



New Brunswick Youth Diversion Model

2023

Justice and Public Safety

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PROVINCIAL DIVERSION STEERING COMMITTEE

2023

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1. Background

Diversion programs can ensure the best use of resources by providing effective, efficient and timely alternatives to the traditional criminal justice process. Such programs have been in operation for youth in New Brunswick since the early 1980s, first through the “Alternative Measures” program under the *Young Offenders Act*. This program was replaced by “Extrajudicial Measures and Sanctions” in 2003 when the *Youth Criminal Justice Act* was introduced. The program is now referred to as the Youth Diversion Program.

To be successful, diversion programs rely on the involvement and cooperation of many stakeholders including all municipal/regional police forces and the RCMP; public prosecutions; governmental and non-governmental organizations; community volunteers and other service providers.

A provincial review of these programs was completed in 2010, followed by a more in-depth program audit of the “Extrajudicial Measures and Sanctions” program in 2011. The purpose of these research activities was to assess program components for strengths and weaknesses and to formulate recommendations related to program improvements.

The Provincial Diversion Steering Committee was subsequently established in 2011 to provide a venue for stakeholders to work collectively in the development, implementation, and long-term oversight of such improvements. Commitment from these stakeholders is affirmed in the Charter for Improvements to Diversionary Practices for Youth in New Brunswick. This Charter contains Vision and Mission statements, as well as Guiding Principles for improvements to New Brunswick diversionary practices for youth. It was endorsed in 2012 by the New Brunswick Association of Chiefs of Police, RCMP ‘J’ Division, the Department of Public Safety, and the Department of Justice and Attorney General.

The New Brunswick Youth Diversion Model contained herein is consistent with the Charter for Improvements to *Diversionary Practices for Youth in New Brunswick* and will ensure New Brunswick youth diversion practices are:

- provincially consistent;
- based on proven practices;
- authorized by the Attorney General of New Brunswick; and
- supported by community interests, police agencies, prosecution services, courts and corrections.

It should be noted that while changes to both Adult and Youth Diversion Programs were undertaken simultaneously, every effort has been taken to ensure that these programs remain separate. This distinction recognizes the unique developmental challenges and needs of young persons and is consistent with the intent of the Criminal Code of Canada and the Youth Criminal Justice Act.

For the purposes of this model, the term Diversion is used to describe the broad range of alternatives available to address offending behavior outside the traditional criminal justice system. This model focuses, in particular, on the use of Extrajudicial Measures, Pre-charge and Post-charge Extrajudicial Sanctions, and Restorative Justice processes.

2. Diversion Vision, Mission & Guiding Principles

VISION

Consistent with the Charter for Improvements to Diversionary Practices for Youth in New Brunswick, New Brunswick aspires to be a safe province in which to live and work by:

- becoming leaders in crime prevention and crime reduction;
- incorporating current research and best practices into all of our responses to crime;
- recognizing that collaboration among stakeholders optimizes opportunities for success for all those affected by crime;
- ensuring that every person who has caused harm is considered for the least intrusive alternatives to the formal criminal justice system, while reserving the formal system for those who require it;
- establishing the commitment of key stakeholders to diversion and/or other alternative practices as the primary consideration for all eligible persons who have caused harm when such practices are in the best interest of the individual and not contrary to public interest; and
- promoting decision-making that is based on the best available information and tools, and the use of remedies that are supported by research, timely in nature, and meaningful to all involved.

MISSION

The right services to the right people at the right time through individualized, collaborative, community-based and stakeholder supported alternatives to the traditional criminal justice system.

GUIDING PRINCIPLES

All citizens have a right to safe and secure communities. As such, the Youth Diversion Program will strive to:

- provide meaningful, fair and appropriate consequences;
- ensure intervention in a timely fashion;
- reinforce societal/community values;
- repair the harm caused by the offence to persons harmed and the community;
- target underlying causes of criminal behaviour, resulting in participants of diversionary programs becoming more responsible and productive members of their communities;
- respect gender, cultural, racial, linguistic differences and special needs; and
- include person harmed considerations and participation where there is a desire to do so.

3. Provincial Diversion Steering Committee

The Provincial Diversion Steering Committee (PDSC) is responsible for providing provincial oversight for the modification, implementation, monitoring, and evaluation of diversion policies and procedures in New Brunswick. The PDSC consists of senior leadership from the New Brunswick Association of Chiefs of Police, RCMP 'J' Division, Department of Justice and Public Safety and the Office of the Attorney General, the Department of Health, the Department of Social Development, the Department of Post-Secondary Education, Training and Labour, and the Department of Education and Early Childhood Development.

Specifically, the Provincial Diversion Steering Committee:

- collaborates on adjustments to New Brunswick diversion policies and procedures as necessary;
- receives reports and recommendations from any diversion subcommittee(s) established in the course of this work;
- seeks Government and/or Attorney General approval where required;
- oversees the implementation of modifications to diversion policy and procedures;
- regularly monitors and evaluates diversion initiatives in order to ensure compliance with provincial policies and procedures, and to ascertain areas for improvement; and ensures the policies and procedures of their respective agencies are consistent with provincial diversion policies and procedures.

4. Legislative Authority

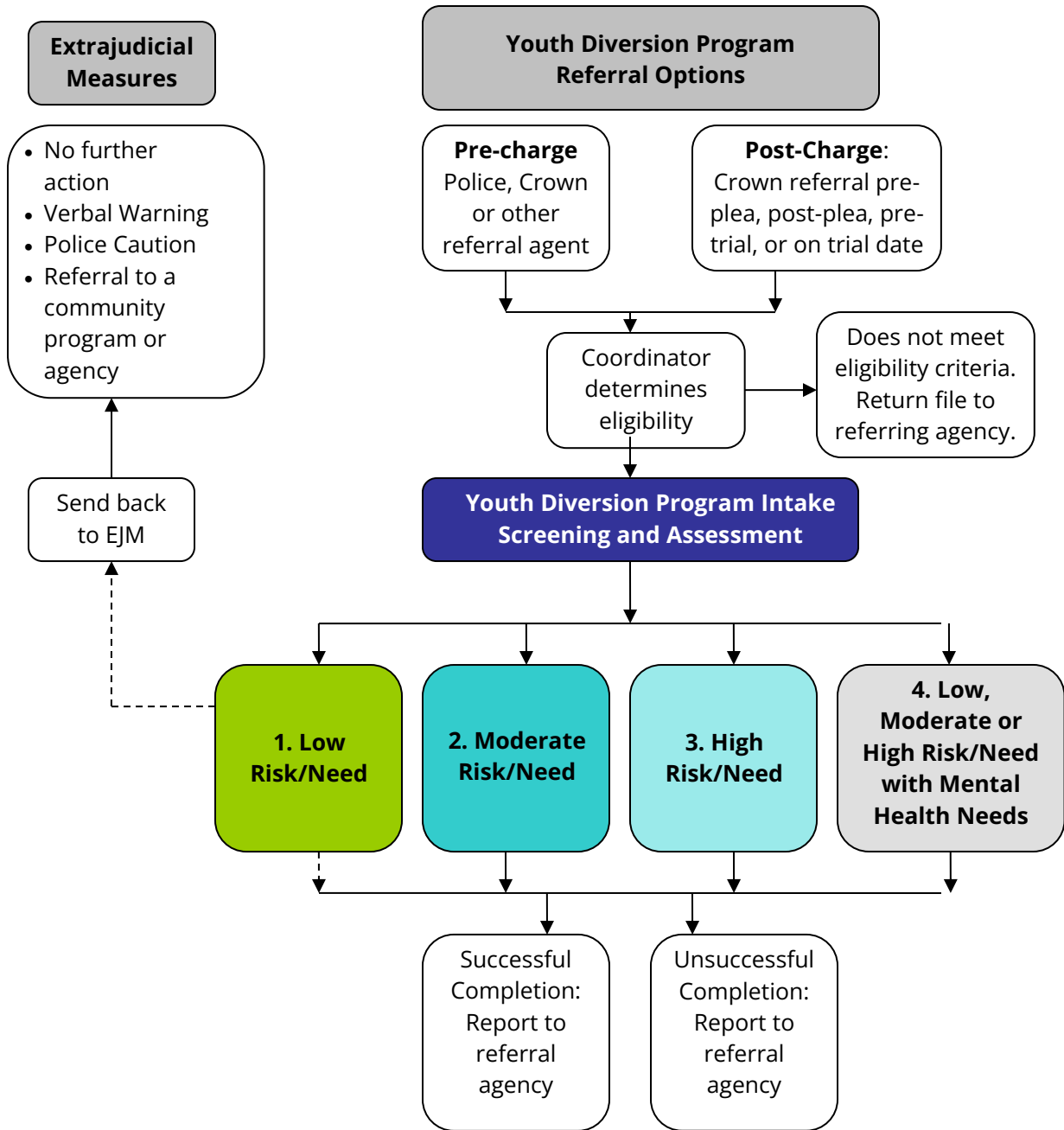
The New Brunswick Youth Diversion Model is consistent with the declaration of principles of the Youth Criminal Justice Act (YCJA) as laid out in section 3, and incorporates the following sections of the YCJA:

- Section 4-5: Principles and Objectives of Extrajudicial Measures
- Section 6: Extrajudicial Measures: Warnings, Cautions, and Referrals
- Section 7: Police Cautions
- Section 10: Extrajudicial Sanctions
- Section 18: Youth Justice Committees
- Section 19: Conferences

Also applicable is section 4 of the *Provincial Offences Procedure for Young Persons Act*, which allows the use of measures other than judicial proceedings to deal with a young person alleged to have committed an offence.

The model has been designed in accordance with the *United Nations Conventions on the Rights of the Child*.

5. New Brunswick Youth Diversion Model



6. Risk, Need, and Responsivity (RNR) Principles

This youth diversion model rests on the principles of risk, need, and responsivity defined in the following manner:

RISK

- Risk for the purpose of this model refers to criminogenic risk or the likelihood that the adult will re-offend, and is not related to the type or nature of the offence.
- The risk principle will assist the coordinator in ensuring that adults at higher risk receive more intensive interventions, while also adhering to the principles of need and responsivity, in order to decrease the risk of recidivism.
- By contrast, research is clear that subjecting low risk youth to intensive services can actually increase their chances of re-offending. While it is important to hold low risk youth accountable for their behaviour, minimal sanctions are usually sufficient to reduce their risk of re-offending.

NEED

The need principle will help the coordinator to focus interventions and resources on the adult's greatest criminogenic needs. The risk of re-offending has been narrowed down to eight dynamic risk factors, with four known as "the big four" demonstrating consistent correlation with criminal behaviour.

The "big four" include:

- anti-social behaviour;
- anti-social personality;
- anti-social cognition; and
- anti-social peers.

The "next four" predictors of offending behaviour are:

- drugs and/or alcohol use;
- family issues;
- work or school - lack of education or employment; and
- leisure and/or recreation - engaging in inappropriate kinds of leisure activities.

This is not to suggest that the other needs of the youth be ignored, only that the coordinator must pay attention to these eight areas of need.

RESPONSIVITY

- The responsivity principle requires that the coordinator match youth to interventions based on the youth's individual characteristics.
- Responsivity factors can be internal (e.g., age, mental health status, intellectual functioning, and level of motivation for change) or external (e.g., characteristics of the service provider, program type, or treatment environment).
- Both internal and external factors interfere with a youth's ability to benefit from the intervention.
- It is important to identify these individual characteristics of the youth so that they can be addressed or used to enhance the interventions.
- This model will pay particular attention to the youth's mental health and intellectual functioning, and will ensure culturally appropriate interventions for Aboriginal youth.

7. Young Persons Under 12 Years of Age

Because young persons under 12 years of age are not, by law, chargeable, they are not eligible for extrajudicial measures or sanctions. However, they should be referred to the Department of Social Development where they will be assessed for appropriate interventions or services. This is consistent with section 31(1)(l) of the Family Services Act of New Brunswick which states: the security or the development of the child may be in danger when the child has committed an offence, or if the child is under the age of 12 years, has committed an act or omission that would constitute an offence for which the child could be convicted if the child were 12 years of age or older.

8. Extrajudicial Measures

As per section 6 of the YCJA, before starting any judicial proceedings or taking any other measures, a police officer shall consider whether an Extrajudicial Measure (EJM) would be sufficient to hold a youth accountable given the circumstances and seriousness of the offence.

Extrajudicial Measures include:

- Taking no further action
- Verbal warning
- Police caution
- Referral to a community program or agency

New Brunswick policing agencies may develop their own policies and procedures regarding the use of Extrajudicial Measures. To ensure fair and effective use of EJM however, such policies and procedures **must** subscribe to the following eligibility criteria and guidelines.

8.1 ELIGIBILITY FOR EXTRAJUDICIAL MEASURES

- Youth aged 12-17 are eligible for EJM.
- There **must** be sufficient evidence that an offence has been committed (enough to lay a charge).
- There is **no** formal requirement for the youth to take responsibility for the act that forms the basis of the offence in order to be eligible for an EJM.
- For a referral to a community program or agency, the youth and their parent/legal guardian **must** be fully aware of the referral and freely consent to the youth's participation in the program or service.
- There is **no** limit on the number of times an EJM can be used.

- ❑ An EJM **may** be used for a youth who has previously received an EJM, EJS or who has been found guilty of an offence.
- ❑ Youth with addictions, emotional-behaviour issues, mental health concerns, or intellectual disabilities **can** be considered for EJM.
- ❑ EJM **will not be considered adequate** to hold the young person accountable for a Serious Violent Offence in the commission of which a young person causes or attempts to cause serious bodily harm.
- ❑ EJM **will not be considered adequate** to hold the young person accountable for an impaired driving offence.

8.2 GUIDELINES FOR EXTRAJUDICIAL MEASURES

- Once an EJM has been used, a charge **cannot** be revisited and the Youth Diversion - Extrajudicial Sanctions (EJS) Program is no longer an option.
- The EJM is **not** to include any accountability measure beyond a verbal warning, police caution, or referral to community program or agency (i.e., community service, restitution, etc. are not possible measures under EJM).
- **Use of section 19 conferences:** While the YCJA does allow a police officer to call a section 19 conference for the purpose of determining an appropriate EJM, **consideration should be given to referring the file to the Diversion Coordinator** so that the youth can be properly assessed for level of risk/need and a determination can be made if a section 19 conference is required. This will support consistency and the appropriate use of resources.
- The police force **shall** keep a record of any EJM that they use to deal with a young person (section 115 YCJA).
 - The restrictions on access to records of Extrajudicial Measures other than Extrajudicial Sanctions continue to apply (section 119(4) YCJA).
 - Such information **continues to be inadmissible for the purpose of proving prior offending behaviour** in any proceedings before a youth justice court (section 9 YCJA).

9. Youth Diversion Program – Extrajudicial Sanctions

As per section 10 of the YCJA, Extrajudicial Sanctions may be used to deal with a young person alleged to have committed an offence when a police officer determines that the young person cannot be sufficiently held accountable by an EJM, but is satisfied that sanctions would be appropriate, having regard to the needs of the young person and the interests of society.

9.1 ELIGIBILITY FOR THE YOUTH DIVERSION PROGRAM (EXTRAJUDICIAL SANCTIONS)

- ❑ Extrajudicial Sanctions (EJS) are available to youth aged 12-17 as part of a program of sanctions authorized by the Attorney General.
- ❑ EJS are to be used when the youth cannot adequately be dealt with through EJM.
- ❑ There **must** be sufficient evidence to proceed with the prosecution of the offence, and the prosecution of the offence must not be barred by law.
- ❑ The offence **must** be eligible for referral to the Youth Diversion Program as per the Youth Diversion Schedule of Offences (2003 version) (See Appendix A).
- ❑ EJS **will not be considered adequate** to hold the young person accountable for an impaired driving offence.
- ❑ EJS **will not be considered adequate** to hold the young person accountable for a Serious Violent Offence in the commission of which a young person causes or attempts to cause serious bodily harm.
- ❑ The youth **must** accept responsibility for the act that forms the basis of the offence; acceptance of responsibility is to be determined by the EJS coordinator, **not** the police.
 - It is important to note that as per section 10(4) of the YCJA, **any admission, confession or statement accepting responsibility** for a given act or omission that is made by a young person as a condition of being dealt with by extrajudicial sanctions **is inadmissible** in evidence against any young person in civil or criminal proceedings.
- ❑ The youth must consent to participate in the screening and assessment processes associated with the Youth Diversion Program.
- ❑ When the youth is under 16 years of age, the youth and his/her parent/legal guardian **must** be fully aware of the extrajudicial sanction and consent to the youth being subject to it. Parental consent for youth participation in the Youth Diversion Program is not required for youth 16 years of age and older.

- ❑ Before consenting to be subject to the sanction, the youth must be advised of his/her right to be represented by counsel and be given a reasonable opportunity to consult with counsel.
- ❑ There is **no** limit to the number of times a youth can be referred to the Youth Diversion Program.
- ❑ EJS **may** be used if the young person has previously been dealt with by EJM or EJS or has been found guilty of an offence.
- ❑ The views of the person harmed related to the processing of the offence are to be considered, but do not preclude the youth's participation in the program.
- ❑ Youth with addictions, emotional-behaviour issues, mental health concerns, or intellectual disabilities **can** be considered for the EJS program.
- ❑ 12-month statute of limitations:
 - The 12-month statute of limitations relates to the amount of time a police officer has to lay a charge from the date of the commission of a **summary** offence.
 - The **pre-charge** EJS must be completed within this 12-month time frame to ensure a charge can still be laid if the EJS is unsuccessful. However, with the consent of the young person, the intervention plan may continue beyond the statute of limitations and the conclusion of the Youth Diversion file if deemed necessary.
 - The 12-month statute of limitations **does not apply to a post-charge** referral to the Youth Diversion Program, though it is preferable that the post-charge EJS be completed in a timely fashion.

10. Youth Diversion (Extrajudicial Sanctions) Referral Process

Responsibilities are in relation to referral processes only. Further responsibilities are defined in the Roles and Expectations as laid out in Section 12.

	Pre-charge (prior to laying of information)	Post-charge pre-plea, post-plea, pre-trial, or on trial date
Investigating Police Officer	<ul style="list-style-type: none"> - Investigates the offence - Ensures sufficient evidence exists to proceed with prosecution of an offence - Gives first consideration to the use of an EJM - May make a recommendation for the file to be referred to the Youth Diversion Program 	
Senior Police Officer (Attorney General designated agent)	Reviews file and makes decision: <ul style="list-style-type: none"> - Ensures sufficient evidence exists for a charge to be laid - Considers the file for Youth Diversion - Approves/Denies referral to Youth Diversion 	Reviews file and makes decision: <ul style="list-style-type: none"> - Ensures sufficient evidence exists for a charge to be laid - Considers the file for Youth Diversion - Supports/Denies referral to Youth Diversion
Crown	<ul style="list-style-type: none"> - Provides advice, clarification or approval to Senior Police Officer - Returns file to Senior Police Officer in order for the file to be considered again for pre-charge referral to Youth Diversion 	<ul style="list-style-type: none"> - May consult with Senior Police Officer and/or Defence Counsel - Makes a determination that the file should be referred to Youth Diversion - Determines the adult is prepared to accept responsibility for the offence - Refers the file to Youth Diversion before a plea is made, after a plea is made, pre-trial, or on trial date
Defence Counsel (Duty Counsel, Legal Aid, etc.)	<ul style="list-style-type: none"> - Determines youth's willingness to have his/her file diverted - Provides a high-level explanation of the Youth Diversion Program and answers any questions the adult may have - May ask Crown if pre-charge referral to the Youth Diversion Program can be considered 	<ul style="list-style-type: none"> - Determines adult's willingness to have his/her file diverted - Provides a high-level explanation of the Youth Diversion Program and answers any questions the adult may have - May ask Crown if post-charge referral to the Youth Diversion Program can be considered
Judge	<ul style="list-style-type: none"> - N/A 	<ul style="list-style-type: none"> - May ask Crown Attorney if a referral to Youth Diversion Program has been considered
Youth	<ul style="list-style-type: none"> - Accepts responsibility for the offence committed - Consents to participate in the Youth Diversion Program, including participation in the screening and assessment processes 	

Parent/Legal Guardian	- Consents to youth's participant in the Youth Diversion Program as above
Coordinator	- Receives Youth Diversion Program referral and meets with the adult to explain the program in detail - Determines that youth meets eligibility criteria for participation in the Youth Diversion Program, including whether the adult accepts responsibility for the offence - Approves/Denies participation of adult in the Youth Diversion Program

11. Youth Diversion (Extrajudicial Sanctions) Program Process

11.1 INTAKE SCREENING AND ASSESSMENT

11.1.1 The Importance of Screening and Assessment

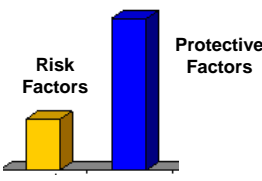
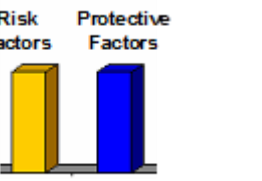
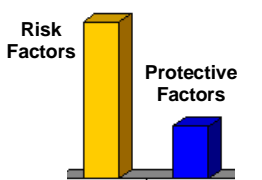
Similar offending behaviours in different youth may be a common endpoint arising from very different developmental trajectories. In other words, youth have very different life histories, learning capacities, risk and protective factors, and mental health needs although they may have engaged in a common offending behaviour at some point. Offending behaviours among youth may also have very different patterns of onset or frequency, be maintained by different factors, and reflect different kinds of difficulties.

Screening and assessment of diverted youth will ensure that the individual characteristics of each youth are considered in order to match the youth with interventions that are most appropriate to his/her needs and abilities.

11.1.2 Why Risk/Need Screening?

Not all youth are equally at-risk. This makes it important to determine the criminogenic risk factors that are present in a youth's life that may increase his/her likelihood of future re-offending. Intervention plans can then be tailored to address these risk factors as a means of reducing recidivism.

A determination of level of risk will help to ensure that programs or services to address risk are offered to youth at the appropriate level of intensity. Risk screening will also help to balance a youth's needs for support with appropriate accountability. Youth may screen at low, moderate or high risk/need (see chart on next page).

<p>Low risk/need: Youth at low risk of offending have very few risk factors and a large number of protective/resiliency factors. They are usually not involved in anti-social or criminal activity and likely have not had previous contact with the criminal justice system.</p>	
<p>Moderate risk/need: Those at medium risk of offending have similar levels of risk factors and protective/resiliency factors. Youth at moderate risk/need may have begun to develop anti-social behaviours or become involved in criminal activity.</p>	
<p>High risk/need: Those at high risk of offending have a greater proportion of risk factors than they do protective/resiliency factors. They have been involved in anti-social or criminal activity and may have had contact with the criminal justice system.</p>	

11.1.3 Why Mental Health Screening?

- A large proportion of youth involved in the youth criminal justice system have significant mental health needs, and the prevalence of mental health needs among youth is remarkably consistent across criminal justice settings, including community-based, detention, and corrections settings.¹
- Studies have shown that 65-70% of youth in the youth criminal justice system have a diagnosable mental health disorder, and just under 30% of youth are in significant need of mental health treatment for serious emotional/behavioural issues.²
- There is also recognition in recent research that youth who are exposed to traumatic events and those who suffer from Post-Traumatic Stress Disorder as a result of traumatic experiences are at greater risk of offending behaviour when symptoms are externalized through aggression, opposition or defiant behaviour, and other conduct problems.
- Additionally, some 60% of youth who warranted a mental health diagnosis also met diagnostic criteria for a substance use disorder.³
- Together, these consistent findings point to the necessity of a sound mental health screening tool to identify the mental health needs of youth at their earliest point of contact with the system as a best practice standard in order to refer them for further assessment.

11.1.4 Administration of the Risk Screening Tool (YLS/CMI:SV)

Once the youth has been accepted into the Youth Diversion Program, the coordinator will screen the youth to determine his/her level of risk/need using the Youth Level of Service-Case Management Inventory: Screening Version (YLS/CMI: SV). Youth may screen at low, moderate or high risk/need.

Training is required to administer this tool.

The YLS/CMI:SV and potentially YLS/CMI 2.0 shall also be used to assess the level of service required for a young person who has committed a sexually motivated offence. The Diversion Coordinator shall determine whether there is an appropriate program/service that can be used to support the young person as a part of the diversion process.

11.1.5 Administration of the Mental Health Screening Tool (DSM-5TR CC Measure / DSM-5)

The Diversion Coordinator will administer the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) to determine if the young person has one or more mental health issues requiring a referral for further assessment. **Training is required to administer this tool.** Coordinators must review and adhere to the DSM-5 Policy and Procedures Manual when administering the screening tool.

Screening for underlying mental health needs will help to ensure a balance between accountability and/or public safety concerns and the young person's receipt of appropriate mental health and/or addictions interventions.

11.1.6 Assessment

- If a youth screens as low risk/need on the YLS/CMI: SV, no further assessment of risk/need is required.
- The coordinator must administer the Youth Level of Service-Case Management Inventory 2.0 (YLS/CMI 2.0) assessment tool with youth who screen at moderate-high risk in order to develop a better understanding of the underlying factors that may be contributing to the youth's conflict with the law. Training is required to administer this tool.
- If the results of the DSM-5 identify potential mental health needs, irrespective of the youth's level of risk/need, the Youth Diversion Coordinator must consult with appropriate community partners to ensure appropriate mental health assessment or follow up.

Particular attention must be paid during the screening and assessment process to the intellectual functioning of the youth. Youth with potential intellectual disabilities may require further community-based assessment. In cases where an youth's intellectual disability has already been diagnosed, any intervention plans to address risk should **take into account the youth's intellectual capacity as a responsivity factor.**

11.2 APPROPRIATE LEVEL OF INTERVENTION

Based on the screening and assessment results, the coordinator must choose the appropriate level of intervention for the youth. These include:

- **Low risk/need:** requires an accountability measure only when the youth has no mental health needs. Further intervention with low risk/need youth has the potential to increase the youth's risk to re-offend.
- **Moderate risk/need:** requires an accountability measure(s) AND intervention to attend to underlying risk/needs. The Diversion Coordinator has the discretion to use or not to use a s. 18 youth justice committee at this level.
- **High risk/need:** requires an accountability measure(s) AND intervention to attend to underlying risk/needs. If Restorative Justice is not suitable, the coordinator MUST convene a s.18 Youth Justice Committee for youth at high risk/need.
- **Low, medium, or high risk/need with mental health needs:** requires an accountability measure(s), appropriate follow up related to the mental health needs, and an intervention to attend to the youth's underlying risk/needs. The coordinator has the discretion whether or not to use a s.18 Youth Justice Committee for youth who screen at low risk/need with an identified mental health need. If Restorative Justice is not suitable, the coordinator MUST convene the s.18 Youth Justice Committee for youth who screen at moderate to high risk/need with a mental health need.

The following sections provide additional guidance around these levels of intervention.

11.2.1 LOW RISK/NEED

A. Where referral was made by police:

Accountability Measure

- If an Extrajudicial Measure (EJM) is determined sufficient to hold the youth accountable given the circumstances and the nature of the offence, the coordinator may speak with police about the possibility of using an EJM to address the offending behaviour.
- If the Senior Police Officer agrees, the file may be returned to the police so that an EJM may be carried out.

No further action required.

B. If police refuse the use of EJM, or if referred post-charge:

Accountability Measure

- The coordinator will meet with the youth to determine a suitable accountability measure.
- A restorative justice process that incorporates the views of the person harmed/those impacted by the offence may be used to help determine this accountability measure(s) and/or intervention plan in an effort to repair the harm done. See Section 13.4 for more information on restorative processes.

Intervention Plan

- Because the youth has been screened at a low risk/need level, an intervention to increase

protective/resiliency factors and decrease risk factors *is not required.*

Program Agreement

- The coordinator will prepare a program agreement outlining the selected accountability measure(s).
- The youth will sign the agreement.
- The coordinator will assume responsibility for overseeing the completion of the accountability measure(s).

11.2.2 MODERATE RISK/NEED

A. Coordinator only:

Accountability Measure

- The coordinator will meet with the youth to determine a suitable accountability measure.
- A restorative justice process that incorporates the views of the person harmed/those impacted by the offence may be used to help determine this accountability measure(s) and/or intervention plan in an effort to repair the harm done. See Section 13.4 for more information on restorative justice processes.

Intervention Plan

- Where the youth has been assessed at a moderate risk/need level, the coordinator may work with the youth, his/her family, and other professionals (*such as an existing social worker or case worker*) to determine an

B. Use of Alternative Measures Committee:

Accountability Measure

- The s.18 Youth Justice Committee will also make recommendations related to an appropriate accountability measure.
- A restorative justice process that incorporates the views of the person harmed/those impacted by the offence may be used to help determine this accountability measure(s) and/or intervention plan in an effort to repair the harm done. See Section 13.4 for more information on restorative justice processes.

Intervention Plan

- Where the youth has been assessed at a moderate risk/need level, the coordinator may convene a meeting of the s.18 Youth Justice Committee.
- This multidisciplinary team will work with the young person and his/her family to determine an appropriate individualized intervention plan aimed at increasing the youth's protective/resiliency factors and decreasing risk factors.
- The coordinator will present information collected from the YLS/CMI 2.0 assessment to aid the committee in their decision making. The coordinator may also obtain relevant information specific to the

<p>appropriate intervention plan aimed at increasing the youth's protective/resiliency factors and decreasing risk factors.</p> <ul style="list-style-type: none"> • With the youth's consent, the coordinator may make a referral directly to an appropriate community program or service. <p>Program Agreement</p> <ul style="list-style-type: none"> • The coordinator will prepare a program agreement outlining the selected accountability measure(s) and the intervention plan. • The youth will sign the agreement. • The coordinator will assume responsibility for overseeing the completion of the accountability measure(s) and the intervention plan. 	<p>youth from committee members to ensure the development of an appropriate intervention plan.</p> <ul style="list-style-type: none"> • In areas where the Integrated Service Delivery Model exists, the coordinator will coordinate the ISD team to be part of the s.18 Youth Justice Committee. • When appropriate, the coordinator will request that the management of the intervention plan be assumed by a member of the s.18 Youth Justice Committee or a representative of that member's agency/organization in situations where an established relationship exists between the young person and the service provider as a means of ensuring continuity for the young person. <p>Program Agreement</p> <ul style="list-style-type: none"> • The coordinator will prepare a program agreement outlining the selected accountability measure(s) and intervention plan. • The youth will sign the agreement. • The coordinator will assume responsibility for overseeing the completion of the accountability measure(s), and liaising with the s.18 Youth Justice Committee member(s) on the status of the intervention plan, where applicable.
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11.2.3 HIGH RISK/NEED

<p>Accountability Measure</p> <ul style="list-style-type: none"> • If appropriate, the s.18 Youth Justice Committee will make recommendations related to an appropriate accountability measure. • A restorative justice process that incorporates the views of the person harmed/those impacted by the offence may be used to help determine this accountability measure(s) and/or intervention plan in an effort to repair the harm done. See Section 13.4 for more information on restorative justice processes. <p>Intervention Plan</p> <ul style="list-style-type: none"> • When the youth has been assessed at a high risk/need level, the coordinator must convene a s.18 youth justice committee if Restorative Justice is not suitable. • This multidisciplinary team will work with the young person and his/her family to determine an appropriate individualized intervention plan aimed at increasing protective/resiliency factors and decreasing risk factors.
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- The coordinator will present information collected from the YLS/CMI 2.0 assessment to aid the committee in their decision making. The coordinator may also obtain relevant information specific to the youth from committee members to ensure the development of an appropriate intervention plan.
- In areas where the Integrated Service Delivery Model exists, the coordinator **will coordinate and convene the ISD team to be part of the s. 18 youth justice committee.**
- When appropriate, the coordinator will request that the management of the intervention plan be assumed by a committee member or a representative of that member's agency/organization in situations where an established relationship exists between the young person and the service provider as a means of ensuring continuity for the young person.

Program Agreement

- The coordinator will prepare a program agreement outlining the selected accountability measure(s) and intervention plan.
- The youth will sign the agreement.
- The coordinator will assume responsibility for overseeing the completion of the accountability measure(s), and liaising with the s. 18 youth justice committee member(s) on the status of the intervention plan, where applicable.

11.2.4 LOW, MEDIUM, OR HIGH RISK/NEED WITH MENTAL HEALTH NEEDS

A. Low risk-need AND mental health needs:

Accountability Measure

- The s.18 Youth Justice Committee will also make recommendations related to an appropriate accountability measure.
- A restorative justice process that incorporates the views of the person harmed/those impacted by the offence may be used to help determine this accountability measure in an effort to repair the harm done. See Section 13.4 for more information on restorative justice processes.

Intervention Plan

- If the youth has screened at low risk/need, but also screens as having mental health needs based on the results of the DSM-5, the coordinator **has the discretion whether or not to convene the s.18 youth justice committee.**
- Whether or not the s.18 youth justice committee has been convened, the coordinator will ensure that the adult is referred for assessment or follow up related to the mental health needs as per the DSM-5 Policy and Procedures Manual.
- The coordinator may contact any existing service providers to make them aware of the referral to the Youth Diversion Program as it relates to existing case plans, and to obtain pertinent information that could assist with Diversion planning for the young person.

Program Agreement

- The coordinator will prepare a program agreement outlining the selected accountability measure(s).
- The adult will sign the agreement.

B. Medium-high risk need AND mental health needs:

Accountability Measure

- The s.18 Youth Justice Committee will also make recommendations related to an appropriate accountability measure.
- A restorative justice process that incorporates the views of the person harmed/those impacted by the offence may be used to help determine this accountability measure in an effort to repair the harm done. See Section 13.4 for more information on restorative justice processes.

Intervention Plan

- If the youth has screened at moderate to high risk/need, and also screens as having mental health needs based on the results of the DSM-5, the coordinator **must convene the s.18 Youth Justice Committee if Restorative Justice is not suitable.**
- This multidisciplinary team will work with the young person and his/her family to determine an appropriate individualized intervention plan aimed at increasing protective/resiliency factors, decreasing risk factors, and ensuring appropriate follow up related to the young person's mental health needs as per the DSM-5 Policy and Procedures Manual.
- Where applicable, the coordinator will present information collected from the YLS/CMI 2.0 and the DSM-5 to aid the committee in their decision making. The coordinator may also obtain relevant information specific to the youth from committee members to ensure the development of an appropriate intervention plan.
- In areas where the Integrated Service Delivery Model exists, the coordinator **will coordinate and convene the ISD team to be part of the s.18 Youth Justice Committee.**
- When appropriate, the coordinator will request that the management of the intervention plan be assumed by a committee member or a representative of that member's agency/organization in situations where an established relationship exists between the young person and the service provider as a means of ensuring continuity for the young person.

<ul style="list-style-type: none"> The coordinator will assume responsibility for overseeing the completion of the accountability measure(s). 	<p>EJS Agreement</p> <ul style="list-style-type: none"> The coordinator will prepare an EJS agreement outlining the selected accountability measure(s) and intervention plan. See EJS Agreement Form in Appendix B. The youth will sign the agreement. The coordinator will assume responsibility for overseeing the completion of the accountability measure(s), and liaising with the s.18 Youth Justice Committee member(s) on the status of the intervention plan, where applicable.
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11.3 OUTCOME REPORT TO REFERRING AGENCY

<p>The youth successfully completes the agreement*</p>	<p>The adult is unsuccessful in completing the agreement</p>
<p>A. Where the file was a pre-charge referral</p> <ul style="list-style-type: none"> Once the youth has completed the accountability measure(s), the coordinator will notify the police or referral agent of the outcome. No further action is required. <p>B. Where the file was a post-charge referral</p> <ul style="list-style-type: none"> Once the youth has completed the accountability measure(s), the coordinator will notify the Crown of the outcome. Where the youth has successfully completed the program agreement, the Crown will request the charge to be withdrawn. 	<p>C. Where the file was a pre-charge referral</p> <ul style="list-style-type: none"> If the youth has not completed the accountability measure(s) and/or has refused to participate in the agreed upon intervention plan, the coordinator will notify the referral agent of the outcome. The police may choose to proceed with a charge in situations where the 12-month statute of limitations has not expired. <p>D. Where the file was a post-charge referral</p> <ul style="list-style-type: none"> If the youth has not completed the accountability measure(s) and has refused to participate in the agreed upon intervention plan, the coordinator will notify the Crown of the outcome. The Crown may choose to proceed with the charge.

*An incomplete intervention plan as a result of extraneous factors such as wait lists or the lack of availability of services should not preclude the young person from successfully completing the Youth Diversion Program. The intervention plan may continue beyond the 12-month statute of limitations.

12. Youth Diversion (Extrajudicial Sanctions): Roles and Expectations

12.1 PROVINCIAL DIVERSION STEERING COMMITTEE (PDSC)

- The PDSC is responsible for providing provincial oversight for the modification, implementation, monitoring, and evaluation of diversion policies and procedures in New Brunswick.
- Specifically, the PDSC will monitor the implementation of the Youth Diversion Program throughout the province and undertake changes to the program, as necessary, in accordance with best practice research and program evaluation recommendations.
- The PDSC will maintain a list of Designated Senior Police Officers.
- The PDSC will also maintain a list of trained volunteer Restorative Justice Facilitators.

12.2 PROVINCIAL PROGRAM MANAGER

- The Provincial Coordinator is responsible for operational oversight of the program and ensures provincially consistent implementation of program policies and procedures, training, monitoring and evaluation practices.
- This coordinator serves as a liaison between regional program agents (coordinators, police, Crown, and committees), and reports to the Provincial Diversion Steering Committee.

12.3 POLICE

Role of the Investigating Officer:

- Completes the investigation of the offence and ensures that sufficient evidence exists that an offence has been committed (enough to lay a charge).
- Before proceeding to lay a charge, the investigating officer will give first consideration to the use of extrajudicial measures (no further action, a verbal warning, police caution, or referral to community program or agency).
- If the young person cannot be adequately dealt with by an EJM, the investigating officer must consider referring the file to the Youth Diversion Program. If a referral is deemed appropriate given the totality of the circumstances, the investigating officer will recommend the file for referral by checking the appropriate box on the Prosecutor Information Sheet and submitting the file to the Designated Senior Police Officer for approval.

- In keeping with the foundational principles of the YCJA that recognize the importance of timely and meaningful consequences for young persons as a result of their different perception of time, every effort should be made by the investigating police officer to conclude the file as expeditiously as possible in order to allow for the use of an EJM or a referral to the Youth Diversion Program as soon as possible following the offending behaviour.

Role of the Designated Senior Police Officer:

For the purpose of the Youth Diversion Program, Senior Police Officers will be designated across the province. A list of Designated Senior Police Officers will be maintained by the Provincial Diversion Steering Committee. The role of the Designated Senior Police Officer is as follows:

- Review all files to ensure that sufficient evidence exists that an offence has been committed (enough to lay a charge).
- Approve referrals to Youth Diversion when determined to be appropriate.
- Obtain approval of the Crown Prosecutor for referral to Youth Diversion when mandated by the nature of the offence, in accordance with the Schedule of Approved Offences (See Appendix A), or there is a separate pending charge on the person who has caused harm.
- The Senior Police Officer should be mindful of the 12-month statute of limitations when making a pre-charge referral. Every effort should be made to ensure the referral is received by the Diversion Coordinator in a timely manner in order to facilitate completion of the Youth Diversion Program within this 12-month time frame.
- The Senior Police Officer will return ineligible files to the Investigating Officer for another course of action (i.e. EJM or charges).

12.4 CROWN PROSECUTOR

Role Pre-Charge (prior to laying of information):

- May provide advice or clarification to the Designated Senior Police Officer in pre-charge cases.
- Must review all cases requiring approval when mandated by the nature of the offence, in accordance with the Schedule of Approved Offences (See Appendix A), and approve or deny referral to the program as appropriate (i.e., separate pending charges).
- May return a file to the Designated Senior Police Officer to be considered for pre-charge referral to EJS.
- If the file is referred to diversion, the referring agency is responsible to complete the Diversion and Restorative Justice Referral Form and submit through the correct channels.

Role Post-Charge (pre-plea, post-plea, pre-trial, or on trial date):

- May consult with Senior Police Officer and/or Defence Counsel to discuss possibility of referral to the Youth Diversion Program.
- Asks the youth if they are prepared to accept responsibility for the offence.
- Refers the case to the Youth Diversion Program before a plea is made, after a plea is made, pre-trial, or on trial date.
- In the case of a post-charge referral, a charge is laid in court and adjourned pending the outcome of the Youth Diversion Program.

12.5 OTHER REFERRAL AGENTS

Where Provincial Statute offences are eligible for referral to the Youth Diversion Program under *the Provincial Offences Procedure for Young Persons Act*, the following agents are also able to refer files to the Youth Diversion Program:

- peace officers as defined in the Motor Vehicle Act;
- peace officers as defined in the Off-Road Vehicle Act;
- inspectors designated under subsection 20(1) of the Beverage Containers Act;
- inspectors designated under subsection 23(1) of the Clean Air Act;
- inspectors designated under section 23 of the Clean Environment Act;
- inspectors designated under subsection 17(1) of the Clean Water Act;
- forest service officers appointed under subsection 5(1) of the Crown Lands and Forests Act;
- conservation officers appointed under subsection 7(1) of the Fish and Wildlife Act or ex officio conservation officers referred to in subsection 7(3) of that Act;
- peace officers as defined in the Liquor Control Act;
- commercial vehicle inspectors as defined in the Highway Act and police;
- park wardens appointed under subsection 10(1) of the Parks Act or ex officio park wardens referred to in subsection 10(2) of that Act;
- inspectors appointed under subsection 27(1) of the Pesticides Control Act; and
- peace officers as defined in the Transportation of Primary Forest Products Act.

It should be noted that while the above agents are able to refer files to the Youth Diversion Program, the Provincial Offences Procedures for Young Persons Act excludes many of the Provincial Statute offences from being diverted as per section 4(3) which states:

Alternative measures shall not be used to deal with a young person alleged to have committed

- a) an offence in relation to which a ticket has been served on a young person, or*
- b) an offence prescribed by regulation.*

Files that meet the eligibility criteria for the Youth Diversion Program should be referred directly to the Diversion Coordinator in pre-charge files, or through the Crown in post-charge files.

12.6 COORDINATOR

Determining Eligibility:

- Upon receipt of a referral, the Coordinator will meet with the young person and their parent/guardian to explain the Youth Diversion Program.
- The Coordinator will confirm that the young person meets the eligibility criteria for participation in the program, including the young person's acceptance of responsibility for the act that formed the basis of the offence and their consent to participate in screening and assessment processes.
- The supervising Probation Officer III should be consulted when determining the eligibility of a young person who has committed D/IPV or a sexually motivated offence.
- If the Coordinator finds that the young person does not meet the eligibility criteria for the program, they will return the file to the referring agency.

Intake Screening:

- Once approved for participation in the program, the Coordinator will screen the young person to determine his/her level of risk utilizing the Youth Level of Service-Case Management Inventory: Screening Version (**YLS/CMI: SV**).
- For each young person referred, the Coordinator will also utilize the Diagnostic and Statistical Manual of Mental Disorders (**DSM-5**) for the purposes of screening for mental health needs requiring further action.

Intake Assessment:

- For young persons who screen at low risk/need on the YLS/CMI: SV the Coordinator will not conduct further assessment.
- For young persons screened at moderate to high risk/need, the Coordinator will complete the Youth Level of Service/Case Management Inventory 2.0 (YLS/CMI 2.0).

Appropriate level of intervention:

- See Section 11.2 for coordinators responsibilities in cases where youth screen/assess at Low risk/need, Medium risk/need, High risk/need, or Low, or Medium, or High Risk/Need with Mental Health Needs

Other Coordinator Responsibilities:

- The Coordinator will ensure that the young person's right to confidentiality is respected in the diversion process. Written consent will be secured from the young person and their parent/guardian before information related to the young person is disclosed to or obtained from other parties involved in the sanctions process. Ensure the young person signs the Consent to Obtain and Disclosure Information Form.

- The Coordinator will ensure appropriate liaison with all parties involved, including the police, the Crown Prosecutor, the young person, their parent/guardian, as well as the person harmed.
- In situations where the parent/guardian of the young person is not directly involved in the diversion process, the Coordinator will notify the parent/guardian of the imposed accountability measures and/or intervention(s).
- In situations where the person harmed is not directly involved in the diversion process, the Coordinator will, upon the request of the person harmed, provide information related to the imposed accountability measure(s) and advise if any referrals have been made to community programs or services in order to address underlying risk factors believed to be contributing to the offending behavior. However, care will be taken by the Coordinator not to disclose confidential information related to specific risk factors without the consent of the young person and their parent/guardian. When involved, the Victim Services Coordinator may provide follow-up assistance to the Diversion Coordinator specific to requests for information by the person harmed.
- The Coordinator will recruit committee members and provide training as necessary.
- The Coordinator will ensure that committee members sign the Agreement of Confidentiality and will maintain records of the same.
- The Coordinator will maintain program data as deemed necessary for the evaluation plan.
- The Coordinator will approach all young persons who participate in the Youth Diversion Program for the purpose of obtaining their consent to participate in any re-assessments necessary for evaluation purposes.

12.7 VICTIM SERVICES

- The Victim Services Coordinator will ensure that the interests of the person harmed are represented in the diversion process by liaising with the Diversion Coordinator and attending s.18 Youth Justice Committee meetings or RJ processes as requested.
- The Victim Services Coordinator will also inform the person harmed on services available to them.
- In consultation with the Diversion Coordinator, the Victim Services Coordinator may provide information, when requested by the person harmed, related the imposed accountability measure(s) and whether the young person has been referred to community programs or services to address underlying risk factors believed to be contributing to the offending behavior.

12.8 PERSON HARMED

- The person harmed has the right to voice their concerns related to the offence and how they wish the offence to be dealt with.
- The person harmed views of the offence and the person who has caused harm are to be considered, but do not preclude the person who has caused harm from participation in the program.
- The person harmed may also voluntarily choose to participate in any processes established for the purpose of facilitating reconciliation between themselves and the person who has caused harm.
- The person harmed also has the right to request information related to the identity of the person who has caused harm and to be informed of how the offence has been dealt with.

12.9 YOUNG PERSON (ACCUSED)

In keeping with the YCJA, the young person has the right to participate in decision-making related to decisions that affect them. Before providing consent to participate in the Youth Diversion Program, the young person must be advised of their right to be represented by counsel and be given a reasonable opportunity to consult with counsel.

If the young person consents to participate in the Youth Diversion Program, they will:

- respond immediately to any communication received relative to the Youth Diversion Program;
- accept responsibility for the commission of the offence;
- consent to and actively participate in any screening and assessment measures associated with the program;
- attend any s.18 Youth Justice Committee as requested; and
- comply with the recommended intervention plan and accountability measures as per the program agreement.

12.10 PARENT/GUARDIAN

- Consistent with the YCJA, every effort should be made to involve the parent/guardian of the young person in the diversion process.
- When the young person is under 16 years of age, the parent/guardian will provide consent for the young person to participate in the Youth Diversion Program, and will provide support to the young person, as necessary, to assist them in achieving compliance with the recommended intervention plan and accountability measures.
- When the young person is 16 years of age or older, the parent/guardian will provide support as requested by the young person.

12.11 S.18 YOUTH JUSTICE COMMITTEE

- The Committee will work collaboratively with the Coordinator to ensure that an appropriate intervention plan is developed to address the young person's identified risk and protective factors, and mental health needs.
- The Committee will make recommendations, as requested, related to appropriate accountability measure(s).
- Committee members will disclose information from their respective agencies or departments, specific to the young person, and relevant to the development of an appropriate intervention plan for them. The Coordinator will provide committee members with written consent to obtain information prior to requesting that committee members disclose this information.
- The Committee will sign an Agreement of Confidentiality, thereby agreeing to keep all youth diversion matters confidential.
- Management of the intervention plan may be assumed by a committee member or a representative of that member's agency/organization.
- It is recommended that committee membership include representatives from the following:
 - Program Coordinator
 - Health: Mental Health and Addictions
 - Education and Early Childhood Development (including: Guidance Counsellor, Student Services, etc.)
 - Social Development
 - Healthy and Inclusive Communities
 - Victim Services
 - Police
 - First Nations (mandatory when a s.18 Youth Justice Committee is convened on behalf of an Aboriginal youth)
 - Individuals or agencies providing mental health services to young persons
 - Other community members
 - Business community
 - Youth Serving Agency (including: Youth Matters, Youth in Care Network, etc.)
 - Youth (taking care to ensure confidentiality is adhered to)
- Attendance of at least three of the agencies represented on the s.18 Youth Justice Committee will sufficiently meet quorum requirements.
- When mental health needs have been identified in any young person, representation from the field of mental health must be present before decision-making can occur related to interventions and accountability measures specific to the young person.

- When the young person has an existing Probation Order, it is recommended that the Probation Officer responsible for case management of the young person attend any s.18 Youth Justice Committee meetings held specific to the young person.
- The s.18 Youth Justice Committee, given the unique differences between young persons and adults, and in order to carry out the functions identified in s. 18 of the YCJA, will operate separately from an Adult Alternative Measures Committee. Members of the s.18 Youth Justice Committee will bring youth-specific knowledge and expertise to their role. Overlap in committee membership is possible, however, when the Adult Diversion participant is still eligible for youth programs and services.

12.12 INTEGRATED SERVICES DELIVERY MODEL

- In locations where the ISD services exist, the ISD team will participate in s. 18 youth justice committees, at the request of the Coordinator.
- The ISD team members will share pertinent information related to the young person, and assist in the development of appropriate intervention plans for the young person to address their identified risk and protective factors.
- The ISD team will assume a case management role for the young person, as deemed appropriate.

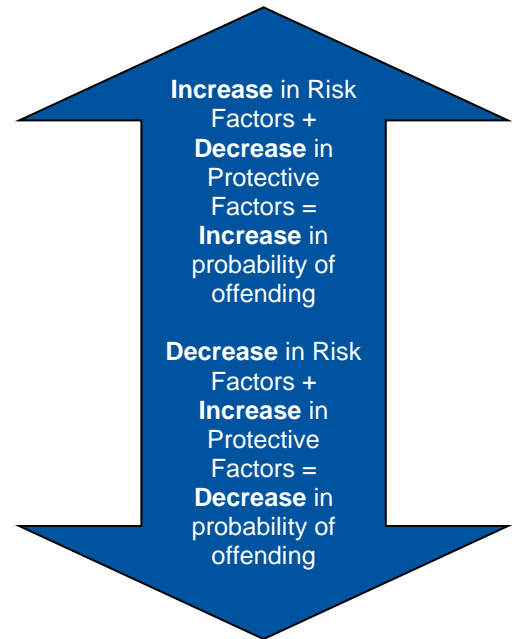
13. Youth Diversion Program Guidelines

13.1 RISK AND PROTECTIVE FACTORS

The concept of risk and protective factors stems from research in the field of public health. For decades, this knowledge has been the foundation of effective approaches to preventing and reducing illness.

In terms of the prevention of offending, **risk factors** are those negative characteristics that increase the likelihood that a person will engage in crime. **Protective factors** are qualities or situations that can buffer risk and build resiliency. The presence or absence of any single factor does not determine whether a person will become involved in crime; however, the likelihood of offending decreases with less exposure to risk and with a greater presence of protective factors.⁴

The key risk and protective factors associated with likelihood of offending have been identified through longitudinal research conducted around the globe. These factors exist at the individual, relationship, community/school/workplace, and societal levels.⁵ Examples include:



	Risk Factors	Protective Factors
Individual <i>characteristics of the individual that increase/decrease the likelihood of being a person harmed or a person who has caused harm</i>	Poor emotional controls; impulsivity; sensation seeking; substance abuse; antisocial personality traits; pro-criminal attitudes and values; poor problem-solving and decision-making skills; a history of behaving aggressively, etc.	Pro-social values; empathy; planning and decision-making skills; self-efficacy; effective social skills; good mental, physical, spiritual and emotional health; ability and willingness to seek support, etc.
Relationship <i>characteristics of social relationships with peers, family members and intimate partners that increase/decrease the risk for victimization or perpetration of crime</i>	Antisocial/delinquent peers; conflicted interpersonal relationships; poor quality family dynamics; child maltreatment; lack of parental supervision; exposure to excessive, inconsistent or permissive parenting styles; parental substance abuse; parental criminality; limited structured or pro-social use of free time, etc.	Supportive/meaningful relationships (family / friends / employers / colleagues); adequate parental supervision; good parenting skills; positive family dynamics; pro-social peers; positive adult role models; high expectations, etc.

<p>Community/ School/ Workplace <i>factors related to the context in which individuals and relationships are embedded</i></p>	<p>Academic underachievement; poor work history; high unemployment; concentrated poverty; poor housing; high mobility; poor access to services (social, recreational, cultural), etc.</p>	<p>Attachment to school/work; steady employment; stable housing; accessible services; neighbourhood cohesion; opportunities to participate as a community member, etc.</p>
<p>Societal <i>factors that create/discourage an acceptable climate for crime to occur</i></p>	<p>Economic inequality; gender inequality; racism; social exclusion; norms supportive of violence, etc.</p>	<p>Policies that reduce economic and social disparities and are inclusive in their approach (e.g., gender, ethnicity, culture, language, and ability)</p>

13.2 RISK ASSESSMENT TOOLS

13.2.1 Youth Level of Service-Case Management Inventory: Screening Version (YLS/CMI:SV)

The YLS/CMI:SV is a screening tool designed to identify youth at risk, and to conduct a preliminary assessment for the purpose of identifying the level and nature of interventions required. It is a short version of the Youth Level of Service/Case Management Inventory 2.0 - Risk/Needs Assessment. Developed for young persons aged 12-17 years, the tool helps place youth along a risk continuum ranging from “no risk” to “high risk”. The YLS/CMI:SV addresses eight domains of functioning in order to determine where interventions for youth are best targeted. These domains include: history of conduct disorder; current school or employment problems; criminal friends; alcohol/drug problems; leisure/recreation; personality/behaviour; family circumstances/parenting; and attitudes/orientation. The screening tool can minimize net-widening in the criminal justice system by screening out “no risk” and “low risk” youth. However, since it is a short version of the YLS/CMI 2.0, the screening tool should not be used alone in making or supporting decisions for higher risk youth. These youth require a more comprehensive risk assessment.

13.2.2 Youth Level of Service/Case Management Inventory 2.0 (YLS/CMI 2.0)

Based on the principles of risk, needs, and responsivity, the YLS/CMI 2.0 is a tool designed to assess the risk of recidivism and to assist in the assessment of the risk and needs of a young person in order to facilitate the development of appropriate treatment and case management plans. This assessment tool is intended for youth aged 12-17 years. It assesses youth on 42 risk factors identified by research literature as those most predictive of criminal activity in young persons. These risk factors fall into the following eight categories: prior and current offences/dispositions; family/parenting; education/employment; peer relations; substance abuse; leisure/recreation; personality/behaviour; and attitudes/orientation. The tool also identifies the protective factors in a young person’s life. The completed assessment will identify the young person as low, medium, or high risk.

13.2.3 Diagnostic and Statistical Manual of Mental Disorders, 5th (DSM-5TR CC Measure / DSM-5)

The DSM-5TR CC Measure assesses symptom experiences over the course of two weeks. It's focus specifically tries to identify mental health concerns within pre-established domains, such as: depression, anger, mania, anxiety, somatic symptoms, suicidal ideation, psychosis, sleep problems, memory, repetitive thoughts and behaviours, dissociation, personality functioning, substance use. Each domain will have several questions to help identify the existence of mental health issues. Some questions are to be scored from 0-4.

The purpose of the DSM-5RT CC Measure is to identify individuals who require referral follow-up by a mental health professional to determine the presence of mental health concerns and intervention needs. It is not for the Diversion Coordinator to make a diagnosis or make conclusive opinions on mental health and wellness. The DSM-5RT CC Measure uses cross cutting measures for mental health screening for Diversion Processes. This approach provides a more detailed view of potential mental health needs by focusing on current symptom experiences.

The youth version is applied when the person who has caused harm is 11-17 years old. The parent version should be used when the person who has caused harm is 6-17 years old. A referral for further mental health assessment should be made when the person who has caused harm scores a 3 (moderate) or higher in any one domain (highest domain score). There are three exceptions to this rule, the person who has caused harm has suicidal thinking (1 or higher), psychosis (1 or higher), or substance use (1 or higher – note that tobacco use will not be included as substance use worthy of referral). Lastly, it is important to note that it is at the discretion of the Diversion Coordinator to make a referral for further mental health assessments. The Diversion Coordinator should contact the local Mobile Crisis Response Service if there is reason to believe there are immediate concerns for someone's personal safety.

Where the parent and youth forms disagree, go with the most seriously flagged domain across informants. The Diversion Coordinator shall than discuss with the family the different perspectives and find the common ground to inform referral needs.

13.3 ACCOUNTABILITY MEASURES

Accountability measures for youth must be:

- timely given a young person's perception of time;
- meaningful in order to reinforce the link between offending behaviour and the accountability measure; and
- appropriate, given the totality of the circumstances.

Accountability measures should also promote re-integration and rehabilitation, and where appropriate, provide opportunities for youth to repair the harm caused to person harmed.

Examples of accountability measures include:

- restitution to the person harmed

- community service
- reparation of harm to the person harmed
- financial contributions to community service agencies
- formal apology to the person harmed

13.4 RESTORATIVE JUSTICE

Restorative justice is both a philosophy and an approach to crime and victimization that is non-adversarial and non-retributive. While many different restorative justice models exist, there are core elements associated with restorative justice. These include:

- Viewing the offending behaviour not only as law-breaking, but as harm done to individuals, their property, relationships, and the community.
- Providing safe opportunities for communication between those affected by the offending behaviour (person harmed, person who has caused harm, and the community). Persons harmed are given the opportunity to tell their story, address the harm caused, and find answers to questions that are important to them.
- Allowing the person who has caused harm to take responsibility for the harm caused by their actions and to be held accountable by those they harmed.

When community members are involved in restorative processes, they are empowered to gain a better understanding of the root causes of crime, and to address concerns and reduce fear of crime. By addressing accountability and reparation of harm, restorative processes can often achieve a greater understanding amongst the involved parties and move the person who has caused harm and person harmed to healing, mutual understanding, an improved sense of safety and closure.

For the purposes of this model, restorative processes can be used at the discretion of the EJS coordinator to determine appropriate accountability measures, and to repair the harm between the person harmed, the person responsible for causing harm, and/or the community for low, medium, and high-risk youth, as well as those youth with mental health needs.

The Diversion Coordinator may assume responsibility for the logistical planning of the restorative process. However, Coordinators are strongly encouraged to use third party trained volunteer facilitators available in their respective communities in order to maintain neutrality. A list of trained volunteer RJ facilitators will be maintained by the Provincial Diversion Steering Committee.

13.5 INTERVENTION PLANS

Consistent with the Mission of diversion - *the right services to the right people at the right time through individualized, collaborative, community-based and stakeholder supported alternatives to the traditional criminal justice system* - intervention plans are required for youth assessed as moderate or high risk/need, and for youth with mental health needs.

If deemed necessary, intervention plans can extend past the completion of the Youth Diversion Program (i.e., the Youth Diversion Program acts as an access point to ongoing programs/services to ensure the best outcomes for youth over the long-term). In situations where the intervention plan is not concluded prior to the completion of the Youth Diversion Program at no fault of the client (i.e., waiting list for services), the Coordinator will document that the young person has attempted but not completed the recommended intervention plan. This will not preclude the young person from successfully completing the program.

Intervention plans can include community-based mentoring support, involvement in community or recreational programs, family programming, referrals to addictions/mental health services, etc.

13.6 EVALUATION AND OVERSIGHT

The Provincial Diversion Steering Committee is responsible for establishing and implementing the Youth Diversion Program monitoring and evaluation plan.

Before concluding the Youth Diversion file, the Coordinator will approach the young person to determine their willingness to participate in a follow-up reassessment related to changes in criminogenic risk/needs and mental health needs.

Appendix A: Youth Schedule of Offences

Offence	Legislation	Restrictions
Provincial Statutes	Provincial Offences Procedures for Youth Act	Young Person only as defined by YCJA
All other offences*	YCJA 4(c) and (d)	<p>Applies to Young Person only as defined by YCJA. Note:</p> <ul style="list-style-type: none"> - Extrajudicial measures should be used in all cases where they would be adequate to hold the young person accountable. - Extrajudicial measures are presumed to be adequate to hold first-time, non-violent persons who have caused harm accountable. - Extrajudicial measures may be used if the young person had previously been dealt with by extrajudicial measures or has been found guilty of an offence. - Extrajudicial measures will not be considered adequate to hold the young person accountable for a Serious Violent Offence in the commission of which a young person causes or attempts to cause serious bodily harm. - Extrajudicial measures will not be considered adequate to hold the young person accountable for an impaired driving offence.

*Where the “Description of Alternative Measures Programs in New Brunswick” is inconsistent with the provisions of *the Youth Criminal Justice Act*, the provisions of the Act will prevail.

Source: Department of Justice. (2003). *Amended Offence Schedule for Alternative Measures (Adult Schedule of Offences)*

Appendix B: Standard Introduction of Risk Screening Tools to Participants

When introducing risk screening and assessment tools to young persons, it is important for Coordinators to recognize the sensitive nature of the questions being asked. Youth will be more likely to provide more accurate and elaborate responses when there is clarity about:

- the purpose of the questions being asked;
- who their information will be shared with and under what circumstances; and
- any exceptions to confidentiality.

The following script is provided to assist with the introduction of risk screening and assessment.

"__(name of officer or court)__ has referred your file involving the offence of _____ committed on ____ (date)_____ to the EJS program because he/she believed that it would be more appropriate to have the offence dealt with outside of the court system. It is my role as the Coordinator to ask you questions that will help me to get to know you better and to understand some of the circumstances that may have led to you getting into trouble with the police. The questions that I will be asking you will have to do with things like school, friends, family, alcohol/drugs, past trouble with the police, and how you think about certain things. Experience tells us that when young people have difficulties in these areas, it can lead to getting into trouble with the police.

It is important for you to know that I will not be sharing information with other people without your consent. There are certain exceptions that do not allow me to keep your information confidential. These are situations where you tell me that you are at risk of committing suicide, or when I have concerns related to your safety or the safety of others. In these cases, I may be required by law to let others know.

I will be using the information that you share with me to help me figure out whether there are programs or services in the community that could help you with the things that may have caused you to get into trouble, and to find ways that you can be held accountable for what you have done. It is possible that I may call upon a committee of people who can assist me in finding the programs or services that may be most helpful to you. I want to emphasize again, though, that I will only share information with your consent. Do you have any questions?"

The following script is provided to assist with the introduction of the Restorative Justice process, when applicable.

***“If you accept responsibility** for your role in the conflict or crime, and **voluntarily choose to participate** in a Restorative Justice process, you may proceed through a restorative and collaborative pathway as an option within the Youth Diversion Program. Successful completion of this process will allow you to avoid a criminal record and the criminal court process.*

*A Restorative Justice process seeks to **repair the harm** caused by conflict or crime. This is done by addressing the needs of persons harmed and promoting the meaningful accountability for those responsible for causing harm. In this type of approach, ‘crime’ is understood not only as breaking the law – but as a violation of people and communal relationships. In addition to the persons harmed and persons responsible for causing harm, Restorative Justice involves and empowers the affected community through the process. In a Restorative Justice process, everyone affected by a conflict or crime is invited to participate in a **discussion of the circumstances surrounding the offence**.*

In a Restorative Justice process, you will have an opportunity to express your perspective, tell your story, and fulfill your obligation to the person harmed and the community. You will also have the opportunity to hear from those you have harmed, discuss how to make things right, and collaboratively determine the next steps that should be taken to be held accountable for your actions and to repair the harm caused.”

Appendix C: Diversion Summary Sheet

	Extrajudicial Measures	Extrajudicial Sanctions	Alternative Measures
Eligibility Criteria	<ul style="list-style-type: none"> Youth 12-17 years of age Sufficient evidence must exist that an offence has been committed No formal requirement that youth take responsibility No limit on the number of times used Can be used if EJM or EJS used previously, or if previously found guilty of an offence Youth with addictions, mental health concerns or intellectual disabilities can be considered NOT considered adequate for serious violent offences or for impaired driving offences 	<ul style="list-style-type: none"> Youth 12-17 years of age To be used if young person cannot be adequately dealt with by EJM Sufficient evidence must exist that an offence has been committed & prosecution not barred Offence must be included in the Youth Schedule of Offences NOT considered adequate for serious violent offences or impaired driving offences Youth must take responsibility Youth must consent to participate Youth must be advised of right to counsel & be given opportunity to participate No limits on the number of times used Can be used if EJM or EJS used previously, or if previously found guilty of an offence Views of the person harmed must be considered Youth with addictions, mental health concerns or 	<ul style="list-style-type: none"> Adults 18 years and older Sufficient evidence must exist that an offence has been committed & prosecution not barred Offence must be included in the Adult Schedule of Offences NOT considered adequate for offences related to domestic violence Adult must accept responsibility Adult must be aware of the program and consent to participate NO limit to the number of times referred (must be no other pending charges from a separate incident) Youth record does not preclude eligibility Views of the person harmed must be considered Adults with addictions, mental health concerns, or intellectual

		intellectual disabilities can be considered	disabilities can be considered
Legislative Authority	s. 4 YCJA	s. 10(1) YCJA	s. 717 CCC
Pre-charge Referral Option	Yes	Yes	Yes
Post-charge Referral Option	No	Yes	Yes
Referral Source	<ul style="list-style-type: none"> Police 	<ul style="list-style-type: none"> Police Crown Other referral agent (see Model for complete list) 	<ul style="list-style-type: none"> Police Crown
12-Month Statute of Limitations	Does not apply	Applies to pre-charge referrals	Applies to pre-charge referrals
Schedule of Offences	Does not apply	Youth Schedule of Offences	Adult Schedule of Offences
Risk Screening Tool	YLS/CMI:SV (all participants)	YLS/CMI:SV (all participants)	LSI-R:SV (all participants)
Risk Assessment Tool	YLS/CMI 2.0 (when moderate-high scores on YLS/CMI:SV)	YLS/CMI 2.0 (when moderate –high scores on YLS/CMI:SV)	LS/CMI (when moderate-high scores on LSI-R:SV)
Mental Health Screening Tool	DSM-5 (all participants)	DSM-5 (all participants)	DSM-5 (all participants)
Committee	<p>s. 19 Conference Committee Convened:</p> <ul style="list-style-type: none"> At discretion of Coordinator for moderate risk/need Recommended when high risk/need At discretion of Coordinator for low risk/need with mental health needs Recommended when moderate to high risk/need with mental health needs 	<p>s. 18 Youth Justice Committee Convened:</p> <ul style="list-style-type: none"> At discretion of Coordinator for moderate risk/need Must be convened when high risk/need and RJ is not suitable At discretion of Coordinator for low risk/need with mental health needs Recommended when moderate to high risk/need with mental health needs 	<p>Multidisciplinary Alternative Measures Committees Convened:</p> <ul style="list-style-type: none"> At discretion of Coordinator for moderate risk/need Must be convened when high risk/need At discretion of Coordinator for low risk/need with mental health needs Recommended when moderate to high risk/need with mental health needs

Intervention Plan	<ul style="list-style-type: none"> To focus on areas of greatest criminogenic risk To attend to mental health needs 	<ul style="list-style-type: none"> To focus on areas of greatest criminogenic risk To attend to mental health needs 	<ul style="list-style-type: none"> To focus on areas of greatest criminogenic risk To attend to mental health needs
Accountability	<p>Police-based measures only (s. 6, 7, or 8 YCJA), including:</p> <ul style="list-style-type: none"> No further action required Verbal/written warning Caution Referral to program or service (with consent of youth) 	<p>Timely and meaningful sanctions such as, but not limited to:</p> <ul style="list-style-type: none"> Restitution Community service Apology to person harmed 	<p>Sanctions such as, but not limited to:</p> <ul style="list-style-type: none"> Restitution Community service Apology to person harmed
Restorative Justice Processes	<p>Can be used to allow the participant to take responsibility but reparation of harm is limited to accountability described above.</p>	<p>Can be used to allow the participant to take responsibility and to repair the harm caused to the person harmed.</p>	<p>Can be used to allow the participant to take responsibility and to repair the harm caused to the person harmed.</p>
Non-compliance Options	<p>No opportunity to re-visit the charge</p>	<p>Can re-visit the charge (12-month statute of limitations apply to pre-charge referrals)</p>	<p>Can re-visit the charge (12-month statute of limitations apply to pre-charge referrals)</p>
Forms	<ul style="list-style-type: none"> Consent to Disclose & Obtain 	<ul style="list-style-type: none"> Admissions and File Closure Form Consent to Obtain and Disclose Information s.18 Youth Justice Committee Agreement of Confidentiality Agreement Form 	<ul style="list-style-type: none"> Admissions and File Closure Form Consent to Obtain and Disclose Information Alternative Measures Committee Agreement of Confidentiality Agreement Form

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