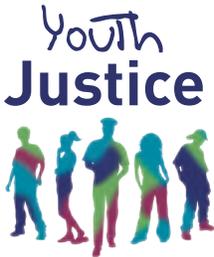


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# EXTRAJUDICIAL MEASURES



Measures outside the formal court process can provide effective and timely responses to youth crime. The *Youth Criminal Justice Act* (YCJA) aims to increase the use of effective and timely non-court responses for less serious youth offences.

This fact sheet contains general information regarding the use of extrajudicial measures under the YCJA. This information is of a general nature and is not intended as a substitute for professional legal advice. For more information, see the *Youth Criminal Justice Act: Summary and Background* or the full text of the YCJA.

## What Are Extrajudicial Measures?

“Extrajudicial” means “outside the court.” Thus, extrajudicial measures aim to hold a young person accountable without proceeding through the formal court process. The YCJA encourages the use of extrajudicial measures in all cases where they are adequate to hold a young person accountable. Extrajudicial measures are presumed to be adequate to hold a first-time non-violent offender accountable and can be used even if a young person has previously been dealt with by extrajudicial measures or has previously been found guilty of an offence. The YCJA requires police officers to consider the use of extrajudicial measures before deciding to charge a young person and stipulates that police services are to keep a record of any extrajudicial measure used to hold a young person accountable.

## Types of Extrajudicial Measures

There are several types of extrajudicial measures, including:

- Taking ***no further action*** (i.e., a decision is made by the police officer that no further response to an incident is required);
- A ***warning*** from police (such warnings are intended to be informal warnings and are an example of a traditional exercise of police discretion);

- A ***caution*** from police (cautions are more formal warnings that may typically involve a letter from police to the young person and the parents and in some cases may require the young person and parents to appear at the police station for a meeting to discuss the incident);
- A ***referral*** from police to a community program or agency designed to help youth avoid committing offences (such referrals may only be made with the consent of the young person);
- A ***Crown caution*** (such cautions are similar to police cautions but are issued by Crown prosecutors after police have referred the case to them); and
- An ***extrajudicial sanction*** (sanctions are applied through more formal programs set up by the provinces and territories).

## Benefits of Extrajudicial Measures

Extrajudicial measures:

- Are often the most appropriate and effective way to address youth crime;
- Allow for effective and timely interventions that encourage a young person to acknowledge and repair the harm caused to the victim and the community; and
- Provide opportunities for the community to become involved in responding to youth crime and enable youth courts to focus on the more serious cases.



## Extrajudicial Sanctions

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.

Because of these potentially serious legal consequences, the following protections have been established in the YCJA:

- A young person must accept responsibility for the offending behaviour 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.