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<p>CHAPTER VI – CHAPITRE VI : Particular Proceedings: Specific Accused Persons Procédures particulières : Accusés particuliers</p>	<p>Readers are referred to the list of Related Documents at the end of this Policy for additional information. Les lecteurs peuvent se référer à la liste des documents connexes notés à la fin de cette politique pour information supplémentaire.</p>	

YOUTH CRIMINAL JUSTICE

1. Introduction

The *Youth Criminal Justice Act* governs criminal proceedings where the accused is a young person between the ages of twelve (12) and seventeen (17) years old, inclusive. The *Youth Criminal Justice Act* aims to promote the long-term protection of the public through a separate youth criminal justice system that emphasizes rehabilitation and reintegration; fair and proportionate accountability; enhanced procedural protection, including the right to protection of privacy; timely intervention; and the promptness and speed with which persons responsible for enforcing the *Youth Criminal Justice Act* must act.

2. Statement of the Policy

This Policy articulates the Crown Prosecutor's role in implementing the objectives of the *Youth Criminal Justice Act*, including the requirement that the Crown Prosecutor employs a liberal construction of the *Youth Criminal Justice Act* in favour of the young person, and adheres to the underlying principles and objectives stated in section 3 of the *Youth Criminal Justice Act*.

In an effort to ensure the consequences of a young person's behavior are proximate to the offending behavior, the Crown Prosecutor shall conduct the pre-charge screening process in a timely manner.

The Crown Prosecutor shall be mindful of the different sentencing principles that apply to young persons due to the greater dependency of young persons and their reduced level of maturity. The range of sentencing options available extends from alternative measures to adult sentencing.

3. Alternative Measures

Alternative, or extrajudicial, measures are often the most appropriate and effective way to address youth crime. The Crown Prosecutor shall support the full use of extrajudicial measures including warnings, police cautions, and extrajudicial sanctions.

The Crown Prosecutor shall not issue a crown caution under section 8 of the *Youth Criminal Justice Act*, because the Attorney General of New Brunswick has not established a program authorizing the Crown Prosecutor to administer crown cautions.

Where it is appropriate to do so, the Crown Prosecutor shall proceed by way of alternative measures as set out in Policy 9, Alternative Measures.

4. Appointment of Counsel

Under subsection 25(5) of the *Youth Criminal Justice Act*, the youth justice court may direct the Attorney General to appoint counsel for an unrepresented young person charged with an offence.

Ordinarily the court will notify the Attorney General of the appointment of counsel order directly, and the Attorney General will ensure that counsel is obtained.

The Crown Prosecutor shall monitor the file and ensure that counsel is appointed in a timely manner. Where the Crown Prosecutor has concerns regarding the timeliness of the appointment, he or she shall notify the Regional Director.

5. Assessments

5.1 Medical and Psychological Assessments

Where a young person has a history that indicates a pattern of repeated findings of guilt, or is accused of committing a serious violent offence or a drug-related offence, or there are other reasonable grounds to believe that the person may be suffering from a physical or mental illness or disorder, a psychological disorder, an emotional disturbance, a learning disability, or a mental disability, the Crown Prosecutor shall consider applying for an order to have a medical or psychological assessment completed.

If the court orders a medical or psychological assessment report under subsection 34(1) of the *Youth Criminal Justice Act*, the Crown Prosecutor shall request a court order to disclose the report to the youth worker.

5.2 Referral to a Child Welfare Agency

In addition to an application for any other order, the Crown Prosecutor shall consider applying for an order to refer the young person to a child welfare agency for assessment to determine whether the young person is in need of child welfare services.

6. Adult Sentence

A young person will normally receive a less severe sentence than an adult. Where the offence is sufficiently serious or the circumstances of the offender justify it, an adult sentence may be imposed notwithstanding the person's age.

Ordinarily, the Crown Prosecutor shall seek an adult sentence where the following conditions are met:

- (a) a youth sentence is not adequate to protect the public and hold the young person accountable for his or her actions;
- (b) the young person was at least fourteen (14) years old before the date of the offence; and
- (c) an adult would be liable to imprisonment for more than two (2) years on the same charge.

In deciding whether to seek an adult sentence or consent to an application for a youth sentence, the Crown Prosecutor shall consult with the Regional Director or the Director of Specialized Prosecutions, as the case may be, with regard to the protection of the public and the statutory factors that the court will consider under subsection 72(1) of the *Youth Criminal Justice Act*. In assessing the need to protect the public, particular attention shall be given to premeditation, the use of violence and the response of the young person to previous intervention.

Where the Crown Prosecutor seeks an adult sentence, he or she shall give notice to the accused before the young person enters a plea or, with leave of the court, before the trial begins.

7. Sentencing Reviews

Where a youth justice court is to review a sentence that has committed a young person to custody, the Crown Prosecutor shall attend to protect the public interest. Before making his or her submission, the Crown Prosecutor shall review any report made by the youth worker and make such further inquiries as, in his or her opinion, are appropriate.

8. Related Documents

Policy 9 Alternative Measures