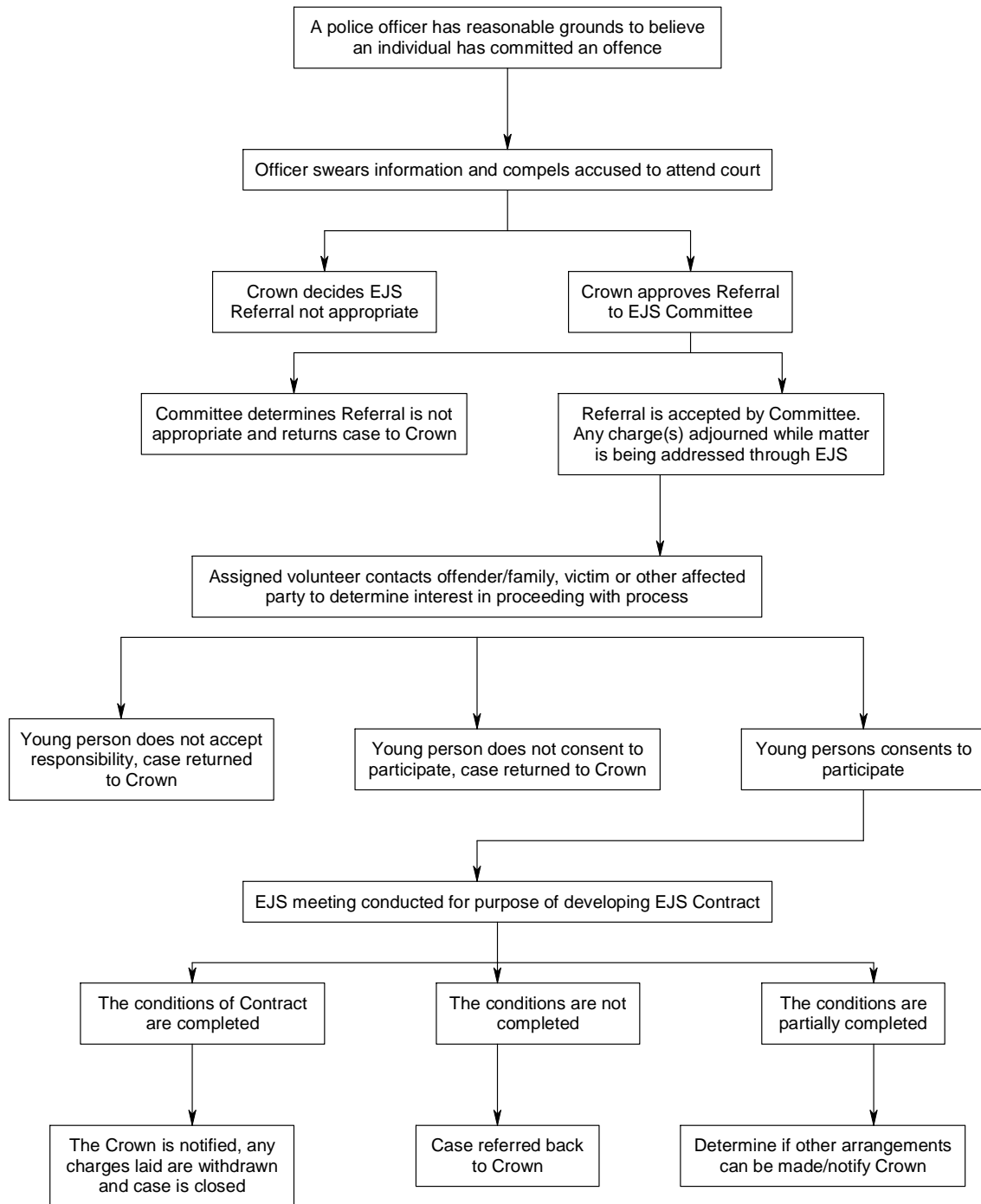
1. Participation in an extrajudicial sanctions program is based on a series of decisions:
 - a) the decision of the Crown to refer to an Extrajudicial Sanctions Committee;
 - b) the decision of the Extrajudicial Sanctions Committee to accept the referral;
 - c) the decision of the young person to participate;
 - d) the decision of the victim (as applicable) to participate; and
 - e) decision on the form and content of the *Extrajudicial Sanctions Contract*.
2. Extrajudicial sanctions are to be used only if the other forms of extrajudicial measures would not be sufficient to hold a young person accountable. Examples of extrajudicial sanctions include volunteer work, compensating the victim, and attending specialized programs.

Unlike the other forms of extrajudicial measures, which are used as an alternative to laying charges, extrajudicial sanctions can be imposed either before or after a young person is charged with an offence. Extrajudicial sanctions must be applied through a program approved by the Attorney General and in a more formal way due to the potential legal consequences of a sanction:

- If a young person fails to comply with an extrajudicial sanction, the case may proceed through the court process; and
- Evidence that a young person has been dealt with previously by an extrajudicial sanction can be used at sentencing for a subsequent offence.

3. Because of these potentially serious legal consequences, the following protections have been established in the YCJA (*Youth Criminal Justice Act*):
- A young person must accept responsibility for the offending behavior before an extrajudicial sanction is imposed. However, this is not the same as a plea of guilty to the alleged offence;
 - A young person must consent to the use of an extrajudicial sanction. In order to give consent, a young person must be informed of what the sanction would be. A young person has the right to consult a lawyer before consenting;
 - The Crown must believe that there is sufficient evidence to support a finding of guilt in court if a trial were held, and there cannot be anything that prevents the Crown from proceeding with a prosecution;
 - The parents or guardians of the young person must be notified when an extrajudicial sanction is used; and
 - The victim of the crime has the right, on request, to be informed of how the case has been dealt with if an extrajudicial sanction is used.

EJS Case Flow



PROCEDURES:

1. After receiving the referral and agreeing to accept it, the program representative shall:
 - a) notify in writing the Crown of the referral's acceptance;
 - b) notify, in writing, the young person and his/her parents-guardians (as applicable) that:
 - i) the referral has been made to the program;
 - ii) the offence(s) upon which the referral is based;
 - iii) the young person has a right to consult legal counsel; and,
 - iv) the daytime of an intake meeting.
2. During the intake interview:
 - a) the young person shall be reminded of their right to consult a lawyer at any point in the process;
 - b) the young person shall be asked if he/she accepts responsibility and, if accepted, a *Young Person's Consent to Participate* in Extrajudicial Sanctions form is signed;
 - c) the young person shall be advised of the victim(s) right to participate in the process;
 - d) a day/time is established for negotiating an *Extrajudicial Sanctions Contract*; and,
 - e) a copy of the *Intake and Program Activity Form* is forwarded to the liaison social worker.
3. If during the intake interview the young person does not accept responsibility and/or will not sign the necessary consent to participate, he/she shall be advised that the referral shall be returned to the Crown Prosecutor for determination of further action.
4. Immediately following intake the victim(s) shall be contacted. He/she shall be advised the referral and invited to participate in the process.
5. If the victim has agreed to participate mediation is conducted. If the victim chooses not to participate, or there is no victim, a diversion meeting is conducted. As a result of this meeting an *Extrajudicial Sanctions Contract* is prepared. The young person and victim, when applicable, sign this agreement.
6. If the contract includes either personal service work or community service work an additional *Community Service Order/Personal Service Order Work Contract* is completed and the young person is given *Community Service Order/Personal Order Work Record* form. Upon completion of the contract, this work record shall be returned to the program representative and placed on the young person's file.

7. Contract is monitored. Monitoring and following up on the agreement includes:
 - a) checking in with the victim and the young person to determine whether they have any unresolved questions or concerns;
 - b) checking whether the young person completes the terms of the agreement within the specified time frame, and discussing this with the young person and the victim if necessary; and,
 - c) completing forms and documents.

8. Immediately upon completion of the conditions of the contract:
 - a) the young person and parents-guardians (as applicable) and victim (as applicable) are contacted and advised that the matter is now closed and Crown will be advised on the referral's successful completion;
 - b) the Crown Attorney is notified in writing that the contract has been completed and the conditions applied in the contract (the police report or case summary should be attached to this correspondence); and,
 - c) the liaison social worker is provided a copy of the individual's *Intake and Program Activity Form*.

9. At any point, if the young person refuses or fails to meet the conditions of the contract or withdraws from the program, the Crown Attorney is to be immediately notified in writing.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

- *Young Person's Consent to Participate in EJS*
- *Extrajudicial Sanctions Contract*
- *Intake and Program Activity Form*
- *CSO/PSO Work Contract*
- *CSO/PSO Work Record*

Section 4

Youth Justice Committees



PROGRAM AUTHORIZATION

Policy no.: 4.1

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References: *Youth Criminal Justice Act*; **s.10(2)** Conditions; **s.18(1)** Youth Justice Committees; **s.18(2)** Role of Committee

PURPOSE: To outline the process for authorizing new programs.

POLICY:

1. A Youth Justice Committee may be formed to facilitate the development and delivery of an Extrajudicial Sanctions program
2. In order to operate an Extrajudicial Sanctions program, a committee must be authorized to do so by the Attorney General of the province upon the recommendation of the Minister of Children, Seniors and Social Development:
 - a) the committee must first be authorized, by the Minister of Children, Seniors and Social Development, as a Youth Justice Committee under section 18 of the *Youth Criminal Justice Act*;
 - b) following this designation the committee must be approved by the province's Attorney General as a designated Extrajudicial Sanctions program under section 10(2) of the *Youth Criminal Justice Act*.
3. To initiate the above described process a committee shall submit a request for program authorization request that includes a statement of goals, program objectives, committee membership, and proposed referable offences.

Structure of a Request for Program Authorization

1. The submission's cover letter would be addressed to the Minister of Children, Seniors and Social Development. Included in the cover letter shall be: a) a request for authorization as a Youth Justice Committee under section 18 of the *Youth Criminal Justice Act*; and b) a request for authorization as an Extrajudicial Sanctions program under section 10(2) of the *Youth Criminal Justice Act*. The cover letter shall be signed by the volunteer committee chair.

2. The main body of the report is divided into six (6) sections and three (3) appendices: a) a description of communities to be served e.g. geographical coverage; b) a general program description; c) a description of committee structure; d) a summary of the referral process; e) a listing of volunteers who shall compose the committee; and f) a description of proposed records management practices. The required appendices shall include: a) a listing of proposed referral criteria; b) a listing of possible contract conditions and available resources; and, c) draft forms.
3. The above noted package must also include a letter of support from the office of the local Crown Prosecutor.
4. The above noted package is submitted to the provincial office of the Department of Children, Seniors and Social Development.

PROCEDURES:

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

INCORPORATION AND RENEWAL

Policy no.: 4.2

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To detail requirement for incorporation under the provincial *Corporations Act* and the requirement for annual confirmation of this status.

POLICY:

1. All Youth Justice Committees will be incorporated non-profit organizations subject to the guidelines of the Registrar of Deeds and Companies for the Province.
2. All registered bodies shall renew their registration on an annual basis. The annual return shall be submitted prior to the end of the month in which the date of initial registration occurs.

PROCEDURES:

1. For the purposes of submitting an initial registration:
 - a) the designated Extrajudicial Sanctions representative should go to the Service NL website (www.servicenl.gov.nl.ca);
 - b) click on “About the Registry of Companies”;
 - c) go to “Form Download” and click on “entire list”; and,
 - d) click, and print, form 1A, “Articles of Incorporation Without Share Capital.”
2. Form 1A, “Articles of Incorporation Without Share Capital” will provide instructions on completion.

3. For the purpose of submitting the required annual return:
 - a) the designated Extrajudicial Sanctions representative shall go the Service NL website (www.serevicenl.gov.nl.ca);
 - b) click “Registry of Companies”;
 - c) look under “Annual Returns”; and,
 - d) click, and print, form 29, “Annual Return: Corporation without Share Capital”.
4. Registration may be completed on line.
5. Where committees do not submit their annual return on time, they are “not in good standing” with the Registry of Companies.
6. If committees submit their missing annual returns annual returns within 3 years of the lapse they can regain their good standing with the Registry of Companies.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

ROLES AND FUNCTIONS

Policy no.: 4.3

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To summarize the key roles and functions of a Youth Justice Committee designated to deliver Extrajudicial Sanctions.

POLICY:

1. The function of a Youth Justice Committee is to act as a designated Extrajudicial Sanctions program.
2. To meet its function, the roles of a Youth Justice Committee include:
 - a) to determine, on behalf of the communities represented, what are appropriate alternatives to the formal court process;
 - b) to determine, in concert with the local Crown Attorney, what offences should be subject to the Extrajudicial Sanctions process;
 - c) to develop a range of measures considered appropriate to address Extrajudicial Sanctions referrals; and,
 - d) to ensure the committee's practices and work with individual clients are consistent with the applicable provisions of the *Youth Criminal Justice Act* and related policies and procedures developed in concert with the Department of Children, Seniors and Social Development.
3. To meet this function a Committee shall establish specific written practices regarding membership and meetings. In addition the Committee shall have written practices governing financial management and referral practices.

PROCEDURES:

Committee Membership

1. The Committee shall have a membership of at least three (3) to be in compliance with the provincial *Corporation's Act* for a non-profit entity. This is the

- minimum required membership, however, Committees must maintain a membership consistent with the ability to process referrals in a timely fashion.
2. As far as is practical, the Committee membership shall represent a cross section of the community in which it operates.
 3. Committee membership shall be ratified by a vote of the Committee as a whole.
 4. The Committee will determine the terms of membership and any required formal renewal process.
 5. Committee members will sign a Declaration of Confidentiality.
 6. Applicants for Committee membership shall be required to provide a Criminal Records/Vulnerable Sector Check and update this every two years.
 7. The Committee shall elect a Chairperson who shall oversee its activities and serve as its spokesperson. The Committee shall determine length of term and election process.
 8. The Committee shall appoint other Executive positions (Vice Chairperson, Secretary, Treasurer) as needed.
 9. The Committee shall establish temporary or standing committees as needed.

Committee Meetings

1. The Committee shall hold both open and closed meetings.
2. Open meetings are for the purpose of public education, planning, and other occasions where input from the community is desirable.
3. Closed meetings are held for the purposes related to the processing of an individual referral where confidential information may be shared.
4. The Committee shall include the following ex-officio members as available: the designated liaison social worker (or delegate), a representative of local police force(s) and responsible Crown Attorney.
5. A committee shall determine how many members present represents a quorum.
6. Meetings shall be held as required. The Executive shall meet, at least, annually.
7. Minutes will be taken on all meetings and kept on file.

Roles of Executive Committee Members

1. Chairperson roles shall include:
 - a) chair all meetings and ensure notification of members;
 - b) prepare agenda as needed e.g. identifies items for discussion;
 - c) ensure annual report is prepared-submitted by June 30th of each year;
 - d) ensure monthly statistical report is provided to the liaison social worker; and,
 - e) ensures, as necessary, feedback on decisions affecting the committee is sought from all members.

2. Secretary roles shall include:
 - a) assist with preparation of agenda and related paperwork for each meeting;
 - b) preparing minutes and circulating among committee members; and,
 - c) attending as required to outgoing correspondence on behalf of the committee.

3. Treasurer roles shall include:
 - a) preparing required financial statements;
 - b) authorizing invoices for payments;
 - c) maintaining the bank account;
 - d) banking; and,
 - e) keeping all accounting records.

Other Required Written Protocols

1. A Committee shall have written procedures regarding financial management practices.

2. A Committee shall maintain, and update periodically, a *Listing of Referrable Offences*. Included in this list shall be a protocol for reviewing and decision making on referrals for offences not currently on the approved listing.

Roles of Program Volunteers

1. A volunteer, when participating in the Extrajudicial Sanctions process, is considered the Extrajudicial Sanctions program representative and must ensure all requirements, in policy, related to the processing of a referral are met.

2. A volunteer normally leads the process of referral selection and case processing which includes an intake meeting and a facilitated meeting (a mediation is a facilitated meeting where the victim is represented, a diversion is a facilitated meeting where the victim is not represented).

3. When a volunteer is facilitating a mediation they are acting as an independent person assisting participants to find an acceptable solution to their dispute. The mediator's role is to help the participants make their own agreement.
4. A volunteer shall identify any potential conflict of interest in his/her participating in the processing of a referral. This would include having some type of pre-existing relationship with the subject of the referral or victim of the offence.
5. A volunteer shall keep all information gained, through participation in the program, confidential and shall abide by the privacy related conditions of the *Youth Criminal Justice Act*. See section 6.7 Records Management and Access Provisions.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

- *(Template for) Listing of Referrable Offences*

RECRUITMENT AND SCREENING OF VOLUNTEERS

Policy no.: 4.4

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To detail the requirements for screening of new program volunteers and ongoing requirements.

POLICY:

1. The Youth Justice Committee is responsible for ensuring that appropriate safeguards are implemented with reference to the screening of all program volunteers, in an effort to protect all those involved with the program, as well as the integrity of the program.
2. All new program volunteers shall be required to provide:
 - a) three (3) *Reference Check Extrajudicial Sanctions Volunteer*; and,
 - b) a Police Records Check (for RCMP) or Criminal Records Screening Certificate (for RNC) including Vulnerable Sector Check.
3. Prior to assuming role, each new program volunteer shall complete and sign the *Declaration of Confidentiality*. This must be witnessed by the liaison social worker.
4. All volunteers shall provide a new Police Records Check (RCMP) or Criminal Records Screening Certificate (RNC) and Vulnerable Sectors Check every two (2) years.

PROCEDURES:

Children, Seniors and Social Development Record Check

1. Conditions governing certificates of conduct
 - a) applicants must make application of the police jurisdiction where they currently reside and give permission to have a Criminal Record Check and Vulnerable Sector Check completed in all jurisdictions where they previously resided;
 - b) applicants must check the Vulnerable Sectors Check on the application as this check will identify if an individual has been pardoned for a sexual offence;
 - c) applicants residing in an RCMP jurisdiction shall also make application to the provincial court to have a check completed. Applications are available at RCMP detachments;
 - d) applicants who reside in a Royal Newfoundland Constabulary jurisdiction shall make application to the Provincial Court to have a check completed should it be likely that they have a record prior to 1980.

2. For RNC served communities, an applicant can go to the Royal Newfoundland Constabulary website (www.rnc.gov.nl.ca):
 - a) click on Certificate of Conduct;
 - b) click on, and print off, Consent for Criminal Record and Vulnerable Sector Check;
 - c) drop off form to one of three cashier's offices (applicant must have two (2) valid pieces of identification – one being government issued that signature and photo e.g. driver's license).

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

- *Reference Check Extrajudicial Sanctions Volunteer*
- *Declaration of Confidentiality*

ORIENTATION AND TRAINING

Policy no.: 4.5

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To outline the general requirements for the orientation and training of new program volunteers.

POLICY:

Orientation

1. An orientation is a way of introducing a new person to the work of the committee. It gives them an understanding of what will be expected of them. The liaison social worker shall assist the program with: a) the development of an orientation package; and, b) with the orientation of new volunteers.
2. The orientation of new volunteers shall include, but is not to be limited to, a review of applicable provincial policy and procedure. In particular the following sections (and applicable appendices) should be part of the review: Policy 3.3 Extrajudicial Sanctions Case Flow, section 5 on Referral, and section 6 on Case Processing. The liaison social worker shall assist existing committee members with providing the necessary overview of provincial policy and procedure.
3. When a new committee member is appointed, an existing member shall be assigned as a “mentor”, this person will help the new member to learn about how the committee operates and answer questions that may come up.

Training

4. Each committee will develop a plan to address the training needs of volunteers. It can look to its own internal resources, other committees, the liaison social worker, or the Coalition for whatever assistance the committee believes it needs to make the required arrangements. Funds provided under the operating grant may be used to pay required costs e.g. meals, room rental (if required).

5. Before facilitating a diversion meeting, each new volunteer shall have: a) participated in Level 1 Mediation training; and, b) “shadowed” an experienced volunteer in the conducting of at least one previous diversion meeting.
6. Before facilitating a mediation, meaning where the victim and young person are in attendance each new volunteer shall have: a) participated in Level II Mediation training; and, b) shadowed” an experienced volunteer in the conducting of at least one previous mediation.

PROCEDURES:

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

ANNUAL OPERATING GRANT

Policy no.: 4.6

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References: Annual Report

Legislative References:

PURPOSE: To describe the process for receiving an annual operating grant and the parameters around use of funding provided.

POLICY:

1. The Department of Children, Seniors and Social Development shall provide an annual operating grant upon receipt of the *Extrajudicial Sanctions Program Annual Report* and required financial information i.e. expense statement.
2. The base grant to be provided individual committees shall be \$650.00. An additional \$10 allocation per referral received shall be also provided.
3. The St. John's Youth Diversion program shall receive a flat rate of \$1650.00 annually.
4. An annual operating grant shall not be provided where financial records provided indicate a surplus of \$1000.00 has been carried over into the current fiscal year.
5. All committees shall have written procedures regarding: a) approval of expenditures; b) maintenance of pertinent financial information i.e. financial records, copies of invoices, cheque books, bank books, etc.; c) handling and recording of all cash received; and, d) disbursement and recording of funds. These policies shall be available to representatives of the Department of Children, Seniors and Social Development upon request.
6. The Department of Children, Seniors and Social Development may require that an annual expenditure report be reviewed. All financial records are to be made immediately available upon request.

7. Financial records shall be maintained by each committee for a minimum seven (7) year period.
8. The following is a list of allowable expenditures:
 - a) office supplies including postage;
 - b) room rental in relation to meetings;
 - c) travel by volunteers in course of duties;
 - d) items connected to education or training events;
 - e) volunteer appreciation events;
 - f) banks fees;
 - g) annual return fees (under *The Corporation Act*);
 - h) contributions, not exceeding a total of \$100.00 annually, toward events that promote youth safety, youth engagement, or community crime prevention.
9. The following is a list of non-allowable expenditures:
 - a) liquor purchases for any purpose;
 - b) charitable donations; and,
 - c) advancing volunteers funding for any purpose other than those allowable expenses noted above.
10. When a volunteer incurs travel costs a *Travel Expense Claim Extrajudicial Sanctions* form (Appendix 1) shall be completed. Costs shall be verified by the committee chairperson or treasurer or his/her delegate.

PROCEDURES:

1. As part of the *Extrajudicial Sanctions Program Annual Report* each committee shall file an annual expense statement. This statement shall be signed by the committee chairperson or Treasurer and a copy of the bank statement for the period ending March 31st shall be attached.
2. All financial records shall be secured appropriately.
3. A separate file shall be set up for individual fiscal years and this file shall contain all applicable financial information for that specific fiscal year.
4. If the committee requires clarification as to whether a proposed expenditure is allowable, the liaison social worker shall be contacted to provide, or arrange to obtain by contacting provincial office, the necessary clarification.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

- *Travel Expense Claim Extrajudicial Sanctions (Appendix 1)*
- *Private Vehicle Usage Report (Appendix 2)*
- *Annual Report*

STATISTICS AND REPORTING

Policy no.: 4.7

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To outline the statistical and reporting requirements for an Extrajudicial Sanctions program.

POLICY:

1. Every Program is expected to maintain case information and statistics, which may be used for external evaluation purposes, or for any other purposes which the Youth Justice Committee deems desirable, within the parameters of provincial policy and applicable legislation. Every program shall prepare monthly case statistics.
2. For each case referred, an *Extrajudicial Sanctions Intake and Program Activity Form* shall be completed by the assigned program representative (volunteer).

PROCEDURES:

Individual Referrals

1. When an intake is completed Part A of the *Extrajudicial Sanctions Intake and Program Activity Form* shall be forwarded to the liaison social worker. The worker, in turn, shall enter the data of the YCM component of CRMS.
2. When the case has been closed Part B of the *Extrajudicial Sanctions Intake and Program Activity Form* shall be forwarded to the liaison social worker. The worker, in turn, shall update information on the YCM component of CRMS.

Program Activity

3. Each Program must submit an *Extrajudicial Sanctions Monthly Statistical Summary* to the appropriate liaison social worker at the end of each month. This form shall be submitted even when there has been no activity for a given month.
4. Each program shall maintain and update an *Extrajudicial Sanctions Monthly Statistical Summary* for its own records and submit a copy of the completed form as part of its Annual Report.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

- *Extrajudicial Sanctions Intake and Program Activity Form*
- *Extrajudicial Sanctions Monthly Statistical Summary*

ANNUAL REPORT

Policy no.: 4.8

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To describe the requirement for, and content of, the mandatory Annual Report to be prepared/submitted by a program.

POLICY:

1. An *Extrajudicial Sanctions Program Annual Report* shall be completed by the program Chairperson (or delegate) and submitted to the departmental liaison social worker on/before June 30th each year. This report shall cover program activities for the previous fiscal year (the period ending March 31st).
2. The *Extrajudicial Sanctions Program Annual Report* shall be submitted in the prescribed format. The report includes the following sections: a) profile information; b) program activity; c) committee activity; and, d) an expense report.
3. The following documents shall be attached to the above described report: a) a copy of the *Extrajudicial Sanctions Monthly Statistical Summary*; b) a copy of a bank statement for the period ending March 31st; and, c) proof of submission of the Annual Return required under the provincial *Corporation Act*.

PROCEDURES:

1. By April 15th of each year the Division of Youth Corrections shall send a written notice to the committee chairperson reminding them of the requirement for an *Extrajudicial Sanctions Program Annual Report* submission.
2. While the liaison social worker may assist with information gathering in completion of the report, the report must be prepared/submitted by the committee chairperson or his/her volunteer delegate.

3. Where applicable, the expense report section forms a request for funding to the Department of Children, Seniors and Social Development, i.e. the annual operating grant. For this reason an additional separate signature is required.
4. Immediately upon receipt, the liaison social worker shall forward a copy (preferably by email) to the provincial office of the Department of Children, Seniors and Social Development, Community Youth Corrections division.
5. Upon receipt of the *Extrajudicial Sanctions Program Annual Report* and supporting documentation, where applicable, a request for funding shall be submitted to the provincial Department of Finance within five (5) days of receipt by provincial office.
6. Where any additional information is required or clarification of information provided is necessary, the provincial office representative shall advise the liaison social worker who, in turn, shall request same from the committee.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

- *Extrajudicial Sanctions Monthly Statistical Summary*
- *Extrajudicial Sanctions Program Annual Report*

ROLE OF LIAISON SOCIAL WORKER

Policy no.: 4.9

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To summarize key roles of the assigned liaison social worker.

POLICY:

1. Each Youth Justice Committee shall be assigned a liaison social worker.
2. The following is a summary of the liaison worker's role in supporting the processing of Extrajudicial Sanctions referrals:
 - a) providing technical assistance in the development of new programs including reviewing final submissions to provincial office related to the authorization or new programs;
 - b) assisting with ongoing recruitment, screening and training of volunteers;
 - c) acting as an ex-officio member of the Youth Justice Committee and representing the Department at all scheduled meetings;
 - d) although it is the responsibility of individual committees to prepare and submit an Annual Report, the liaison social worker will provide required assistance and will ensure the report is submitted, with required Bank Statement and verification of the annual renewal of the program's Incorporation, no later than June 30th of each year;
 - e) ensuring that a committee completes and submits the *Extrajudicial Sanctions Monthly Statistical Summary* form;
 - f) completing, within timeframes established in policy, narrative incident reports relating to personal injury and/or property damage stemming from a young person's participating in community or personal service work;
 - g) ensuring that all volunteers have provided updated Police Records Check/Vulnerable Sector Check (RCMP) or Criminal Records Screening Certificates (RNC) every two (2) years;
 - h) monitoring the progress of all referrals to ensure a referral does not pass its statute of limitations period (as applicable) and, generally, to ensure referrals are processed within a timely fashion (as soon as possible within two (2) months of receipt); and,

- i) bringing concerns of the local committee to the attention of appropriate departmental management.

PROCEDURES:

1. Normally the liaison social worker shall be invited to, and shall attend, all meetings of the committee. The social worker shall attend meetings where: (i) new volunteers are being introduced; (ii) where decisions are being made regarding a referral(s); or, (iii) when the committee is discussing/reviewing operating practices.
2. Upon receipt of a copy of the *Extrajudicial Sanctions Intake and Program Activity Form* Part A: Intake, the liaison social worker shall make an entry on the information system confirming referral has been accepted and young person has consented to participate.
3. Upon receipt of a copy of the *Extrajudicial Sanctions Intake and Program Activity Form* Part B: Activity, the liaison social worker shall make an entry on the information system confirming the status of the referral e.g. contract completed or referred back to Crown.
4. Any discussions with committee members, on a specific referral, shall be documented on the information system.
5. Upon case closure the social worker shall take possession of all case files for appropriate storage.
6. Extrajudicial Sanctions client files shall be archived after the two (2) year non-accessibility date.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

- *Extrajudicial Sanctions Intake and Program Activity Form*
- *Extrajudicial Sanctions Monthly Statistical Summary*

ROLE OF POLICE AND CROWN PROSECUTOR

Policy no.: 4.10

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To detail the roles of the police and crown in Extrajudicial Sanctions case processing.

POLICY:

Police

1. The first contact a young person has with the Youth Justice System is with the police. The police are responsible for conducting the investigation and gathering all the facts in relation to the alleged offences.
2. Under the *Youth Criminal Justice Act* the use of police discretion in dealing with less serious matters is formalized. Under the Act officers are required to consider if taking no further action or an informal police warning is sufficient to hold the young person appropriately accountable for his/her actions. The intent of the Act if such Extrajudicial Measures are sufficient they should be pursued.
3. In the process of an investigation the police officer may gain some knowledge on the needs and attitudes of the young person involved. This information may not be essential to the legal processing of a case, but, if communicated, as part of the brief submitted on the Crown they could assist Crown decision making regarding an Extrajudicial Sanctions referral. The Crown may also seek feedback directly from the police regarding the appropriateness of an Extrajudicial Sanctions referral.
4. Within the province, there are currently four (4) Committees where the Royal Newfoundland Constabulary is the police contact (St. John's, Corner Brook, Labrador West, and Churchill Falls). The remainder of the Committees are in parts of the province served by the Royal Canadian Mounted Police (RCMP).

5. Police officers may serve on a committee as a non-voting member. Police officers may participate in the development of, and delivery, of educational sessions. Police detachments generally have an awareness of crime patterns and actual rates of criminal activity, in a community. The police are, therefore, a general information resource to a committee and should be consulted as a support for program planning and decision making.
6. Given the potential impact of officer's use of discretion and their ability to provide information that can assist the Crown with decision making regarding Extrajudicial Sanctions, it is important that new officers are familiar with provisions of the Act related to Extrajudicial Sanctions and know about their local Committees.

Crown Attorney

1. The Crown Attorney is the gatekeeper in terms of making referrals to any Extrajudicial Sanctions program. Police reports (or summaries) containing all pertinent information is forwarded, as soon as possible, to the local Crown. Based upon established referral criteria the Crown Attorney will, after reviewing the file, decide to refer the case to the local Youth Justice Committee.
2. The Crown uses standard objective criteria to decide the merits of a potential referral. There may be cases that meet the referral criteria, based upon type, but the specific circumstances surrounding the offence may mitigate a referral. Sometimes offences excluded from the criteria may warrant consideration of referral again based on specific circumstances.
3. The intent was, in the development of the current service delivery model, that the agreed upon list of "referral" offences would be developed jointly by the Crown and local Committee. This intent carries with it an expectation that these two parties would, occasionally, review this list.
4. A Crown Attorney may serve as a non-voting member of a Youth Justice Committee. Their role is to provide support to the committee in terms of the ongoing review and development of a set of referable offences. Crown Prosecutors with their understanding of the legal system and youth justice legislation can be both a general information resource to a committee and should be consulted as a support in specific program planning and policy decision making.

PROCEDURES:

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

NL COALITION OF YOUTH JUSTICE COMMITTEES

Policy no.: 4.11

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To define key facets of the role of the Coalition of Youth Justice Committees as it relates to supporting activities of individual Extrajudicial Sanctions Committees.

POLICY:

1. The Newfoundland and Labrador Coalition of Youth Justice Committees was created to provide support for, and advance the issues of, individual Youth Justice Committees/Extrajudicial Sanctions programs. To meet this mandate the specific roles of the Coalition are:
 - a) to promote information and idea exchange between individual Extrajudicial Sanctions programs from across the province;
 - b) to collect, and communicate, information that would be relevant for Extrajudicial Sanctions programs in terms of recruitment, orientation, and training of new and existing committee members;
 - c) to collect, and communicate, information that would assist programs in developing resource materials, educational sessions, and other program materials; and,
 - d) to communicate to government, in concert with individual committees, issues of concern related to the ongoing operation of the Extrajudicial Sanctions program.
2. The Newfoundland and Labrador Coalition of Youth Justice Committees is a non-profit organization incorporated under the provincial Corporation Act, and having a constitution approved by, and periodically, reviewed by representatives of its member committees.
3. Each Extrajudicial Sanctions program is required to be a member of the Coalition.

4. The Coalition has a structure based on eight (8) geographic Regions: St. John's, Eastern 1, Eastern 2, Central 1, Central 2, Western 1, Western 2, and Labrador. Each Region has an elected Regional representative. All individual program volunteers may vote to fill these positions. Currently board members serve four (4) year terms. The role(s) of these Regional representative include:
 - a) being available to individual committees as a resource person in terms of operational issues and practices;
 - b) presenting issues of concern, to specific committees, to the larger Coalition board; and,
 - c) sharing information about board decisions, initiatives, and practices with individual Extrajudicial Sanctions program members of the Coalition.

5. Members of the Coalition's Executive are drawn from the group of Regional representatives.

PROCEDURES:

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

Closing an Inactive Committee

Policy no.: 4.12

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References: *Corporations Act*; 332. “Dissolution if no shares”

PURPOSE: To outline the process for dissolving an inactive Youth Justice Committee.

POLICY:

1. If a Youth Justice Committee becomes inactive and is not able to recruit new volunteers, it shall follow the procedures below to formally end its existence.
2. A Committee Chair shall formally notify the Department of Children, Seniors and Social Development to advise of its intent to dissolve.
3. Legally under the *Corporations Act*, an incorporated entity requires a resolution of all of its directors for dissolution.
4. Any Youth Justice Committee that is no longer active and is not able to deliver the Extrajudicial Sanctions Program is required to return any unused portion of previous operating grants the Committee has received from the Department.
5. Any program files pertaining to a dissolved Youth Justice Committee shall be delivered to the departmental liaison social worker for long-term storage.
6. Any program forms, manuals, training materials or resources shall be returned to the departmental liaison social worker.

PROCEDURES:

1. The Committee Chair shall write a letter addressed to the Minister of Children, Seniors and Social Development advising that the Committee is no longer in existence and can no longer deliver the Extrajudicial Sanctions Program.

2. All Committee members shall meet and vote on a resolution to dissolve the Committee as a legal entity. This is as required by the *Corporations Act* and shall be documented in the meeting minutes.
3. The Committee shall return any unused portion of previous operations grants to the Newfoundland and Labrador Coalition of Youth Justice Committees in the form of a cheque. The Committee shall also include a current bank statement. These shall be mailed to:

Newfoundland and Labrador Coalition of Youth Justice Committees
C/O Department of Children, Seniors and Social Development
Division of Child and Youth
P.O. Box 8700
St. John's, NL
A1B 4J6

4. The Committee shall close the bank account when the cheque for the account balance has cleared.
5. The Committee shall deliver any Committee files and documentation to the liaison social worker's office for archiving.
6. The Committee shall return all program forms, manuals, training materials or resources to the liaison social worker.

EXCEPTIONS TO POLICY: N/A

RELEVANT DOCUMENTS: N/A

Section 5

Referral



REFERRAL CRITERIA

Policy no.: 5.1

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To outline the key criteria, including offence based, governing all extrajudicial sanctions referrals.

POLICY:

Pre-Charge Referrals

1. Referrals to Youth Justice Committees are made by provincial or federal Crown Attorneys.
2. More than one offence allegedly committed by a young person may be referred, at the discretion of the Crown Attorney, if the offences are normally eligible for referral.
3. The referral shall meet the following general criteria:
 - a) the young person must have been at least 12 years old at the time of the offence and have not reached his/her 18th birthday;
 - b) there must be, in the opinion of the Crown Attorney, sufficient evidence to proceed with prosecution; and,
 - c) the alleged offence must in no way be barred by law.
4. Each Youth Justice Committee and Crown Attorney must agree on an established list of offences which are deemed appropriate for referral.
5. The above noted list of “referable offences” shall be reviewed by the Committee and Crown Attorney on a bi-annual basis (at the minimum).

6. Referrals under select federal legislation may be considered including the *Criminal Code of Canada*, *Fisheries Act*, and the *Controlled Drug and Substances Act*. These latter two pieces of legislation would involve a referral from a federal prosecutor.
7. Referrals under the provincial Highway Traffic Act and any municipal traffic by laws cannot be accepted. Referrals for all other provincial statutes and municipal by-laws may be considered. Such statutes include the Liquor Control Act.
8. The alleged offence must not, in any way be barred by law, or likely to be barred before a referral can reasonably be actioned.
9. While there is no statute of limitations for indictable offences, summary offences have a statute barred timeframe of six (6) months from when the offence was committed. Section 786(2) of the *Criminal Code of Canada* states that a charge must be laid within six (6) months of an incident occurring unless the prosecutor and defendant agree otherwise. Therefore, the conditions of an Extrajudicial Sanctions agreement must be completed well before the six (6) month date of the time the incident was reported to the police. This is necessary to ensure that, if necessary, the young person can be charged if he/she does not participate or fails to complete the conditions of the agreement.

Post Charge Referrals

1. A committee may be requested to consider the referral of a young person for whom a charge has been laid. In such cases the Crown Attorney adjourns the matter for sufficient time for the referral to be actioned. This may be done at the request of the Youth Justice Court Judge or the Crown Prosecutor.
2. All referral criteria applicable to pre-charge referrals must be applied to a post charge referral. If accepted by a committee it would be processed as any other referral. A post charge case would normally be completed at least one (1) week prior to the adjournment date (the date at which a young person is due back in court).

Referral of Young Person Currently on a Community Based Sentence like Probation

1. Section 3 of the *Youth Criminal Justice Act* states that Extrajudicial Sanctions may be employed with a young person who has previously been dealt with under Extrajudicial Sanctions or who has previously been found guilty of an offence. Based on this provision, a Crown Attorney may refer a young person who has a previous conviction, and is serving a youth sentence like probation, when he/she believes that this referral, “is adequate to hold the young person accountable for his or her offending behavior.”

2. Individual Committees may determine if they are prepared to accept this type of referral. It is a form of post charge referral. In relation to determining whether or not to action this referral Committees shall:
 - i) consider the seriousness of the offence upon which the referral is being made both in terms of whether it fits accepted offence referral criteria and its seriousness in relation to the offence(s) for which the young person received his/her community based sentence; and,
 - ii) consider whether the current offence is a status offence meaning, for instance, it resulted from the breach of the condition of a probation order; in this circumstance the nature of the condition that was breached should be considered.

Referral of a Young Person Who Previously Participated e.g. “Subsequent Referral”

1. Provisions of the *Youth Criminal Justice Act* support a youth being referred to Extrajudicial Sanctions who has participated previously. For this reason:
 - i) committees shall consider the referral of an individual who previously participated but whose youth record is now considered non-accessible (the record is considered non-accessible two (2) years after he/she consented to participate in the original referral); and,
 - ii) committees may consider the referral of a young person who has previously participated within the last two (2) years.
2. For the purposes of processing a referral on the same person after a two (2) year period has elapsed since the previous referral, the usual referral criteria apply.
3. In considering accepting the referral for the same young person within a two (2) year period, the Extrajudicial Sanctions program shall consider:
 - a) the duration of time that has elapsed since the young person’s first involvement with the program;
 - b) the young person’s response to previous intervention; and,
 - c) what contract conditions, that may not have been used previously, may be appropriate e.g. participation in an educational session.

PROCEDURES:

1. An Extrajudicial Sanctions program, shall, in concert with the local Crown Prosecutor, develop a formal *Listing of Referrable Offences*.

2. At the minimum, the above noted *Listing of Referrable Offences* shall be reviewed by the Crown and Committee every two (2) years.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

- *(Template for) Listing of Referrable Offences*

REFERRAL PROCESS

Policy no.: 5.2

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To identify the key decision making points in the referral process.

POLICY:

1. The Extrajudicial Sanctions program and the associated Crown Attorney shall establish a written set of referable offences.
2. This list of referable offences shall be reviewed periodically.
3. Upon receipt of the referral from the Crown Attorney, a Youth Justice Committee may reserve the right to refuse to process the matter, if the Committee believes that their particular program does not have sufficient information or resources to proceed.
4. A Crown Attorney may refer a case which does not meet the current agreed upon listing of referable offences with the understanding that an Extrajudicial Sanctions program, ultimately, decides whether or not to accept. An Extrajudicial Sanctions program must establish a process for consideration of these requests.
5. A Crown Attorney may refer a young person who has previously been referred or participated in the program. An Extrajudicial Sanctions program must consider this referral if two years or more have elapsed since the young person consented to that original referral. An Extrajudicial Sanctions may consider a referral when it has been less than two (2) years since the original referral was made.

PROCEDURES:

General

1. A Crown Attorney determines whether a case should be referred for Extrajudicial Sanctions using such sources of information available as the police report and

prior offence history. Under section 10(2)(b) of the *Youth Criminal Justice Act* the Crown Attorney has to be satisfied that a referral is appropriate, “having regard to the needs of the young person and interests of society.

2. If a Crown Attorney decides to proceed with a referral, a referral form is submitted to the applicable Extrajudicial Sanctions program along with a summary of information about the offence.
3. Representatives of the program/committee and Crown Attorney shall review the agreed upon list of referable offences every two (2) years (at the minimum).
4. If a Committee believes it is unable to, or cannot, process a specific referral the applicable Crown Attorney shall be notified in writing and shall be given the reason(s) for the decision.

Referral under Federal Fisheries Act

1. Generally a representative of the Attorney General of Canada has responsibility for all litigation relating to the Fisheries Act (Canada). Under this legislation Fishery Officers, Fishery Guardians, and Fishery Inspectors may lay charges for alleged offences under the Act but the ultimate decision on whether to proceed rests with the Attorney General of Canada. In specific jurisdictions this authority has been delegated to provincial Crown Attorneys.
2. If a referral is received by an Extrajudicial Sanctions program by a Federal Crown Attorney or a provincial Crown Attorney, acting for the federal government, the committee shall consider the referral. If the referral is received from a Fishery Officer, Fishery Guardian, or Fishery Inspector the committee shall request a letter of concurrence from the applicable Crown Attorney.
3. The applicable referral screening, referral decision making, and case processing shall be applied to these referrals.
4. Conservation referrals would include, but be not limited to, violations including obstruction of conservation officers, netting salmon, and excess bag limit. Referrals may also be connected to section 10(2) of *The Newfoundland and Labrador Fishery Regulations*.
5. Consideration may be given to including, within the contract, community service work with community groups that are involved with conservation efforts including Atlantic Coast Action Program (ACAP) and Atlantic Salmon Federation. Potential sponsors may be identified by checking with the Newfoundland and Labrador Environmental Network, www.nlen.ca.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

REFERRAL SCREENING AND NOTIFICATIONS

Policy no.: 5.3

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To summarize the basic parameters for screening a referral and notifications required when a referral is accepted by a committee.

POLICY:

1. Police reports (or summaries) should contain all pertinent information concerning the offence and the young person's legal history when they are forwarded to the Crown Attorney. Upon review of the information the Crown Attorney decides whether to refer the case to the Youth Justice Committee, based on established referral criteria.
2. Upon receipt of a referral, the Youth Justice Committee may reserve the right to refuse to process the matter through the Extrajudicial Sanctions Program if the committee believes that their particular program does not have sufficient information or resources available to proceed. Refusal of a referral should never be based on a subjective evaluation of the young person, but rather, in accordance with pre-established eligibility criteria based on the circumstances of the alleged offence.

PROCEDURES:

1. Upon acceptance of a referral the Youth Justice Committee is responsible for promptly notifying all parties and for encouraging victim participation in the program.
2. Each program must set time limits for notification to all parties, keeping in mind the necessity to avoid any unnecessary delay in the process. Participation in an Extrajudicial Sanctions program will likely be more beneficial to a young person when it occurs as soon as possible after the alleged offence was committed.

3. Upon receipt of an eligible referral, notification, in writing, must be made to the young person and his/her parents/guardians. The young person and his/her guardians must be notified of: a) the decision to use Extrajudicial Sanctions; b) the offence in question; c) the right to consult legal counsel, and d) the fact that an interview will be scheduled to discuss participation in the Extrajudicial Sanctions process. The decision to participate in a program of Extrajudicial Sanctions is ultimately the decision of the young person.
4. Once the young person agrees to participate the victim must be informed of the process and encouraged, where appropriate, to participate. A determination of the general impact of the offence, the level of potential compensation and the wishes of the victim for restitution should also be made. A victim's decision not to participate in the process does not preclude the young person from participating.
5. If no response is received to the initial efforts to contact the young person the young person must be notified by registered mail of the opportunity to avail of Extrajudicial Sanctions.
6. If efforts to contact the young person are unsuccessful the referral must be returned to the Crown Attorney with a statement of the reason for return.
7. The Youth Justice Committee should communicate with the Crown Attorney for further direction in any case where it appears that the statute of limitations will be exceeded before completion of Extrajudicial Sanctions; if the statute-barred date passes in the absence of a criminal charge, no further action can be taken by the judicial system, so it is essential that matters be returned to the Crown Attorney and verbal notice be conveyed to the Crown Attorney if the statute-barred date is within two weeks of expiry.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

NOTIFYING A YOUNG PERSON'S PARENT(S) OR GUARDIAN(S)

Policy no.: 5.4

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References: *Youth Criminal Justice Act*; s.11 Notice to parent

PURPOSE: To detail a requirement to contact parent(s) or guardian(s) in processing an Extrajudicial Sanctions referral.

POLICY:

1. Section 11 of the *Youth Criminal Justice Act* requires that the Extrajudicial Sanctions program representative e.g. “the person who administers the program under which the sanction is used”, to inform the young person’s parent or guardian of the referral.

PROCEDURES:

1. Parents or guardians should be strongly encouraged to participate.
2. If parents/guardians are notified in person, or by telephone, the following information shall be documented and placed on the young person’s file:
 - a) the date and time of the contact;
 - b) who the information was given to;
 - c) what information was provided; and
 - d) the parent or guardian’s response.
3. If parents or guardians are contacted by letter, a copy of the letter is kept on the young person’s file.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

VICTIM PARTICIPATION

Policy no.: 5.5

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References: Mediation; Records Management and Access Priorities

Legislative References: *Youth Criminal Justice Act*; s.12 Victim's right to information

PURPOSE: To summarize the key aspects of the involvement of a victim in the processing of an Extrajudicial Sanctions referral.

POLICY:

1. The Extrajudicial Sanctions program shall provide an opportunity for victims to have input into how a case is addressed. As victims may be unfamiliar with the process and concerned about what their involvement means every effort should be made to help them feel welcome and comfortable and address their needs as much as possible.
2. A victim's participation is strictly voluntary. Victims can have several options for becoming involved: participating in person, sending someone to speak on their behalf, or providing verbal or written input into the decisions regarding contract conditions.

PROCEDURES:

1. The Extrajudicial Sanctions representative will contact the victim(s) by phone or letter. During this initial contact the Extrajudicial Sanctions representative shall find out if the victim would like to participate in some way. The victim shall be advised that their participation is strictly voluntary and the young person remains eligible for Extrajudicial Sanctions even if the victim chooses not to participate.
2. If the victim agrees to participate, the Extrajudicial Sanctions representative shall: describe the process in more detail, advise that he/she will contact the victim with information about the time, place, and location of the facilitated meeting and answer any questions the victim has.

3. The following information about the discussion with a victim when done in person or through telephone contact must be documented and placed on the young person's file:
 - a) the date and time of the call;
 - b) the victim's name;
 - c) what information was provided; and.
 - d) the victim's response.
4. If the Extrajudicial Sanctions representative is unable to contact the victim with a single letter or phone call, it may be necessary to follow-up with further calls or letters. A record of attempts to contact the victim should be kept.
5. When a victim participates in a facilitated meeting it is referred to as a mediation. During the course of the mediation a victim may wish to share, with the young person, what happened during the crime, from their perspective, and what kinds of harm, both financial and emotional, have been caused by the crime (Refer to policy 6.3 for additional information on conducting a mediation.
6. If a victim, who chose not to be involved in the processing of the Extrajudicial Sanctions referral, requests information on the status of the referral he/she shall be provided this information that includes the conditions included in the Extrajudicial Sanctions Contract and the status of completion.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

Section 6

Case Processing



INTAKE (INFORMED CONSENT)

Policy no.: 6.1

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To detail the purpose of an intake meeting especially in terms of obtaining client agreement to participate.

POLICY:

1. All Youth Justice Committees, upon receipt of referral, must notify the young person and the young person's parents/guardians of receipt of the referral from the Crown Attorney. Where the young person consents to participate, the victim must also be notified.
2. A personal interview by a representative of the Youth Justice Committee must be conducted with the young person prior to obtaining the informed consent to participate in Extrajudicial Sanctions.

PROCEDURES:

1. Upon receipt of an eligible referral, notification, in writing, must be made to the young person and his/her parents/guardians. The young person and his/her guardians must be notified of: a) the decision to use Extrajudicial Sanctions; b) the offence in question; c) the right to consult legal counsel, and d) the fact that an interview will be scheduled to discuss participation in the Extrajudicial Sanctions process. The decision to participate in a program of Extrajudicial Sanctions is ultimately the decision of the young person.
2. Once the young person agrees to participate the victim must be informed of the process and encouraged, where appropriate, to participate. A determination of the general impact of the offence, the level of potential compensation, and the wishes of the victim for restitution should also be made. A victim's decision not to participate in the process does not preclude the young person from participating.

3. If no response is received to the initial efforts to contact the young person the young person must be notified by registered mail of the opportunity to avail of Extrajudicial Sanctions.
4. If efforts to contact the young person are unsuccessful the referral must be returned to the Crown Attorney with a statement of the reason for return.
5. The Youth Justice Committee should communicate with the Crown Attorney for further direction in any case where it appears that the statute of limitations will be exceeded before completion of Extrajudicial Sanctions; if the statute-barred date passes in the absence of a criminal charge, no further action can be taken by the judicial system, so it is essential that matters be returned to the Crown Attorney and verbal notice be conveyed to the Crown Attorney if the statute-barred date is within two weeks of expiry.

Obtaining Informed Consent

1. During the intake meeting the young person shall be advised of his/her right to legal counsel before consenting to participate in Extrajudicial Sanctions and at any time during the process.
2. The young person shall be given full information as to the nature and process of Extrajudicial Sanctions. This must include a description of the case process, from referral to closure, including records disclosure provisions, and a description of the other means available to deal with the case if he/she chooses not to participate in extrajudicial sanctions (i.e. the general Court process).
3. The young person must freely accept responsibility for the offence. Any admission or statement made as a condition of Extrajudicial Sanctions is not an admission of guilt and cannot be used in future court proceedings, so this protection should be made clear to the young person. Statements made to the police during the investigation, including signed cautioned statements, are distinct from the “acceptance of responsibility” for Extrajudicial Sanctions purposes, and therefore, do not fulfill the requirement for acceptance of responsibility.
4. A written *Young Person’s Consent to Participate* in Extrajudicial Sanctions form must be signed by the young person if he/she wishes to have the matter dealt with through Extrajudicial Sanctions. Parental/guardian agreement, while preferable, is not mandatory.
5. Parental/guardian involvement should be encouraged throughout the Extrajudicial Sanctions process and they must be kept informed at all stages of the process, even if they do not personally participate.

6. If the young person fails to accept responsibility for the offence, or fails to consent to participate, the interview proceedings must be terminated and the case referred back to the Crown Attorney.
7. Police documents are not to be viewed by any unauthorized person (i.e. the young person, parents/guardians, victims, lawyers) and specific requests for disclosure of the police report must be directed to the Crown Attorney or appropriate police force.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

- *Young Person's Consent to Participate*
- *Extrajudicial Sanctions Intake and Program Activity Form*

EXTRAJUDICIAL SANCTIONS CONTRACTS

Policy no.: 6.2

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References: Mediation

Legislative References:

PURPOSE: To provide an overview of the conditions that may be negotiated as part of an Extrajudicial Sanctions Contract.

POLICY:

1. All Extrajudicial Sanctions Agreements must be in the form of a written contract which stipulates the conditions that must be met by the young person. Where the victim agrees to directly participate, the contract must be negotiated through mediation.
2. All Extrajudicial Sanctions Agreements must be in the form of written contracts that stipulate terms and conditions to which the young person must comply. All contract conditions must be specific, measurable and time limited.
3. Contracts may contain one or more of the following conditions:
 - a) personal service to a victim(s) (cannot exceed sixty (60) hours);
 - b) financial compensation to victim;
 - c) community service work (cannot exceed sixty (60) hours);
 - d) attendance at a specified education session related to the offence either delivered by the committee or utilizing a community resource approved by the committee;
 - e) essay or other form of presentation related to the offence;
 - f) a personal or written apology to the victim(s); and,
 - g) any other mutually agreeable condition.
4. Conditions on contracts cannot be changed without consent of all parties. Agreed upon amendments cannot make the contract more onerous.
5. The contract shall not conflict with the young person's normal hours of education or employment. As possible, efforts should be made to limit conflict with organized extra-curricular activities e.g. participation on school board sports teams.

6. All contracts shall be time limited.

Considerations for Developing Conditions

1. Agreements are far more likely to be perceived as fair and be completed if they are specific, measurable, appropriate, realistic and time-limited. Program representatives may find the acronym “SMART” helpful in drawing up agreements. SMART stands for¹:
 - **Specific:** The conditions should be as clear and concrete as possible. For example, writing that the young person “will provide the caseworker with post-dated cheques made out to the victim, in the amount of \$50 per month, dated on the first day of every month, for a total of \$250” is much more specific than saying “the young person will pay the victim as much as he thinks the window was worth.”
 - **Measurable:** The conditions should be stated in such a way that it will be easy to determine whether they have been completed. It is easier to measure something the person has done, and which can be verified in an independent way or by a third party, than to state that they should not do something. For example, it is easier to confirm that the young person has attended an anger management program or paid restitution than to know whether they came home in time for a curfew every night.
 - **Appropriate:** The conditions, which should be jointly determined by the victim and the young person, should be proportionate to the seriousness of the crime, the level of harm done and the degree to which the young person was involved in the incident. They should encourage the young person to be accountable by making whatever amends are possible to the victim and the community and making positive changes in their lives and behavior to the extent they can.
 - **Realistic:** Agreements are more likely to be completed if the young person is truly able to fulfill them. The conditions should attempt to balance the harm done to the victim and the community with what amends the young person can make in light of their financial situation and other factors. For example, it may be unrealistic to expect an unemployed young person to pay a significant amount of restitution in six months.
 - **Time-limited:** The agreement must specify the time frame to complete the terms of the agreement.

¹The “SMART” concept presented here has been adapted from Gilman, Eric, Bowler, Christie, & Stuzman, Eric (2000-2005). *Inviting Dialogue: Restorative Justice & Victim Offender Mediation-Training Manual*. British Columbia, Canada: Fraser Region Community Justice Initiatives.

PROCEDURES:

General

1. The agreement shall be reached in one of two ways:
 - a) a mediation session that involves the young person, his/her parent/guardian (as possible and appropriate) and the victim;
 - b) a diversion meeting with the victim absent.
2. Where the victim is unwilling and/or unable to participate, he/she should be asked (i) if he/she would like the volunteer or other designated person to share information on the effects of the offence; and (ii) if she/he has any suggestions as to what conditions should be included on the contract.
3. Personal service work should not be considered unless victim is in agreement.
4. In a case where there is an offence with no direct victim (e.g. charges related to the *Liquor Control Act*, the *Motorized Vehicle Act*, the *All Terrain Vehicles Act*, the *Federal Fisheries Act*), the agreement is reached through a diversion meeting between the young person and the community as represented by the volunteer.
5. The results of the mediation or diversion meeting shall be written in the format of an *Extrajudicial Sanctions Contract*.

Community Service Work/Personal Service Work

1. The appropriateness of the work placement and specific tasks must be assured prior to any work placement, and must be agreed to by all parties. Any personal service work for the victim must have the victim's agreement for all aspects of the work.
2. The nature and frequency of supervision to which the young person will be subjected while performing the work must be deemed appropriate and must be agreed upon by all parties prior to any work placement.
3. The appropriateness of the work itself, the work environment and the levels of supervision should be determined with due consideration for the safety of the young person and other persons, and of the young person's age, sex, maturity, developmental level, physical and mental capabilities, skills, abilities and where appropriate, interests and preferences for work settings.
4. Any job tasks involving obvious or foreseeable inherent safety risks are to be avoided. An exception may be considered if, after careful evaluation and consultation with the young person, his/her parents/guardian and the liaison social worker, the particular youth is deemed to have the maturity, skills and abilities to safely perform the task, and all normally accepted safety standards and reasonable supervision are in place.

Tasks involving inherent risks include, but are not limited to the following: the use of power tools, sharp tools, motorized machines, work on building sites or other environments where power tools and machinery or dangerous debris exists, and work involving heights. Work on any type of commercial construction site where trades persons are employed, is forbidden.

5. Where community service or personal service work is being completed a separate *Community Service Order/Personal Service Order Work Contract* shall be completed. The young person shall be provided a *Community Service Order/Personal Service Order Work Record* card for the purposes of monitoring completion of the required hours of service.
6. Community Service or Personal Service Work cannot exceed sixty (60) hours.
7. Any injury or property damage which occurs during the performance of Community or Personal Service work must be reported by the program to the liaison social worker within twenty four (24) hours of the Program becoming aware of its occurrence. The social worker must then submit a brief report on the incident to the appropriate supervisor within twenty-four (24) hours, who will, within two (2) working days, forward a copy to the appropriate manager and a copy to the Department of Children, Seniors and Social Development, Community Youth Corrections Division.

Partially Completed Cases

1. There may be situations where the young person sincerely attempts to fulfill the terms of the agreement, but unforeseen circumstances (such as the loss of employment) interfere with the person's ability to complete the agreement as planned or within the required time frame. In these situations, EJS representative should consult with the victim (if the victim is involved) to see if they are willing to amend the conditions of the agreement. If the victim and any other relevant participants agree, they need to sign and date the amended agreement.
2. If the young person does not seem to be making progress on completing the agreement, the EJS representative should attempt to contact the young person to determine whether they are still committed to fulfilling the conditions. The EJS representative should notify the Crown in writing about the reasons for the situation and make a recommendation regarding whether the young person should be allowed to make alternative arrangements for completion. It might be possible to provide an extension, but this must be requested within the required time frame. Furthermore, section 717(4)(b) of the *Criminal Code* and section 10(5)(b) of the *Youth Criminal Justice Act* provide that the court may dismiss the charge if it is satisfied on the balance of probabilities that the young person partially complied with the terms of the Extrajudicial Sanctions agreement and it would be unfair to prosecute the offence.

Cases that are Not Completed

1. The EJS representative should refer the case back to the Crown Prosecutor if the young person:
 - i) shows an unwillingness to complete the terms and conditions of the agreement;
 - ii) denies, at any time, their responsibility or involvement in the alleged offence; and,
 - iii) expresses the desire to have the case dealt with by the court.

In these situations, the Crown Prosecutor will determine how to proceed (such as pursuing the case in court).

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

- *Young Person's Consent to Participate*
- *Extrajudicial Sanctions Contract*
- *Extrajudicial Sanctions Intake and Program Activity Form*
- *Community Service Order/Personal Service Order Work Contract*
- *Community Service Order/Personal Service Order Work Record*

MEDIATION

Policy no.: 6.3

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References: Extrajudicial Sanctions Contracts

Legislative References:

PURPOSE: To highlight key points in the victim-offender Mediation process.

POLICY:

1. Any volunteer who wishes to serve as a victim-offender mediator must have received training in Level I Mediation Training.
2. The above noted training can be provided by a committee volunteer, Coalition representative or departmental staff person who has participated in a train-the-trainer workshop for, at least, Level 1 Mediation Training.

Guidelines for Mediations

1. **THE ROLE OF THE MEDIATOR** – It is understood that mediation is a process in which an independent mediator assists the participants to find an acceptable solution to their dispute. The mediator's role is to help the participants make their own agreement.
2. **CONFIDENTIALITY** – The participants agree that any information obtained in mediation will not be used outside the mediation process. The mediator will not be called to testify or provide material for other proceedings.
3. **SHARING INFORMATION** – Each party agrees to fully disclose all information that may be requested by the mediator to aid in the resolution of the issues.
4. **VOLUNTARY PARTICIPATION** – Each party agrees to participate voluntarily and in good faith to try to reach a fair settlement of the dispute.

5. **LEGAL ISSUES** – The mediator will not provide legal advice. All participants are encouraged to talk to a lawyer if they have legal questions. Participants do not give up their legal rights as a result of participation in mediation. If any participant fails to live up to the mediation agreement, the case may be sent back to the Crown Prosecutor for any further action she/he determines.
6. **TIME FRAME** – The length of the mediation process will be determined by the participants and the mediator. Mediation will continue until an agreement is reached, or until the participants decide to end mediation.

PROCEDURES:

1. Prior to a mediation session, the mediator must have reviewed information about the nature and circumstances of the offence. The information reviewed should be a statement of the facts only.
2. The mediation shall be scheduled as to not to conflict with the young person's normal education-vocational and/or employment activities. The mediation shall be scheduled for a time convenient for the victim.
3. Prior to completing his/her solo mediation, the mediator shall have participated in at least one previous mediation session under the supervision of an experienced mediator.
4. The process of mediation in each case is individualized in the sense that the personal style of the mediator, and the interaction of other parties will play a role in determining the nature and tone of the process. However, there are normally established steps which the mediator must effectively complete to achieve the goals of mediation. These are as follows:
 - i) Setting the Stage – “neutral” setting with “neutral” seating positions; introductions of each participant, clarification of roles; mediation should not be held in the home of either the young person or the victim.
 - ii) Defining the Issue – clarify ground rules, explain the purpose of the mediation, ensure presentation of each party's view of the offence, and summarize the facts.
 - iii) Generating Solutions – eliciting opinions from both parties; offering suggestions without “dictating” the terms of the agreement.
 - iv) Evaluation and Consensus – establish agreement on the most appropriate options acceptable to all parties.
 - v) Writing the Contract – the mediator must ensure that all parties have a full understanding of, and agreement, to the contract contents and conditions.

5. The *Extrajudicial Sanctions Contract* shall be prepared in the prescribed format.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

- *Extrajudicial Sanctions Contract*

CASE CLOSURE

Policy no.: 6.4

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References: Records Management and Access Provisions

Legislative References:

PURPOSE: To summarize activities connected with case closure.

POLICY:

1. The Youth Justice Committee is responsible for notifying the Crown Attorney of the status of the referral immediately upon completion of the contract or unsuccessful termination from the program and no later than two weeks prior to the statute barred date.

PROCEDURES:

1. A report must be forwarded to the Crown Attorney, noting the measures taken and confirming completion or non-completion of the contract. The police report or case summary must accompany this report.
2. If a young person fails, without cause, to attend a scheduled mediation/diversion session, complete all conditions of the contract, or decides to withdraw from the Program, a report must be forwarded to the Crown Attorney stating the reasons for non-completion. The police report or case summary must also be returned at this time.
3. Termination and the submission of the required report to the Crown Attorney must be completed no later than two (2) weeks prior to the statute-barred date to allow for administrative procedures leading to the possible laying of a charge and the commencement of formal court proceedings. Where cases being returned to the Crown Attorney are approaching the statute-barred date a telephone contact must be made with the Crown Attorney to inform him/her of the impending time limit.

4. The young person, parents/guardians and victim (where applicable and practical) must also be notified of the completion/termination of the Extrajudicial Sanctions process.
5. Part B of the Intake-Case Activity form must be returned to the liaison social worker when a case is closed regardless of completion or non-completion of the contract.
6. Any case files or client-specific documentation must be delivered to the liaison social worker for storage (see section 6.7 – Records Management and Access Provisions).

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

NOTIFYING CROWN OF CASE STATUS

Policy no.: 6.5

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To identify the various scenarios, throughout the case process, where a referral may have to be returned to the Crown Attorney after initial acceptance to proceed.

POLICY:

1. If during the intake interview the young person does not acknowledge responsibility for the offence or claims he/she is not responsible, the young person shall be advised that his/her case shall be referred back to the Crown. The letter to the Crown shall site this reason.
2. If the young person refuses to give informed consent to participate in the program, the young person shall be advised that his/her case shall be referred back to the Crown. The letter to the Crown shall site this reason.
3. If the young person fails, without cause, to attend a scheduled mediation or diversion session or fails to meet the conditions of his/her contract or withdraws from the program then a report shall be submitted to the Crown stating the reasons for non-completion. The police report or case summary shall be returned at that time.
4. Where cases being returned to the Crown are approaching their statute-barred date, telephone contact must be made with the Crown immediately, informing him/her of the impending time limit. This is required in addition to the written notification.

PROCEDURES:

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

TRANSFER OF REFERRALS

Policy no.: 6.6

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To identify a process to ensure referrals are appropriately actioned when a young person changes address and is no longer within the geographical coverage area of a specific committee.

POLICY:

1. After a referral has been received, screened, and approved, the program representative may find that the young person has changed address and no longer resides within the committee's geographic coverage area. In such circumstances the liaison social worker is to be contacted with the information about new address.
2. The liaison social worker, as necessary, shall confer with provincial office regarding contacting the committee with responsibility based on the information provided about address.
3. If referral to another Extrajudicial Sanctions Program or office is not possible, and the young person is not within a reasonable traveling distance for the Committee that originally accepted the referral, the matter must be referred back to the Crown Attorney.
4. If it is determined, after a referral is received, that a young person has moved out of the province, the Crown Attorney and the Provincial Consultant for Extrajudicial Sanctions at the Department of Children, Seniors and Social Development must be notified. The Provincial Consultant will attempt to arrange for transfer of the case to the young person's new place of residence.

PROCEDURES:

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

RECORDS MANAGEMENT AND ACCESS PROVISIONS

Policy no.: 6.7

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References: Victim Participation

Legislative References: *Youth Criminal Justice Act*; **s.12** Victims Rights to Information; **s.110(1)** Identity of offender not to be published; **s.119(1)** Persons having access to records; **s.119(2)** Periods of access; **s.128(1)** Effect of end of access period; *Young Person's Offences Act*; **s.22** Disclosure of records

PURPOSE: To summarize the key applicable records management provisions under the *Youth Criminal Justice Act* and the *Young Person's Offences Act*.

POLICY:

Client Specific Records

1. All youth justice committees must maintain records pertaining to referred youth in a secure environment.
2. A Youth Justice Committee is authorized to keep records for Extrajudicial Sanctions purposes in accordance with section 116(2)(a), *Youth Criminal Justice Act (Canada)* or section 22, *Young Person's Offences Act (Newfoundland)*. Use of the records is at the discretion of the Committee, within the parameters of legislative requirements, and any case information which identifies young persons by name is to be maintained in a confidential manner.
3. Section 110(1) of the *Youth Criminal Justice Act* states that it is an offence to publish the name of a young person or any information that would identify this person as a young person.

PROCEDURES:

Client Specific Records

1. For individual referrals, the Youth Justice Committee must maintain a file which contains all correspondence regarding the Extrajudicial Sanctions process, offence, date of offence, and action taken. This information is subject to the

record disclosure provisions of section 119(2)(a) the *Youth Criminal Justice Act (Canada)* and must be secured in a safe place like a locked filing cabinet with limited access.

2. No information which identifies young persons by name is to be stored on any personal laptop/home computers or other portable storage devices (i.e. flashdrives, memory sticks, CD's).
3. For Extrajudicial Sanctions cases, the file contents become non-accessible (non-disclosable) two (2) years after the young person consents to participate.
4. Upon completion, the case file shall be returned to the liaison social worker to be stored for two (2) years until the file becomes non-accessible and is archived.

Requests for Information: General

1. Any requests by an external agency or organization for release of client information for the purposes of research and evaluation, shall be directed to the provincial office of the Department of Children, Seniors and Social Development. Departmental officials shall review the request and provide direction to the committee through its liaison social worker.
2. Where records are not subject to non disclosure provisions, file information must be made available upon request by the Social Worker for inclusion in a Pre-Sentence Report (section 125(5) *Youth Criminal Justice Act (Canada)*).
3. No information relating to an Extrajudicial Sanctions case may be disclosed to any person, or used for any purpose, upon the expiration of two years from the date of the young person's consent to participate in Extrajudicial Sanctions.

Requests for Information: Victim

1. Section 12 of the *Youth Criminal Justice Act* states: "If a person is dealt with by an Extrajudicial Sanction, a police officer, the Attorney General, the Provincial Director (delegate) 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." If contacted, before a program representative shares this information he/she shall verify the victim's identity by asking for the police file number or details of the offence.
2. When sharing information with a victim it is important that the Extrajudicial Sanction representative remind the victim that the identity of the young person, details of the Extrajudicial Sanctions process, and status of the referral are confidential and may not be shared with anyone who is not directly involved in the process.

3. The following information about the discussion with a victim when done in person or through telephone contact must be documented by the Extrajudicial Sanctions program representative and placed on the young person's file:
 - a) the date and time of the call;
 - b) the victim's name;
 - c) what information was provided; and.
 - d) the victim's response.

POLICY:

Program Records

1. As an incorporated body, each committee shall establish a written policy for the management of program records that do not reference specific clients but were created, or received, during the course of the committee's operation.
2. Program records may include:
 - a) financial records e.g. copies of travel claims, invoices for payment, bank statements;
 - b) personnel records for individual volunteers including copies of reference checks, and police/vulnerable sector checks;
 - c) monthly statistics;
 - d) meeting minutes; and
 - e) annual reports.
3. All financial records shall be kept on file for a seven (7) year period.
4. All personnel records for individual volunteers shall be retained permanently.
5. If a Committee ceases operation all records are to be returned to the local office of the Department of Children, Seniors and Social Development that, in turn, will arrange storage.

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

Section 7

Other Service Needs



LIABILITY COVERAGE

Policy no.: 7.1

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References: Recruitment and Screening of Volunteers, Incident Reporting

Legislative References:

PURPOSE: To establish that Youth Justice Committees and individual members are covered under government's blanket liability coverage.

POLICY:

1. The Government of Newfoundland and Labrador self-insures for any claims of damage for which it can be held legally liable as the result of the operations on an Extrajudicial Sanctions program.
2. Indemnification is the agreement to secure another against an anticipated liability. Government indemnifies committees and individual members as Youth Justice Committees are created under a statute (the *Youth Criminal Justice Act*) and provide a government service or function (Extrajudicial Sanctions).
3. The specified parties under self-insurance are: Department of Children, Seniors and Social Development, all volunteers and/or agency representative supervising young person's participating in the Extrajudicial Sanctions program (a Youth Justice Committee), and the young person. If any of these parties are subject to civil legal action as a result of accidental injury or accidental property damage in the course of the performance of some aspect of the Extrajudicial Sanctions contract government provides legal liability coverage.
4. Property damage or loss resulting from criminal or malicious intention is not covered.

PROCEDURES:

1. As part of its Annual Report a committee shall provide a listing of all current committee members.

2. The committee shall comply with screening standards for new members including updating police records checks/vulnerable sector checks every two (2) years.
3. The committee shall ensure, after incorporation, that it remains in good standing with the Registrar of Deeds and Companies by filing an annual return with that office.
4. If a young person is injured during the course of his/her community service or personal service, the committee chairperson or delegate shall immediately contact the liaison social worker. The social worker shall prepare a narrative incident report to be submitted to provincial office (Refer to Policy 7.2).

EXCEPTIONS TO POLICY:

RELEVANT DOCUMENTS:

INCIDENT REPORTING

Policy no.: 7.2

Effective Date: January 1, 2004

Date Revised: March 31, 2018

Policy Cross References: Critical Injury and Death Protocol – QM-2014-001

Legislative References:

PURPOSE: To identify the process for reporting incidents where a young person referred to an Extrajudicial Sanctions program is injured or causes damages during the course of his/her contract completion.

POLICY:

1. A liaison social worker shall complete a narrative incident report on events related to personal injury or property damage stemming from the young person's participation in community or personal service work.

PROCEDURES:

If Young Person is Injured during Course of Community Service/Personal Service

1. An agency or organization that provides a community service placement must ensure the young person is appropriately supervised during the course of these activities.
2. If a young person is injured during the performance of community service work, the liaison social worker shall document related information and contacts on the information system and complete a narrative incident report a copy of which is retained on the young person's file and a copy submitted to provincial office. Provincial office staff will confer with the Insurance Division of Treasury Board Secretariat if, or when, civil action results from this event.
3. The above noted narrative report shall include:
 - a) description of placement;
 - b) description of the supervision provided by sponsoring agency;
 - c) description of events related to injury (including day, time, people present);
 - d) description of any required emergency medical services and status of young person's health; and,

- e) any information pertaining to proposed civil legal action.
- 4. The narrative report prepared by the social worker shall be provided to the supervisor for review to determine if any next steps are required.
- 5. The narrative report shall be placed in the youth's file and recorded in ISM.

EXCEPTIONS TO POLICY:

- Staff are advised to refer to *Policy QM-2014-11 Critical Injury and Child Death* to determine if the injury to the youth falls within the reporting parameters of this policy.

RELEVANT DOCUMENTS: N/A

REPORTING CHILD PROTECTION CONCERNS

Policy no.: 7.3

Effective Date: March 31, 2018

Date Revised: May 16, 2016

Policy Cross References:

Legislative References:

PURPOSE: To identify volunteer responsibilities when concern arises regarding potential Child Protection Concerns.

POLICY:

Expressions of General Concern by Volunteers Regarding Young Person

1. During a volunteer's interaction with a young person indications of social or interpersonal difficulties may arise. A volunteer may be concerned about a young person's physical and/or emotional well being. Such concerns shall be brought to the attention of the liaison social worker.

Child Protection Concerns

1. Any volunteer who becomes aware of information relating to child abuse or neglect, including physical, emotional and/or sexual, shall immediately report this knowledge to the appropriate Children, Seniors and Social Development authority.
2. Section s.15(1) of the *Children and Youth Care and Protection Act (CYCP Act)* states that, "where a person has information that a child is or may be in need of protective intervention, the person shall immediately report the matter to a director, social worker or a peace officer." Under this Act, a "child" is defined as, "a person actually or apparently under the age of sixteen years."
3. This legal requirement also applies to situations where volunteers become aware of alleged abuse to friends, siblings, or relatives of young persons, or of children or youth allegedly abused by young persons.

4. This section of the *Children and Youth Care and Protection Act (CYCP Act)* applies notwithstanding that the information is confidential or privileged, and an action does not lie against the informant unless the making of a report is done maliciously or without reasonable cause.
5. A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine or to a period of imprisonment.
6. Definitions of a “child in need of protective intervention” are outlined in section 12 of the *Children, Seniors and Social Development Act*, and include the following:
 - a) is being, or is at risk of being, physically harmed by the action or lack of appropriate action by the child’s parent;
 - b) is being, or is at risk of being, sexually abused or exploited by the child’s parent;
 - c) is being, or is at risk of being, emotionally harmed by the parent’s conduct and there are reasonable grounds to believe that the emotional harm suffered by the child or that may be suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child’s parent;
 - d) is being, or is at risk of being, physically harmed by a person and the child’s parent does not protect the child;
 - e) is being, or is at risk of being, sexually abused or exploited by a person and the child’s parent does not protect the child;
 - f) is being, or is at risk of being, emotionally harmed by a person and the child’s parent does not protect the child;
 - g) is in the custody of a parent who refuses or fails to obtain or permit essential medical, psychiatric, surgical or remedial care or treatment to be given to the child when recommended by a qualified health practitioner;
 - h) is abandoned;
 - i) has no living parent and no adequate provision has been made for the child’s care;
 - j) has no parent available to care for the child and the parent has not made adequate provision for the child’s care;
 - k) has no parent able or willing to care for the child;
 - l) is living in a situation where there is violence or is living in a situation where there is a risk of violence;
 - m) is living with a parent whose actions show a propensity to violence or who has allegedly killed or seriously injured another person;
 - n) has been left without adequate supervision appropriate to the child’s developmental level; or
 - o) is actually, or apparently, under 12 years of age and has
 - (i) allegedly killed or seriously injured another person or has caused serious damage to another person’s property, or

- (ii) on more than one occasion caused injury to another person or other living thing or threatened, either with or without weapons, to cause injury to another person or other living thing, either with the parent's encouragement or because the parent does not respond adequately to the situation.

PROCEDURES:

When a Young Person Discloses Mistreatment

In situations where a young person is disclosing "child protection" concerns to a program volunteer the following set of "dos" and don'ts" should be followed:

1. it is not your job to "investigate"; the Children, Seniors and Social Development / police officials will take the necessary steps to properly interview the young person and arrange for his/her protection;
2. listen to the young person; try to remain calm and don't ask leading questions or probe for details;
3. try to reassure the young person with statements like: "it's not your fault"; "I believe you"; "I'm glad you told me"; "I'm sorry that this happened to you";
4. be honest about reporting to child protection officials; do not make promises to keep the abuse a secret;
5. do not make critical or condemning statements about the offender, or display "shock" or "revulsion";
6. do not confront the person named as the abuser;
7. contact the police or Liaison Social Worker immediately on receiving a disclosure or information that a young person may be in need of protective intervention; and,
8. contacting parents is the responsibility of the investigating authorities (i.e. police/child protection).

EXCEPTIONS TO POLICY:

These practices should be followed if a young person under sixteen (16) years of age discloses a currently existing abusive situation or an abusive situation which existed prior to his/her entry into custody. In cases where a young person sixteen years of age and older reports abuse or neglect which occurred prior to their 16th birthday, the person receiving the information must decide if consultation with the local Children, Seniors and Social Development office is necessary, based on whether or not they suspect other

children, under 16 years, may be at risk of abuse. The authorities of Children, Seniors and Social Development will then assess whether any further action or intervention is warranted. It, however, remains the young person's decision as to whether or not to make a formal report/complaint to the police.

RELEVANT DOCUMENTS:

Section 8

Appendices





Travel Expense Claim Extrajudicial Sanctions

Claimant: _____

Extrajudicial Sanctions Program: _____

Mailing Address: _____

Address: _____

Postal Code: _____

Purpose of trip: _____

Date	Particulars	Meals	Accommodations	Travel	Private Vehicle	Other
Column Totals						

Claim Total > \$ _____

Less Trip Advance (if any) > \$ _____

Amount Payable to Claimant > \$ _____

I certify that the whole of the expenses incurred by me were on Extrajudicial Sanctions business and are in accordance with provincial government travel guidelines.

Claimant's Signature

Date

Approved and Certified By:

Chairperson or Designate

Date

*Attach all receipts to form (accommodations/travel, etc.).

DIRECTIONS

1. The Travel Expense Claim Voucher is to be completed in all cases where a Youth Justice Committee Member/Volunteer is applying for reimbursement of travel expenses.

2. Meal rates are as per the current rates paid by the provincial government:

Breakfast	\$ 8.00
Lunch	\$14.00
Dinner	\$21.70

3. Travel by private vehicle is to be calculated at a cost per kilometre in accordance with the current rates paid by the provincial government.* Include actual distance travelled in the “particulars” column, and total cost (eg. kilometres x \$.31.5) in the “private vehicle” column (fuel receipts are not required).

4. Taxi costs and/or air travel shall be specified in the travel column, with all receipts to be attached to the travel claim.

5. All receipts for accommodations must be attached with the exception of private accommodations.

* The current rate can be found at www.gov.nl.ca. Type “Human Resource Policy” in the search box. Select “Travel”.



**Private Vehicle Usage Report
(to be attached to Travel Expense Claim)**

Claimant	Program
-----------------	----------------

Reason for Travel

Date 20 __	Details of Travel (To & From)	Distance Travelled
Total Distance Travelled		

Claim Amount: Total distance travelled _____ kilometres X _____ 4 per km \$ _____

Claimant

Chairperson

_____ 20 _____

_____ 20 _____

Rates can be found at gov.nl.ca. Type "Human Resources Policy" in the Search box. Select "Travel".