

The Alternative Measures and Extrajudicial Sanctions Policies

Ministry of Justice and Attorney General 2024

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Preface

The federal and provincial governments have developed policies and guidelines regarding the use of alternative measures and extrajudicial sanctions and the development of alternative measures and extrajudicial sanctions programs. This booklet outlines the legislation and policies governing the use of alternative measures and extrajudicial sanctions in Saskatchewan.

Section 1, the Introduction, defines alternative measures and extrajudicial sanctions, discusses the factors related to their development, and describes processes that are commonly used in Saskatchewan.

Section 2 outlines the provisions in the Criminal Code and the Youth Criminal Justice Act that authorizes the provinces to develop alternative measures and extrajudicial sanctions programs.

Section 3 provides the Ministerial Orders and policies that authorize alternative measures and extrajudicial sanctions programs. These include:

- The Minister's Order and attached Adult Alternative Measures Policy (2024), which guide alternative measures programs for adults.
- The Minister's Order and attached Youth Extrajudicial Sanctions Policy (2024), which guides extrajudicial sanctions programs for youth.
- The Saskatchewan Ministry of Corrections, Policing, and Public Safety Enforcement Bulletin - Alternative Measures/Extra Judicial Sanctions (AM/EJS) (2023), which guides conservation officers in making referrals to alternative measures and extrajudicial sanctions programs.
- The Saskatchewan's Public Prosecution Policy on Alternative Measures which guides the actions of provincial prosecutors can be found on the provincial website at <https://publications.saskatchewan.ca/api/v1/products/81202/formats/93156/download>
- The federal policies on Alternative Measures, Extrajudicial Measures and Sanctions , which guide the actions of federal prosecutors. The federal policy is taken from the Public Prosecution Service of Canada Deskbook at <https://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p3/ch08.html> and <https://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p5/ch04.html>

Section 1: Introduction

Alternative measures and extrajudicial sanctions programs provide individuals who are accused of committing a *Criminal Code* offence and certain offences under other federal and provincial legislation an opportunity to make reparation to victims and their community. These programs attempt to balance the needs of victims, the accused, and communities while ensuring that society is protected. They offer accused persons a chance to take responsibility for their behaviour and address the harm they have committed. They take a problem-solving approach to crime which emphasizes healing while helping repair relationships between the victim, the accused and the community to the extent possible.

While the programs are similar, alternative measures programs are used when the accused is an adult, and extrajudicial sanctions programs are used for youth. Both adult and youth programs in Saskatchewan are delivered by community-based agencies.

Alternative measures and extrajudicial sanctions programs offer accused persons a chance to take responsibility for their behaviour and address the harm they have committed. They take a problem-solving approach to crime which emphasizes healing while helping repair relationships between the victim, the accused, and the community as much as possible. They aim to:

- Increase the offender's accountability and responsibility for criminal actions;
- Promote the involvement of victims in the process;
- Protect society by deterring accused persons from further criminal behaviour;
- Enhance the community's participation in resolving conflicts;
- Involve the community in addressing the crime; and
- Protect the interests of society.

Alternative measures and extrajudicial sanctions programs provide effective, efficient ways of resolving disputes that involve communities in developing culturally sensitive services to promote healing and reparation. They are also a way to address crime in conjunction with the criminal justice system

Many kinds of processes are used to resolve alternative measures and extrajudicial sanctions referrals, and community-based agencies have different names for these processes. Some of the most common types include:

- Victim-offender mediation, in which the victim and the accused person meet with a trained facilitator.
- Community justice forums or youth justice forums, in which the victim(s), the accused person(s), and other community members who are relevant to the case meet with a trained facilitator. The facilitator uses a script during the meeting.

- Community justice conferences, which can occur with adult accused persons. The victim(s) and the accused person(s) meet with a trained facilitator and additional professionals and community members who are relevant to the case.
- Family group conferences, which can occur when the accused is a young person. The victim(s) and the accused person(s) meet with a trained facilitator and additional professionals and community members who are relevant to the case. Unlike community justice forums and youth justice forums, scripts are not used during family group conferences or community justice conferences.
- “Circles” are a generic name for processes to resolve a conflict or issue between an offender, a victim, and/or community members. Circles usually involve the accused, the victim, a facilitator, and a wide range of individuals such as family supporters, community members, professionals, and others. The people who participate and the procedures used vary according to the circle’s purpose and the practices of the group or agency arranging it.

Section 2: Legislation

Alternative Measures

In 1996, alternative measures were introduced to the *Criminal Code* of Canada to enable diversionary methods for offences outside of the traditional criminal justice process. The federal policy on Alternative Measures states that criminal proceedings should be used with restraint and only in circumstances where other measures have failed or would be inappropriate. The use of alternative measures is authorized in section 717 (1) of the *Criminal Code*, which states,

717 (1) Alternative measures may be used to deal with a person alleged to have committed an offence only if it is not inconsistent with the protection of society and the following conditions are met:

- (a) the measures are part of a program of alternative measures authorized by the Attorney General or the Attorney General's delegate or authorized by a person, or a person within a class of persons, designated by the lieutenant governor in Council of a province;*
- (b) the person who is considering whether to use the measures is satisfied that they would be appropriate, having regard to the needs of the person alleged to have committed the offence and the interests of society and of the victim;*
- (c) the person, having been informed of alternative measures, fully and freely consents to participate therein;*
- (d) the person has, before consenting to participate in alternative measures, been advised of the right to be represented by counsel;*
- (e) the person accepts responsibility for the act or omission that forms the basis of the offence that the person is alleged to have committed;*
- (f) there is, in the opinion of the Attorney General or the Attorney General's agent, sufficient evidence to proceed with the prosecution of the offence; and*
- (g) the prosecution of the offence is not in any way barred at law.*

Restriction on use:

717(2) Alternative measures shall not be used to deal with a person alleged to have committed an offence if the person

- (a) denies participation or involvement in the commission of the offence; or*

(b) expresses the wish to have any charge against the person dealt with by the court.

Extrajudicial Sanctions

A similar provision respecting young offenders is found in section 10 of the Youth Criminal Justice Act, which states,

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

Conditions:

(2) An extrajudicial sanction may be used only if

- (a) it is part of a program of sanctions that may be authorized by the Attorney General or authorized by a person, or a member of a class of persons, designated by the lieutenant governor in council of the province;*
- (b) the person who is considering whether to use the extrajudicial sanction is satisfied that it would be appropriate, having regard to the needs of the young person and the interests of society;*
- (c) the young person, having been informed of the extrajudicial sanction, fully and freely consents to be subject to it;*
- (d) the young person has, before consenting to be subject to the extrajudicial sanction, been advised of his or her right to be represented by counsel and been given a reasonable opportunity to consult with counsel;*
- (e) the young person accepts responsibility for the act or omission that forms the basis of the offence that he or she is alleged to have committed;*
- (f) there is, in the opinion of the Attorney General, sufficient evidence to proceed with the prosecution of the offence; and*
- (g) the prosecution of the offence is not in any way barred at law*

Restriction on use:

(3) 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.”*

Provisions of the YCJA regarding Youth Justice Committees

The *Youth Criminal Justice Act* (YCJA) contains a provision that relates to EJS cases. Under Section 18 of the YCJA, the federal government authorizes the development and provincial designation of youth justice committees as part of the continuum of services for youth in conflict with the law. The Act recognizes the important role of citizens in the justice system in their own communities.

“18 (1) The Attorney General of Canada or a province or any other minister that the lieutenant governor in council of the province may designate may establish one or more committees of citizens, to be known as youth justice committees, to assist in any aspect of the Administration of this Act or any programs or services for young persons.”

Section 18 (2) of the YCJA sets out the specific functions of youth justice committees, such as giving advice on extrajudicial measures for young persons, supporting victims, ensuring that community support is available for young persons, participating in conferences related to young persons, advising the federal and provincial governments on policies and procedures related to the youth criminal justice system, undertaking public education, and other matters:

“18 (2) The functions of a youth justice committee may include the following:

(a) in the case of a young person alleged to have committed an offence,

(i) giving advice on the appropriate extrajudicial measure to be used in respect of the young person,

(ii) supporting any victim of the alleged offence by soliciting his or her concerns and facilitating the reconciliation of the victim and the young person,

(iii) ensuring that community support is available to the young person by arranging for the use of services from within the community, and enlisting members of the community to provide short-term mentoring and supervision, and

(iv) when the young person is also being dealt with by a child protection agency or a community group, helping to coordinate the interaction of the agency or group with the youth criminal justice system;

(b) advising the federal and provincial governments on whether the provisions of this Act that grant rights to young persons, or provide for the protection of young persons, are being complied with;

(c) advising the federal and provincial governments on policies and procedures related to the youth criminal justice system;

(d) providing information to the public in respect of this Act and the youth criminal justice system;

(e) acting as a conference; and

(f) any other functions assigned by the person who establishes the committee.”

Although the *Criminal Code* and the *Youth Criminal Justice Act* give legislative authority for alternative measures and extrajudicial sanctions, it is the responsibility of the provinces to develop and regulate these programs. The development of community-based alternative measures and extrajudicial sanctions programs are authorized by Ministerial Orders and provincial policies.

Section 3: Provincial and Federal Policies

This section includes the Ministerial Orders and provincial policies that authorize the use of alternative measures and extrajudicial sanctions in Saskatchewan. These include the Adult Alternative Measures Policy (2024), the Youth Extrajudicial Sanctions Policy (2024), the Saskatchewan Ministry of Environment Enforcement Bulletin – Alternative Measures/Extrajudicial Sanctions Policy (2012) and the federal Alternative Measures and Extrajudicial Measures and Sanctions Policy.

The Saskatchewan Ministry of Justice Adult Alternative Measures Policy (2024) applies to alternative measures programs for adults, while the Saskatchewan Ministry of Justice and Attorney General Extrajudicial Sanctions Policy (2024) applies to extrajudicial sanctions programs for youths.

The Saskatchewan Ministry of Environment Enforcement Bulletin – Alternative Measures/Extrajudicial Sanctions Policy (2012) guides conservation officers who are considering referring an accused person to an alternative measures/extrajudicial sanctions program.

The federal Alternative and Extrajudicial Measures and Sanctions Policies guide the actions of federal prosecutors.

Section 3-1: Adult Alternative Measures Policy (2024)

Section 3-1: Adult Alternative Measures Policy (2024)

MINISTER'S ORDER

Adult Alternative Measures Policy (2024)

Section 717 of the *Criminal Code* (Canada) provides, in part, as follows:

717 (1) Alternative measures may be used to deal with a person alleged to have committed an offence only if it is not inconsistent with the protection of society and the following conditions are met:

- (a) the measures are part of a program of alternative measures authorized by the Attorney General or the Attorney General's delegate or authorized by a person, or a person within a class of persons, designated by the Lieutenant Governor in Council of a province;
- (b) the person who is considering whether to use the measures is satisfied that they would be appropriate, having regard to the needs of the person alleged to have committed the offence and the interests of society and of the victim;
- (c) the person, having been informed of the alternative measures, fully and freely consents to participate therein;
- (d) the person has, before consenting to participate in the alternative measures, been advised of the right to be represented by counsel;
- (e) the person accepts responsibility for the act or omission that forms the basis of the offence that the person is alleged to have committed;
- (f) there is, in the opinion of the Attorney General or the Attorney General's agent, 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.

I, Tim McLeod, Minister of Justice and Attorney General for the Province of Saskatchewan, pursuant to section 717 of the *Criminal Code* (Canada), do hereby authorize adult alternative measures programs which are consistent with the program criteria attached hereto as Schedule "A".

I do hereby further authorize the Deputy Minister of Justice and Deputy Attorney General for the Province of Saskatchewan as my delegate for the purpose of amending the program criteria set out in the attached Schedule "A" including with respect to its application to classes of cases or specific cases; for setting operating standards for adult alternative measures programs consistent with the program description authorized above; and for approving individual adult alternative measures programs.

Dated at the City of Regina, Saskatchewan, this 31st day of January, 2025.



Tim McLeod, Minister of Justice and Attorney General

Schedule "A"

1. Purpose

Alternative measures programs provide adults who are accused of committing a *Criminal Code* offence an opportunity to make reparation to victims and their community. The programs provide an opportunity for victims, accused persons and communities to discuss what happened, who was harmed as a result of the crime, and what could be done to address the situation. They take a problem-solving approach to crime which emphasizes healing while helping repair relationships between the victim, the accused and the community as much as possible.

2. Authority

In accordance with section 717 of the *Criminal Code*, the Attorney General for Saskatchewan authorizes the implementation of alternative measures programs in Saskatchewan through a Minister's Order.

3. The Referral to Alternative Measures

- a) A referral to an alternative measures program can be made by the police prior to a formal charge being laid or by a Crown prosecutor after a charge is laid. If the police officer wishes to refer a matter to alternative measures, prior approval for the referral must be given by a Crown prosecutor.
- b) In either case, the eligibility criteria must be met, and the offence must not expressly excluded by the criteria set out in this policy.

4. Eligibility Criteria

4.1 Statutory Conditions

For referral to an alternative measures program:

- a) Either during or following contact with the police, the accused must accept responsibility for the act or omission that forms the basis of the offence that the person is alleged to have committed;
- b) The prosecution of the offence is not in any way barred by law; and
- c) There must, in the opinion of the Crown, be sufficient evidence to proceed with the prosecution of the offence.

4.2 Policy Conditions

In general, the accused:

- Must not have been diverted more than twice in the last year. Where a prosecutor is of the opinion that the unique circumstances of the accused or the offence would warrant

a referral to alternative measures more than twice in one year, prior approval of the Regional Crown prosecutor is required;

- Must not have failed alternative measures in the prior six months; and
- Must not have a substantial criminal record for similar offences.

While referrals must be approved by the Crown prosecutor, suggestions about potential referrals can come from a variety of sources, including police, the staff of alternative measures and community justice agencies, court workers, probation officers, defence attorneys, and other individuals.

Victims should be contacted by the Crown to advise of the decision to refer to alternative measures. Victim participation is encouraged but is not a pre-requisite for referral to be made except in victim-offender mediation, community justice forums, community justice conferences or family group conferences. If a victim is unwilling or unable to participate, the alternative measures workers may facilitate the victim's perspective being shared through a surrogate or other representative.

5. Exclusionary Criteria

- The accused refuses to participate.
- The offence or the accused is excluded by one or more of the eligibility criteria.
- The Crown, in its discretion, does not think that the accused or offence is suitable for the alternative measures program.
- The agency administering the program does not think the accused or the offence is suitable for the alternative measures program.

The following offences are not eligible for alternative measures:

- Offences involving the use of or threatened use of a weapon where the Crown proceeds by Indictment.
- Any offence involving the use of or threatened use of bladed weapons, firearms, or any restricted or prohibited weapons.
- Offences involving violence against any person where the Crown proceeds by Indictment.
- Offences involving sexual violence against children or the sexual exploitation of children (persons under 18) (including sexual assault, sexual interference, luring, child pornography and procurement).
- Any offences involving non-sexual violence against children under 18 years of age committed by a person in trust or authority towards that child unless express approval has first been obtained by the Regional Crown and the alternative measures agency involved.

- Offences involving spousal/partner violence. For the purpose of this policy, spousal/partner violence is defined as:

“acts or threats of physical or sexual assault or criminal harassment committed against one person by another person with whom they presently or previously have had an intimate relationship, regardless of whether they are legally married or living together at the time of the assault or threat.”

- Offences involving a sexual assault where the Crown proceeds by Indictment.
- Perjury.
- Criminal organization offences.
- Criminal Code driving offences.
- Federal offences other than Criminal Code offences unless specifically authorized by the federal Minister of Justice. The availability of alternative measures for these offences is determined by Justice Canada.

6. Crown Discretion

Crown prosecutors have discretion about whether to refer cases to alternative measures programs. Crown prosecutors are encouraged to refer appropriate cases unless the offence is not eligible for referral. In the exercise of this discretion, some of the factors to be considered by the Crown include:

- The seriousness or triviality of the alleged offence;
- Significant mitigating or aggravating circumstances;
- The age, intelligence, and physical or mental health or infirmity of the persons involved;
- The accused person’s circumstances and needs;
- The victim’s attitude and interests;
- The availability and appropriateness of alternatives to conventional prosecution.
- The prosecution's likely effect on public order and morale or on public confidence in the administration of justice;
- The prevalence of the alleged offence in the community, whether the alleged offence is of considerable public concern, and the need for general and specific deterrence;
- Whether the offence is a breach of trust or motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor;
- Whether the consequences of a prosecution or conviction would be disproportionately harsh or oppressive;
- Whether there is a need for the victim, accused and/or community to experience healing; and
- Whether it would otherwise be in the public interest to refer the matter to alternative measures.

7. Processes for Resolving Cases

Upon receiving the referral, mediators draw upon their training, experience, knowledge about the referral, and the views of the individuals involved to determine the appropriate type of process. When appropriate, the process may be adapted to suit the circumstances of the case and the individuals.

Some of the processes that are commonly used to resolve alternative measures referrals include (see the Alternative Measures and Extrajudicial Sanctions Program Manual for details on these processes):

- Victim-offender mediation ;
- Community justice forum;
- Community justice conference;
- Family group conference;
- Accountability conference
- Referral to a specialized/diversion program such as life skills, anger management, crime prevention, restitution or group programming relating to theft prevention/intervention.
- Referral for counseling or treatment programs (such as drug/alcohol, health, mental health, or programs offered by social service agencies);
- Participation in Indigenous cultural activities; or
- Other processes that are reasonable in light of the needs and interests of the persons involved and the availability of programs or resources within the agency administering the program and the community.

Mediators have discretion about whether victim-offender mediation, community justice forums, family group conferences or community justice conferences would be suitable.

8. Case Outcomes

Alternative measures programs can enable the persons involved to develop creative solutions that meet their needs and address the harm caused by the offence within the framework of the law. While there are many possible outcomes of alternative measures referrals, some common ones include:

- An apology;
- Restitution or compensation in cash or kind;
- Donation to a charity;
- Personal service work for the victim;
- Community service work;
- Participation in a specialized program such as counseling sessions;
- Participation in public education activities, such as writing essays or making presentations in schools;
- Other agreements that are reasonable in light of the needs and interests of the persons involved, the seriousness of the offence, and the circumstances of the case; or
- Some combination of the above.

9. Training

Mediators must have a combination of theoretical and practical training specific to criminal justice mediation as required by the Dispute Resolution Office, Ministry of Justice and Attorney General.

Section 3-2: Youth Extrajudicial Sanctions Policy (2023)

Section 3-2: Youth Extrajudicial Sanctions Policy (2024)

MINISTER'S ORDER

Youth Extrajudicial Sanctions Policy (2024)

Section 10 of the *Youth Criminal Justice Act* (Canada) provides in part, as follows:

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

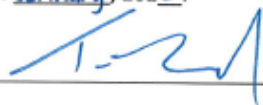
10 (2) An extrajudicial sanction may be used only if:

- (a) it is part of sanctions that may be authorized by the Attorney General or authorized by a person, or a member of a class of persons, designated by the Lieutenant Governor in Council of the province;
- (b) the person who is considering whether to use the extrajudicial sanction is satisfied that it would be appropriate, having regard to the needs of the young person and the interests of society;
- (c) the young person, having been informed of the extrajudicial sanction, fully and freely consents to be subject to it;
- (d) the young person has, before consenting to be subject to the extrajudicial sanction, been advised of his or her right to be represented by counsel and been given a reasonable opportunity to consult with counsel;
- (e) the young person accepts responsibility for the act or omission that forms the basis of the offence that he or she is alleged to have committed;
- (f) there is, in the opinion of the Attorney General, sufficient evidence to proceed with the prosecution of the offence; and
- (g) the prosecution of the offence is not in any way barred at law.

I, Tim McLeod, Minister of Justice and Attorney General for the Province of Saskatchewan, pursuant to section 10 of the *Youth Criminal Justice Act* (Canada), do hereby authorize youth extrajudicial sanctions programs which are consistent with the program criteria attached hereto as Schedule "A".

I do hereby further authorize the Deputy Minister of Justice and Deputy Attorney General for the Province of Saskatchewan as my delegate for the purpose of amending the program criteria set out in the attached Schedule "A" including with respect to its application to classes of cases or specific cases; for setting general program standards for youth extrajudicial sanctions programs consistent with the program description authorized above; and for approving individual youth extrajudicial sanction programs.

Dated at the City of Regina, Saskatchewan, this 31st day of January, 2025.



Tim McLeod, Minister of Justice and Attorney General

Schedule "A"

1. Purpose

Extrajudicial sanctions provide an alternative to the traditional court process for young persons facing charges for offences set out in the *Criminal Code*.

These programs offer youth who are accused of committing a *Criminal Code* offence an opportunity to make reparation to victims and their community. The programs provide an opportunity for victims, the young persons and communities to discuss what happened, who was harmed as a result of the crime, and what could be done to address the situation. They take a problem-solving approach to crime which emphasizes healing while helping repair relationships between the victim, the accused and the community as much as possible.

Extrajudicial sanctions programs are supported by the principles of the *Youth Criminal Justice Act* respecting extrajudicial measures, which state:

- Extrajudicial measures are often the most appropriate and effective way to address youth crime; and
- Extrajudicial measures allow for effective and timely interventions focused on correcting offending behavior.

2. Authority

In accordance with section 10 of the *Youth Criminal Justice Act* the Attorney General for Saskatchewan authorizes the implementation of extrajudicial sanctions programs in Saskatchewan through a Minister's Order.

3. The Referral to Extrajudicial Sanctions

- a) A referral to an extrajudicial sanctions program can be made by the police prior to a formal charge being laid or by a Crown prosecutor after a charge is laid. If the police officer wishes to refer a matter to extrajudicial sanctions, prior approval for the referral must be given by a Crown prosecutor.
- b) In either case, the eligibility criteria must be met, and the offence must not be expressly excluded by the criteria set out in this policy.

4. Eligibility Criteria

4.1 Statutory Conditions

For referral to an extrajudicial sanctions program:

- a) Either during or following contact with the police, the young person must accept responsibility for the act or omission that forms the basis of the offence that the young person is alleged to have committed;
- b) The young person chooses to participate, having been advised of the right to counsel and having been given a reasonable opportunity to consult with counsel;
- c) The prosecution of the offence is not in any way barred by law; and
- d) There must, in the opinion of the Crown, be sufficient evidence to proceed with the prosecution of the offence.

4.2 Policy Conditions

In general, the young person:

- a) Must not have a significant history of failing to complete previous extrajudicial sanctions, or other significant outstanding charges that call into question the appropriateness of extrajudicial sanctions; and
- b) Must not have a substantial criminal record for similar offences.

While referrals must be approved by the Crown prosecutor, suggestions about potential referrals can come from a variety of sources, including police, the staff of alternative measures/extrajudicial sanctions or community justice agencies, court workers, probation officers, defence attorneys, and other individuals.

Victims should be contacted by the Crown to advise of the decision to refer to extrajudicial sanctions. Victim participation is encouraged but is not a pre-requisite for referral to be made except in victim-offender mediation, community justice forums, community justice conferences or family group conferences. If a victim is unwilling or unable to participate, the alternative measures workers may facilitate the victim's perspective being shared through a surrogate or other representative.

5. Exclusionary Criteria

- The young person is excluded by one or more of the eligibility criteria.
- The Crown, in its discretion, does not think that the young person or offence is suitable for the extrajudicial sanctions program.

- The agency administering the program does not think the young person or the offence is suitable for the extrajudicial sanctions program.
- The following offences are not eligible for extrajudicial sanctions:
- Offences involving the use of or threatened use of a weapon where the Crown proceeds by Indictment.
- Any offence involving the use of or threatened use of bladed weapons, firearms, or any restricted or prohibited weapons. Offences involving violence against any person where the Crown proceeds by Indictment.
- Offences involving sexual violence against children or the sexual exploitation of children (persons under 18) (including sexual assault, sexual interference, luring, child pornography and procurement).
- Offences involving spousal/partner violence.
- Offences involving spousal/partner violence. For the purpose of this policy, spousal/partner violence is defined as:

“acts or threats of physical or sexual assault or criminal harassment committed against one person by another person with whom they presently or previously have had an intimate relationship, regardless of whether they are legally married or living together at the time of the assault or threat.”

- Offences involving a sexual assault where the Crown proceeds by Indictment.
- Perjury.
- Criminal organization offences.
- Criminal Code driving offences.
- Federal offences other than Criminal Code offences unless specifically authorized by the federal Minister of Justice. The availability of alternative measures for these offences is determined by Justice Canada.

6. Crown Discretion

Crown prosecutors have discretion about whether to refer cases to extrajudicial sanctions programs. Crown prosecutors are encouraged to refer appropriate cases except where the offence is expressly excluded from eligibility. In the exercise of this discretion, some of the factors to be considered by the Crown include:

- The seriousness or triviality of the alleged offence;
- Significant mitigating or aggravating circumstances;
- The age, intelligence, and physical or mental health or infirmity of the persons involved;
- The accused person’s circumstances and needs;
- The victim’s attitude and interests;
- The availability and appropriateness of alternatives to conventional prosecution;
- The prosecution's likely effect on public order and morale or on public confidence in the administration of justice;

- The prevalence of the alleged offence in the community and whether the alleged offence is of considerable public concern, and the need for general and specific deterrence;
- Whether the offence is a breach of trust or motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor;
- Whether the consequences of a prosecution or conviction would be disproportionately harsh or oppressive;
- Whether there is a need for the victim, accused and/or community to experience healing; and
- Whether it would otherwise be in the public interest to refer the matter to extrajudicial sanctions.

7. Processes for Resolving Cases

Upon receiving the referral, mediators draw upon their training, experience, knowledge about the referral, and the views of the individuals involved to determine the appropriate type of process. When appropriate, the process may be adapted to suit the circumstances of the case and the individuals.

Some of the processes that are commonly used to resolve extrajudicial sanctions referrals include (see the Alternative Measures and Extrajudicial Sanctions Program Manual for details on these processes):

- Victim-offender mediation;
- Community justice forum;
- Community justice conference;
- Family group conference;
- Accountability conference
- Referral to a specialized/diversion program such as life skills, anger management, crime prevention, restitution or group programming related to theft prevention/intervention;
- Referral for counseling or treatment programs (such as drug/alcohol, health, mental health, or programs offered by social service agencies);
- Participation in Indigenous cultural activities; or
- Other processes that are reasonable in light of the needs and interests of the persons involved and the availability of programs or resources within the agency administering the program and the community.

Mediators have discretion about whether victim-offender mediation, community justice forums, family group conferences or community justice conferences would be suitable.

8. Case Outcomes

Extrajudicial sanctions programs can enable the persons involved to develop creative solutions that meet their needs and address the harm caused by the offence within the framework of the law. While there are many possible outcomes of extrajudicial sanctions referrals, some common ones include:

- An apology;
- Restitution or compensation in cash or kind;
- Donation to a charity;
- Personal service work for the victim;
- Community service work;
- Participation in a specialized program or counseling sessions;
- Participation in public education activities, such as writing essays or making presentations in schools;
- Other agreements that are reasonable in light of the needs and interests of the persons involved, the seriousness of the offence, and the circumstances of the case; or
- Some combination of the above.

9. Training

Mediators must have a combination of theoretical and practical training specific to criminal justice mediation as required by the Dispute Resolution Office, Ministry of Justice and Attorney General.

Section 3-3 Saskatchewan's Public Prosecutions Policy on Alternative Measures

- The Saskatchewan's Public Prosecution Policy on Alternative Measures which guides the actions of provincial prosecutors can be found on the provincial website at <https://publications.saskatchewan.ca/api/v1/products/81202/formats/93156/download>

Section 3-4 Federal Public Prosecutions Service of Canada Deskbook

- The federal policies on Alternative Measures, Extrajudicial Measures and Sanctions, which guide the actions of federal prosecutors. The federal policy is taken from the Public Prosecution Service of Canada Deskbook at <https://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p3/ch08.html> and <https://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p5/ch04.html>

Section 3-5 Saskatchewan Ministry of Corrections, Policing, and Public Safety Enforcement Bulletin – Alternative Measures and Extra Judicial Sanctions Policy (AM/EJS) (2023)

Enforcement Bulletins

EB10

ALTERNATIVE MEASURES/EXTRA JUDICIAL SANCTIONS (AM/EJS)

I. AUTHORITY

- Youth Criminal Justice Act (Canada), Section 2 and Section 10
- Criminal Code of Canada, Section 717
- Minister of Justice Order dated September 30, 1996
- Federal Minister of Justice Order dated August 1997

II. PURPOSE

To provide an alternative to traditional prosecution and/or court processes for offenders facing charges laid by conservation officers, **or to “extrajudicial measures” if the offender is a “young person.”**

III. GENERAL APPLICATION

It is the duty of the Attorney General’s agent (Crown Prosecutor) to determine the appropriateness of Alternative Measures/Extra Judicial Sanctions (AM/EJS). Giving consideration to an offender's age, character, history and rehabilitative prospects, a conservation officer may recommend that it would be appropriate to use measures alternative to traditional prosecution. These measures provide offenders an opportunity to effect reparation to victims and/or the community within structured, publicly accountable forums.

The AM/EJS program is not intended to be available for every offender and every offence. Rather, it is an acknowledgement that in some cases, because of the nature and circumstances of the offence and the offender, the public interest would be better served by a resolution outside of the traditional criminal process. The objective of AM/EJS programs is to have the offender accept responsibility for the offence without going through the formal court process. It is essential, therefore, that the offender takes responsibility for his actions.

IV. PROCEDURE

1. Investigate the offence following established investigative procedures. If possible, obtain a warned statement from the accused. Do not advise the accused that you are considering Alternative Measures/Extra Judicial Sanctions, as this may jeopardize the admissibility of a warned statement.
2. When the investigation is complete and there is sufficient evidence to support a charge, examine the eligibility criteria to determine whether the accused qualifies for the AM/EJS program. The program is generally aimed at offenders without substantial records of resource or environmental offences. Both the circumstances of the offender and the offence should be considered.

2.1 The Offender

- acknowledgement of responsibility for behaviour;
- no substantial record or recent charges of resource or environmental offences;
- no failed diversion in the last 6 months; or
- must not have been diverted more than twice in the last two years.

2.2 The Offence

Existence of any of the following circumstances will preclude diversion:

- all hunting offences where alcohol was a contributing factor;
- where the conduct demonstrated sophisticated planning (for example, the offence was part of an ongoing illegal enterprise);
- offences involving the killing, possessing, capturing, injuring or trafficking in wild species at risk; or
- where the victim (if applicable) does not consent to Alternative Measures.

In addition to the factors outlined above, the case must satisfy the eligibility criteria established under the Adult Alternative Measures Policy (Appendix A) or, for federal offences other than Criminal Code, the Federal Diversion Policy Guidelines (Appendix B).

3. Interview the accused and advise him that the Crown is considering AM/EJS. Explain the program, outlining possible diversion options available to them and that further approvals will be required to proceed.
4. The accused must fully and freely consent to participate in the Alternative Measures/Extra Judicial Sanctions program. Before consenting, he must be advised of the right to be represented by counsel.

5. If the accused consents to participate, complete the Allegation And Agreement To Refer To AM/EJS form (EB10-B-2006). The investigating officer also completes the Alternative Measures/Extra Judicial Sanctions Request (EB10-D-2006) form and forwards both to the Inspector. Included on the Request form is a recommendation of how to proceed. The Inspector completes and forwards the form to the designated area AM/EJS Coordinators or Service Provider (see Appendix E). The Inspector, AM/EJS Coordinator and the investigating officer will determine by consensus the appropriate diversion option. Options include a community justice committee, Mediation Services (Saskatchewan Justice), an AM/EJS Provider or simply an Alternative Measures/Extra Judicial Sanctions Agreement completed by the investigating officer and the offender.

6. Upon receiving signed approval from the Regional Crown Prosecutor or Designated Environmental Crown Prosecutor, the case may proceed to Alternative Measures/Extra Judicial Sanctions. The following diversion options may be available and should be considered:
 - restitution/compensation in cash or in kind
 - personal service work for the victim
 - community service work (resource or environment related)
 - donation to a charity (i.e. SaskTip or other suitable natural resource related charity)
 - referral to a specialized program (i.e. SAFE)
 - aboriginal cultural activities
 - mediation
 - other reasonable agreements
 - a combination of the above

7. The investigating conservation officer is responsible for concluding the file including submission of all applicable forms. Alternative Measures Agreement (EB10-A), Allegation and Agreement to Refer to Alternative Measures/ Extrajudicial Sanctions (EB10-B-2006) and Report to Crown and Others – Alternative Measures (EB10-C) should be completed, and copies sent to the Enforcement Centre. The Justice tracking form (from AM/EJS Coordinator) will also be completed and returned to the original AM/EJS Coordinator or Service Provider where necessary. In all instances where charges have been laid in a case, and the Alternative Measures/Extra Judicial Sanctions Request (EB10-D-2017) have been completed successfully, a copy of the Report to Crown and others (EB10-C) should be filed with the court the day the charge(s) are withdrawn.

8. If the Alternative Measures/Extra Judicial Sanctions process is unsuccessful, depending upon advice from the Crown Prosecutor, the case will normally proceed through the court system.

RECOMMENDED BY:

APPROVED BY:

Bill Bone, Inspector
Investigations

Ken Aube, Chief Superintendent
Enforcement Support Services

Related Forms:

- o [Referral, Allegations and Agreement for Alternative Measures \(EB10-A\)](#)
- o [Report to Crown and Others \(EB10-C\)](#)

Appendices

- o [Appendix A - Saskatchewan Ministry of Justice and Attorney General - Adult Alternative Measures Policy](#)
- o [Appendix B - Federal Diversion Policy Guidelines \(1997\)](#)
- o [Appendix C - Glossary of Terms](#)