



CRIMINAL JUSTICE BRANCH, MINISTRY OF ATTORNEY GENERAL
CROWN COUNSEL POLICY MANUAL

ARCS/ORCS FILE NUMBER: 58520-00	EFFECTIVE DATE: November 18, 2005	POLICY CODE: YOU 1.4
SUBJECT: <i>Youth Criminal Justice Act – Extrajudicial Measures</i>		CROSS-REFERENCE: ALT 1 CHI 1 CRI 1 HAT 1 SEX 1 SPO 1

POLICY

Section 4(a) of the *Youth Criminal Justice Act* states that “extrajudicial measures are often the most appropriate and effective way to address youth crime”.

A decision to use an extrajudicial sanction under the *Youth Criminal Justice Act* for a Category 3 or 4 offence may be made by any Crown Counsel. With the approval of Regional or Deputy Regional Crown Counsel, Crown Counsel may use an extrajudicial sanction for a category 2 offence. Extrajudicial sanctions should be used for category 1 offences only in rare circumstances and require the written consent of the Assistant Deputy Attorney General. The above categories are attached as appendix A.

Part I of the *Youth Criminal Justice Act* sets out the statutory scheme with respect to extrajudicial measures. Sections 4 and 5 contain a declaration of principles and objectives for extrajudicial measures including warnings, cautions and extrajudicial sanctions. Section 10 governs the use of extrajudicial sanctions.

In addition to the provisions of the *Youth Criminal Justice Act* and this policy, separate Branch policies provide guidance on the use of extrajudicial (alternative) measures in the following circumstances:

- child abuse - physical and sexual (see CHI 1)
- criminal harassment (see CRI 1)
- hate motivated offences and hate propaganda (see HAT 1)
- sexual assault (see SEX 1)
- spouse assault (see SPO 1)

The Branch is committed to the use of extrajudicial measures which recognize the traditional values and customs of aboriginal communities and have been authorized under section 10 of the *Youth Criminal Justice Act*.

DISCUSSION

As a matter of policy, youth diversion has been common practice in British Columbia since the late 1970's. The proclamation of the *Young Offenders Act* in 1984 provided the first statutory authority for "alternative measures" for youth. The Act defined "alternative measures" to mean "other than judicial proceedings".

The *Youth Criminal Justice Act*, which replaced the *Young Offenders Act* in 2003, contains a statutory scheme for extrajudicial measures, including warnings, cautions and extrajudicial sanctions. A statement of principles and objectives is provided.

The "Extrajudicial Measures, Principles and Objectives" policy of the Ministry of Children and Family Development which describes the extrajudicial sanctions program which that ministry offers for youths under the *Youth Criminal Justice Act* can be found on the Branch Intranet site.

APPENDIX A

EXAMPLES OF CASE TYPES (Jan 23, 1998)

CATEGORY 1	CATEGORY 2	CATEGORY 3	CATEGORY 4
<ul style="list-style-type: none"> • ARSON, with disregard for human life • ASSAULT, Aggravated • ASSAULT, Sexual, with a Weapon, or threats to third parties, or Causing Bodily Harm, or Aggravated Sexual Assault • BREAK & ENTER, or Unlawfully in a Dwelling House, involving injury, or attempted violence • BRIBERY • CONFINEMENT, Unlawful • CONSPIRACY to Commit Murder • COUNTERFEITING • DRIVING, Impaired or Dangerous, causing death or bodily harm • ESCAPE, involving violence • EXPLOSIVE, use of, likely to cause bodily harm or death • EXTORTION • FIREARM, used in the commission of an offence • HARASSMENT, Criminal • HATE Propaganda offences • HOSTAGE Taking • KIDNAPPING • MANSLAUGHTER • MISCHIEF, Causing danger to life • MURDER, Attempted • MURDER, First and Second Degree • OBSTRUCTING Justice • PERJURY • PORNOGRAPHY, Possession or making involving children • PRISON Breach • PROSTITUTION, Living on the Avails of, Procuring etc. (S. 212) • ROBBERY • SABOTAGE • SEXUAL OFFENCES involving , breach of trust and/or children • SEXUAL SERVICES of children, Obtaining or Attempting to Obtain (s. 212(4)) 	<ul style="list-style-type: none"> • ABDUCTION, (Parental) • ARSON (except as noted in Cat. 1) • ASSAULT Causing Bodily Harm • ASSAULT a Peace Officer • ASSAULT, Sexual (except as noted in Cat. 1) • ASSAULT, Spousal (except Aggravated Assaults in Cat. 1) • ASSAULT with a Weapon • BREACH of probation or other court order • BREAK & ENTER of a Dwelling House • CHILD ABUSE (except when there is a Cat. 1 offence) • CONCEALED Weapon • CONTEMPT, Criminal • DRIVING, Dangerous, Impaired or Over .08 • DRIVING, Involving high speed chase • DRIVING While Disqualified (S. 259) • ESCAPING Custody (non-violent) • EXPLOSIVE Substance, Possession • FTA, or Unlawfully at Large • FIREARMS, Careless use, storage or pointing • FORGERY, (Possession of forged currency or passports) • HATE bias offences (except as noted in Cat. 1) • INDECENT Act (targeting children) • MISCHIEF, Public • THEFT, PSP, FORGERY, FRAUD, FALSE PRETENCES, Uttering, Unlawful use of a Credit Card, Unauthorized Use of a Computer, (involving public funds, public documents, internal theft, a scheme of organized criminal activity, a position of trust or a vulnerable victim) • UTTERING Threats, to cause death or bodily harm • WEAPON, Possession, Dangerous to the Public Peace, or of a Prohibited or Restricted Weapon 	<ul style="list-style-type: none"> • ASSAULT, S. 266 (except VAWIR, as noted in Cat. 2) • BREAK & ENTER, NOT a dwelling house • COMPUTER, Unauthorized use of a (except as noted in Cat. 2, “Theft”) • FORGERY, Fraud, False Pretences, Uttering, or Unlawful use of a Credit Card, in amounts over \$5,000 (except as noted in Cat. 2, “Theft”) • INDECENT Act (except as noted in Cat. 2, offences targeting children) • MISCHIEF OVER \$5000 • POSSESSION of INSTRUMENTS, house or car breaking • PSP OVER \$5,000 (except as noted in Cat. 2, “Theft”) • PROSTITUTION, Communicating for the Purposes of, except demonstrated nuisance in the community, in which case the matter should be dealt with as a Cat. 2 offence) • TAKE Auto Without Consent • THEFT OVER \$5,000, (except as noted in Cat. 2 “Theft”) • TRESPASS at night 	<ul style="list-style-type: none"> • DISTURBANCE, Causing a • FALSE Pretences, Uttering, Unlawful use of a Credit Card, where the amounts involved are UNDER \$5,000 (except as noted in Cat. 2) • MISCHIEF UNDER \$5000 • PSP UNDER \$5,000 (except as noted in Cat. 2) • THEFT UNDER \$5,000 (except as noted in Cat. 2)