



NOVASCOTIA
PUBLIC PROSECUTION SERVICE

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NOTE:

THIS POLICY DOCUMENT IS TO BE READ IN THE CONTEXT PROVIDED BY THE **PREFACE** TO THIS PART OF THE MANUAL.

CERTAIN WORDS AND PHRASES HAVE THE MEANINGS ESTABLISHED IN THE “**WORDS & PHRASES**” SECTION OF THIS PART OF THE MANUAL.

NOTE: Pursuant to Section 165 of the *Youth Criminal Justice Act* (YCJA), this “program of alternative measures” is deemed to be a “program of extrajudicial sanctions” as authorized by the YCJA, and this policy document should be read utilizing the changes in terminology generated by the YCJA.

THE ROLE OF THE CROWN ATTORNEY

The role of the Crown Attorney in regard to Y.O.A. Alternative Measure Programs may be summarized as follows:

1. A police officer will make a recommendation for alternative measures in accordance with the eligibility criteria and complete the Recommendation form. He or she will then give the recommendation and information to the Crown Attorney who will then review the facts and determine whether or not there is sufficient evidence to proceed and whether or not the prosecution is in any way barred at law. If the Crown Attorney is satisfied, then the form is signed and forwarded to the Probation Office.
2. If the Crown Attorney is not satisfied or is of the view, for any reason, that the case is not appropriate for alternative measures, he or she should discuss the matter with the police officer who recommended alternative measures. If the matter is not resolved then the Crown Attorney should refer it to Head Office.
3. If the police do not recommend alternative measures and the Crown Attorney in reviewing the case feels that it should be referred to alternative measures, he or she should discuss the matter with the investigating officer. If the matter is not resolved then the Crown Attorney should refer it to Head Office.
4. Alternative measures are intended to be an alternative to judicial proceedings. If a particular case comes before the court, while the issue of whether or not alternative measures should be used is unresolved, the court proceeding should be adjourned without mentioning “Alternative Measures” to the judge. Instead, words such as “An adjournment would be in the best interest of the young offender.” should be used. Once the charge is read and a plea is taken, alternative measures are not available.

ELIGIBILITY CRITERIA

1. The conditions which follow are a summary of the legislated criteria which must be considered and/or satisfied prior to any young person becoming actively involved in alternative measures:
 - (a) the decision to proceed by way of alternative measures is made having regard to the needs of the young person and the interests of society;
 - (b) there is sufficient evidence to proceed with the prosecution of the offence and any such prosecution is not in any way barred at law;
 - (c) the young person accepts responsibility for the act or omission that forms the basis of the offence that he is alleged to have committed;
 - (d) the young person, having been informed of the alternative measures, fully and freely consents to participate in the program, having been given a reasonable opportunity to consult with counsel.
2. In addition to those criteria which are presently legislated in the Y.O.A., alternative measures may be considered except where the following conditions exist:
 - (a) the young person is on probation or is serving a custodial disposition;
 - (b) the alleged offence is impaired driving or refusing a breathalyser;
 - (c) the young person has pending charges in addition to those being considered for alternative measures*;
 - (d) the young person has any prior criminal code or federal statute convictions or has previously participated in alternative measures within the preceding two-year period.
3. Alternative measures shall not normally be considered where the alleged offence is indictable and is one which involves violence, personal injury, weapons or a potentially dangerous situation.

*A case arose where a young person was charged with "theft under" (shoplifting). A short time later, before the first charge was dealt with, she was charged with "theft under" in connection with a second shoplifting incident. Both charges, if considered separately, were eligible for alternative measures consideration. The issue that had to be resolved was whether the young person was precluded from alternative measures consideration because of the "pending charge". After consultation with the Director, Community Corrections, it was decided that since both charges would be brought before the court at the same time, the two charges were eligible for alternative measures consideration and could be referred to the alternative measures program together.