



New Brunswick Adult Diversion Model

2023

Justice and Public Safety



New Brunswick Adult Diversion Model

PROVINCIAL DIVERSION STEERING COMMITTEE

2023

Justice and Public Safety



Table of contents

1. Background	1
2. Diversion Vision, Mission & Guiding Principles	2
3. Provincial Diversion Steering Committee	3
4. Legislative Authority	3
5. New Brunswick Adult Diversion Model	4
6. Risk, Need, and Responsivity (RNR) Principles	5
7. Adult Diversion Program – Alternate Measures	7
7.1 Eligibility for the Adult Diversion Program (Alternative Measures)	7
7.2 Adult Diversion (Alternative Measures) Referral Process	9
8. Alternative Measures Program Process	10
8.1 Intake Screening and Assessment	10
8.2 Appropriate Level of Intervention	13
8.3 Outcome Report to Referring Agency	18
9. Alternative Measures Roles and Expectations	19
9.1 Provincial Diversion Steering Committee	19
9.2 Provincial Program Manager	19
9.3 Police	19
9.4 Crown Prosecutor	20
9.5 Coordinator	21
9.6 Victim Services	23
9.7 Person Harmed	23
9.8 Adult (Accused)	23
9.9 Alternative Measures Committees	24
9.10 Integrated Services Delivery Model	25
10. Adult Diversion Program Guidelines	26
10.1 Risk and Protective Factors	26
10.2 Risk Assessment Tools	27
10.3 Accountability Measures	29
10.4 Restorative Justice	29
10.5 Intervention Plans	30
10.6 Evaluation and Oversight	30
Appendix A: Adult Schedule of Offences	31
Appendix B: Standard Introduction of Risk Screening Tools to Participants	38
Appendix C: Diversion Summary Sheet	40
References	44

1. Background

Diversion programs can ensure the best use of resources by providing effective, efficient and timely alternatives to the traditional criminal justice process. 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. The New Brunswick Alternative Measures program for adults has been in operation since 1998. The program is now referred to as the Adult Diversion Program.

A provincial review of these programs was completed in 2010, followed by a more in-depth program audit of the “Alternative Measures” 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 Adults in New Brunswick. This Charter contains Vision and Mission statements, as well as Guiding Principles for improvements to New Brunswick diversionary practices for adults. 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 Adult Diversion Model contained herein is consistent with the Charter for Improvements to Diversionary Practices for Adults in New Brunswick and will ensure New Brunswick adult 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 Alternative Measures and Restorative Justice processes.

2. Diversion Vision, Mission & Guiding Principles

VISION

Consistent with the Charter for Improvements to Diversionary Practices for Adults 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 Adult 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.

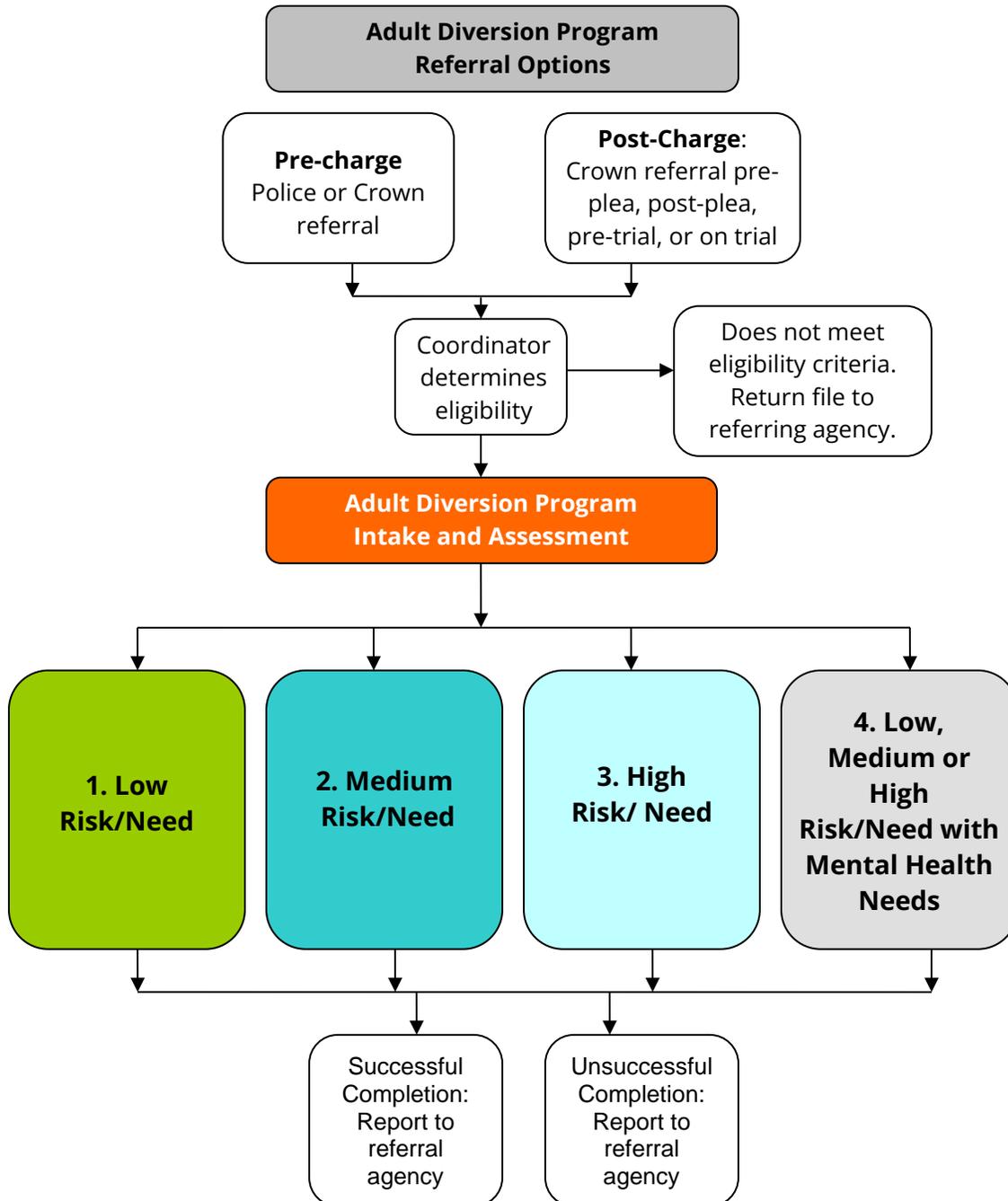
Specifically, the Provincial Diversion Steering Committee:

- 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 Adult Diversion Model is consistent with the Alternative Measures provisions as laid out in section 717 (1)-(5) of the Criminal Code of Canada (CCC).

5. New Brunswick Adult Diversion Model



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

This adult 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 intervention for those who score at low risk can actually increase the potential of criminal activity in the future.¹ While it is important to hold those who score at low risk 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 person who has caused harm be ignored, only that the coordinator must pay attention to these eight areas of need.

RESPONSIVITY

- The responsivity principle requires that the coordinator match the person who has caused harm to interventions based on their 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 the person who has caused harm' ability to benefit from the intervention.
- It is important to identify these individual characteristics of the person who has caused harm so that they can be addressed or used to enhance the interventions.
- This model will pay particular attention to the person who has caused harm mental health and intellectual functioning, and will ensure culturally appropriate interventions for Aboriginals.
- The age of the person who has caused harm is also a responsivity factor given special consideration in this model. Research recognizes that young adults have different developmental needs and differing levels of maturity than older adults, and therefore may require different interventions. Provincial adult diversion statistics to date indicate that at least 50% of adults referred to the program are 19-24 years of age.

7. Adult Diversion Program – Alternative Measures

As per section 717 of the Criminal Code, Alternative Measures may be used to deal with an adult alleged to have committed an offence when the person who is considering whether to use the measures is satisfied that they would be appropriate, having regard to the needs of the person alleged to have committed the offence and the interests of society and of the person harmed.

7.1 ELIGIBILITY FOR THE ADULT DIVERSION PROGRAM (ALTERNATIVE MEASURES)

- Alternative Measures (AM) are available to adults aged 18 years and older as part of a program of alternative measures authorized by the Attorney General.
- 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 Adult Diversion Program as per the Adult Diversion Schedule of Offences (2021 version) (See Appendix A).
- AM will now be considered for **post-charge Diversion with the following considerations:**
 - All offences involving Domestic/Intimate Partner violence and children harmed would require further Regional Crown approval in order to be eligible.
 - D/IPV and sexual violence offences would also require a referral to Victim Services and charges laid in order to be eligible.
- The adult **must** accept responsibility for the act that forms the basis of the offence; acceptance of responsibility is to be determined by the Diversion Coordinator, not the police.
 - It is important to note that as per section 717(3) of the Criminal Code, **any admission, confession or statement accepting responsibility** for a given act or omission that is made by a person alleged to have committed an offence as a condition of being dealt with by alternative measures **is inadmissible** in evidence against that person in any civil or criminal proceedings.
- The adult **must** be fully aware of the Adult Diversion Program and freely consent to participate. This includes participation in the screening and assessment processes associated with the Program.

There is **no** limit to the number of times an adult can be referred to the Adult Diversion Program, however:

- Those facing a pending charge may still be eligible for diversion if approved by a Crown Prosecutor.
 - A young person record does not preclude eligibility for diversion as an adult.
- The person's harmed views of the offence and the person responsible for the harm who is being dealt with are to be considered, but do not preclude participation in the program.
- Adults with addictions, emotional-behavioural issues, mental health concerns, or intellectual disabilities can be considered for the Adult Diversion 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 Diversion accountability measure must be completed within this 12-month time frame to ensure a charge can still be laid if the AM is unsuccessful. However, with the consent of the person who has caused harm, the intervention plan may continue beyond the statute of limitations and the conclusion of the Adult Diversion file if deemed necessary.
 - The 12-month statute of limitations does not apply to a post-charge referral to the Adult Diversion Program, though it is preferable that the post-charge AM be completed in a timely fashion.

7.2 ADULT DIVERSION (ALTERNATIVE MEASURES): REFERRAL PROCESS

Responsibilities are in relation to referral processes only. Further responsibilities are defined in the Roles and Expectations as laid out in Section 11.

	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 - May make a recommendation for the file to be referred to the Adult 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 Adult Diversion - Approves/Denies referral to Adult 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 AM - Supports/Denies referral to AM
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 Adult 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 AM - Determines the adult is prepared to accept responsibility for the offence - Refers the file to AM 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 adult's willingness to have his/her file diverted - Provides a high-level explanation of the Adult Diversion Program and answers any questions the adult may have - May ask Crown if pre-charge referral to the Adult 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 Adult Diversion Program and answers any questions the adult may have - May ask Crown if post-charge referral to the Adult 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 AM has been considered
Adult	<ul style="list-style-type: none"> - Accepts responsibility for the offence committed - Consents to participate in the Adult Diversion Program, including participation in the screening and assessment processes 	
Coordinator	<ul style="list-style-type: none"> - Receives Adult Diversion Program referral and meets with the adult to explain the program in detail - Determines that adult meets eligibility criteria for participation in the Adult Diversion Program, including whether the adult accepts responsibility for the offence - Approves/Denies participation of adult in the Adult Diversion Program 	

8. Adult Diversion (Alternative Measures): Program Process

8.1 INTAKE SCREENING AND ASSESSMENT

8.1.1 The Importance of Screening and Assessment

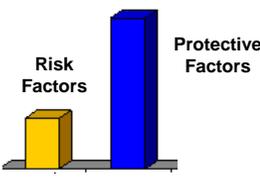
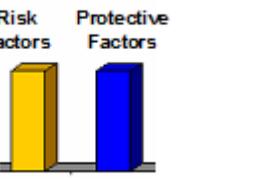
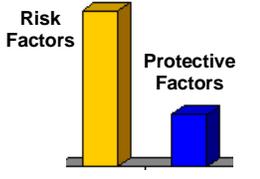
Similar offending behaviours in different adults may be a common endpoint arising from very different developmental trajectories. In other words, adults have very different life histories, learning capacities, risk and protective factors, and mental health needs although they may have engaged in a common offending behaviour at some point. Offending behaviours among adults 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 adults will ensure that the individual characteristics of each person are considered in order to match the adult with interventions that are most appropriate to his/her needs and abilities.

8.1.2 Why Risk/Need Screening?

Not all people are equally at-risk. This makes it important to determine the criminogenic risk factors that are present in a person'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 adults at the appropriate level of intensity. Risk screening will also help to balance an adult's needs for support with appropriate accountability. Adults may screen at low, medium or high risk/need (see chart on next page).

<p>Low risk/need: Adults 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>Medium risk/need: Those at medium risk of offending have similar levels of risk factors and protective/resiliency factors. Adults at medium 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>	

8.1.3 Why Mental Health Screening?

Having a mental health issue is not a risk factor for offending in itself, and most people with a mental health problem and/or mental illness do not commit crimes. However, rates of certain mental illnesses such as psychosis, depression, anxiety, and substance-related disorders are more prevalent among incarcerated adults than adults in the general population.²

Drug/alcohol misuse is a common risk factor for criminal behaviour and victimization, and mental health and addictions issues often occur at the same time (are co-morbid).³ Within the federal correctional system, about 80 per cent of those who have caused harm have drug/alcohol misuse issues.⁴ Larger proportions of incarcerated Aboriginal people are assessed as being high need. Ninety-six per cent of Aboriginal federal inmates reported a personal or emotional issue that needed attention and 92 percent required help for a substance abuse problem.⁵

8.1.4 Administration of the Risk Screening Tool (LSI-R:SV)

Once the adult has been accepted into the Adult Diversion Program, the coordinator will screen the adult to determine his/her level of risk/need using the Level of Service Inventory-Revised: Screening Version (LSI-R:SV). Adults may screen at low, medium or high risk/need. **Training is required to administer this tool.**

8.1.5 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 adult has one or more behavioural health disorders (e.g., internalizing or externalizing psychiatric disorders, or substance use disorders) requiring further assessment or referral. **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 adult's receipt of appropriate mental health and/or addictions interventions.

8.1.6 Assessment

- If an adult screens as low risk/need on the LSI-R:SV, no further assessment of risk/need is required.
- The coordinator must administer the Level of Service/Case Management Inventory (LS/CMI) assessment tool with adults who screen at medium-high risk in order to develop a better understanding of the underlying factors that may be contributing to the adult'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 adult's level of risk/need, the Diversion Coordinator will consult with appropriate community partners to ensure further mental health assessment or follow-up.

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

8.2 APPROPRIATE LEVEL OF INTERVENTION

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

- **Low risk/need:** requires an accountability measure only when the adult has no mental health needs. Further intervention with low risk/need adults has the potential to increase the adult's risk to re-offend.
- **Medium risk/need:** requires accountability measure AND intervention to attend to underlying risk/needs. The Diversion Coordinator has the discretion to use or not to use the Alternative Measures Committee at this level.
- **High risk/need:** requires an accountability measure AND intervention to attend to underlying risk/needs. If Restorative Justice is not suitable, the Diversion Coordinator **MUST** convene an Alternative Measures Committee for persons who have caused harm and have scored at high risk/need.
- **Low, medium, or high risk/need with mental health needs:** requires an accountability measure, appropriate follow up related to the mental health needs, and an intervention to address the adult's risk/needs. The coordinator has the discretion whether or not to use the Alternative Measures Committee for adults who screen at low risk/need with an identified mental health need. If Restorative Justice is not suitable, the coordinator **MUST** convene the Alternative Measures Committee for adults who screen at medium-high risk/need with a mental health need.

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

8.2.1 LOW RISK/NEED

Accountability Measure

- The coordinator will meet with the adult 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 10.4 for more information on restorative processes.

Intervention Plan

- Because the adult has been screened at a low risk/need level, an intervention to decrease risk factors *is not required*.

Program Agreement

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

8.2.2 MEDIUM RISK/NEED

A. Coordinator only:

Accountability Measure

- The coordinator will meet with the adult 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 10.4 for more information on restorative justice processes.

Intervention Plan

- Where the adult has been assessed at a medium risk/need level, the coordinator may work with the adult, his/her identified support network (*with the consent of the adult*), and other professionals (*such as an existing case social worker or counsellor*) to determine an appropriate intervention plan aimed at decreasing the adult's risk factors.
- With the adult's consent, the coordinator may make a referral directly to an appropriate community program or service.

Program Agreement

- The coordinator will prepare a program agreement outlining the selected accountability measure(s) and the intervention plan.

B. Use of Alternative Measures Committee:

Accountability Measure

- The Alternative Measures 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 10.4 for more information on restorative justice processes.

Intervention Plan

- Where the adult has been assessed at a medium risk/need level, the coordinator may convene a meeting of the Alternative Measures Committee.
- This multidisciplinary team will work with the adult and his/her identified support network (*with the consent of the adult*), and other professionals (*such as an existing case social worker or counsellor*) to determine an appropriate individualized intervention plan aimed at decreasing the adult's risk factors.
- The coordinator will present information collected from the LS/CMI assessment to aid the committee in their decision making. The coordinator may also obtain relevant information specific to the adult from committee members to ensure the development of an appropriate intervention plan, where applicable.
- In areas where the Integrated Service Delivery Model exists, and the **adult is between 18 and 21 years of age and still attending school or an education program** (eg. GED, Alternative Education, Community College), the coordinator **will coordinate the ISD team to be part of the Alternative Measures Committee.**
- Responsibility for implementation of the intervention plan, or parts thereof, may be assumed by a committee member or a representative of that member's agency/organization in situations where an established relationship exists between the participating adult and the service provider as a means of ensuring continuity for them.

<ul style="list-style-type: none"> • The adult will sign the agreement. • The coordinator will assume responsibility for overseeing the completion of the accountability measure and the intervention plan. 	<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 adult will sign the agreement. • The coordinator will assume responsibility for overseeing the completion of the accountability measure(s), and liaising with the Alternative Measures Committee member(s) on the status of the intervention plan, where applicable.
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

8.2.3 HIGH RISK/NEED

<p>Accountability Measure</p> <ul style="list-style-type: none"> • If appropriate, the Alternative Measures 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 10.4 for more information on restorative justice processes. <p>Intervention Plan</p> <ul style="list-style-type: none"> • When the adult has been assessed at a high risk/need level, the coordinator must convene the Alternative Measures Committee if Restorative Justice is not suitable given the circumstances. • This multidisciplinary team will work with the adult, his/her identified support network (<i>with the consent of the adult</i>) and other professionals (<i>such as an existing case social worker or counsellor</i>) to determine an appropriate individualized intervention plan aimed at decreasing the adult's risk factors. • The coordinator will present information collected from the LS/CMI assessment to aid the committee in their decision making. The coordinator may also obtain relevant information specific to the adult from committee members to ensure the development of an appropriate intervention plan. • In areas where the Integrated Service Delivery Model exists, and the adult is between 18 and 21 years of age and still attending school or an education program (eg. GED, Alternative Education, Community College), the coordinator will coordinate and convene the ISD team to be part of the Alternative Measures Committee. • Responsibility for implementation of the intervention plan, or parts thereof, may be assumed by a committee member or a representative of that member's agency/organization in situations where an established relationship exists between the participating adult and the service provider as a means of ensuring continuity for them.

Program Agreement

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

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

A. Low risk-need AND mental health needs:

Accountability Measure

- If appropriate, the Alternative Measures Committee will make recommendations related to an appropriate accountability measure(s).
- 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 10.4 for more information on restorative justice processes.

Intervention Plan

- If the adult 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 Alternative Measures Committee.**
- Whether or not the Alternative Measures 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

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

Accountability Measure

- If appropriate, the Alternative Measures 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 in an effort to repair the harm done. See Section 10.4 for more information on restorative justice processes.

Intervention Plan

- If the adult has screened at medium-high risk/need, and also screens as having mental health needs based on the results of the GAIN-SS ver. 3.0.1 CAMH (Modified), the coordinator **must convene the Alternative Measures Committee if Restorative Justice is not suitable.**
- This multidisciplinary team will work with the adult, his/her identified support network (*with the consent of the adult*), and other professionals (*such as an existing case social worker or counsellor*) to determine an appropriate individualized intervention plan aimed at decreasing the adult's risk factors and ensuring appropriate follow up related to the adult's mental health needs as per the DSM-5 Policy and Procedures Manual.
- The coordinator will present information collected from the LS/CMI and the DSM-5 to aid the committee in their decision making. The coordinator may also obtain relevant information specific to the adult from committee members to ensure the development of an appropriate intervention plan.

<p>the referral to the Adult Diversion Program as it relates to existing case plans, and to obtain pertinent information that could assist with Diversion planning for the adult.</p> <p>Program Agreement</p> <ul style="list-style-type: none"> • The coordinator will prepare a program agreement outlining the selected accountability measure(s). • The adult will sign the agreement. • The coordinator will assume responsibility for overseeing the completion of the accountability measure(s). 	<ul style="list-style-type: none"> • In areas where the Integrated Service Delivery Model exists, and the adult is between 18 and 21 years of age and still attending school or an education program (eg. GED, Alternative Education, Community College), the coordinator will coordinate the ISD team to be part of the Alternative Measures Committee. • Responsibility for implementation of the intervention plan, or parts thereof, may be assumed by a committee member or a representative of that member’s agency/organization in situations where an established relationship exists between the participating adult and the service provider as a means of ensuring continuity for them. <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 adult will sign the agreement. • The coordinator will assume responsibility for overseeing the completion of the accountability measure, and liaising with the Alternative Measures Committee member(s) on the status of the intervention plan.
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

8.3 OUTCOME REPORT TO REFERRING AGENCY

<p>The adult successfully completes the agreement*</p>	<p>The adult is unsuccessful in completing the agreement</p>
<p><u>A. Where the file was a pre-charge referral</u></p> <ul style="list-style-type: none"> Once the adult has completed the accountability measure(s) and the agreed upon intervention plan, the coordinator will notify the referral agent of the outcome. No further action is required. <p><u>B. Where the file was a post-charge referral</u></p> <ul style="list-style-type: none"> Once the adult has completed the accountability measure(s) and the agreed upon intervention plan, the coordinator will notify the Crown of the outcome. Where the adult has successfully completed the AM agreement, the Crown will request the charge to be withdrawn. 	<p><u>C. Where the file was a pre-charge referral</u></p> <ul style="list-style-type: none"> If the adult has not completed the accountability measure(s) and 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><u>D. Where the file was a post-charge referral</u></p> <ul style="list-style-type: none"> If the adult 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 adult from successfully completing the Adult Diversion Program. The intervention plan may continue beyond the 12-month statute of limitations.

9. Adult Diversion (Alternative Measures): Roles and Expectations

9.1 PROVINCIAL DIVERSION STEERING COMMITTEE

- 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 Adult 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.

9.2 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.

9.3 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 should consider referring the file to the Adult 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.
- Due to the 12-month statute of limitations, every effort should be made by the investigating police officer to conclude the file as expeditiously as possible.

- 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 of the Designated Senior Police Officer:

For the purpose of the Adult 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 Adult Diversion when determined to be appropriate.
- Obtain approval of the Crown Prosecutor for referral to Adult 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 AM coordinator in a timely manner in order to facilitate completion of the 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. charges).

9.4 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 the Adult Diversion Program.
- 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 Adult Diversion Program.
- Asks the adult if they are prepared to accept responsibility for the offence.
- Refers the case to the Adult 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 stayed pending the outcome of the Adult Diversion Program.

9.5 COORDINATOR

Determining Eligibility:

- Upon receipt of a referral, the coordinator will meet with the adult to explain the Adult Diversion Program.
- The coordinator will confirm that the adult meets the eligibility criteria for participation in the program, including the adult'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 person who has committed D/IPV or a sexually motivated offence.
- If the coordinator finds that the adult does not meet the eligibility criteria for the Adult Diversion Program, they will return the file to the referring agency.

Intake Screening:

- Once approved for participation in the program, the coordinator will screen the adult to determine their level of risk utilizing the Level of Service Inventory-Revised: Screening Version (**LSI-R:SV**).
- For each adult 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. The DSM-5 assesses and identifies key mental health areas/domains that underline the criminal behaviour. This will ensure that appropriate accountability measure(s) and/or intervention plan is formulated.
- Diversion Coordinators shall complete the SISO referral form when the person referred to diversion has committed a sexually motivated offence and requires assessment through **STATIC-99R**.

Intake Assessment:

- For adults who screen at low risk/need on the LSI-R:SV the coordinator will **not** conduct further assessment.
- For adults screened at medium to high risk/need, the coordinator will complete the long version of the Level of Service/Case Management Inventory (**LS/CMI**).

Appropriate level of intervention:

- See Section 8.2 for coordinators responsibilities in cases where adults 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 adult's right to confidentiality is respected in the AM process. Written consent will be secured from the adult before information related to the adult is disclosed to or obtained from other parties involved in the alternative measures process. Ensure the adult 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 adult, as well as the person harmed.
- In situations where the person harmed is not directly involved in the adult diversion process, the coordinator will notify the person harmed of the imposed sanctions.
- In situations where the person harmed is not directly involved in the AM 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 adult. When involved, the Victim Services Coordinator may provide follow-up assistance to the coordinator specific to the 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 adults who participate in the Adult Diversion Program for the purpose of obtaining their consent to participate in any re-assessments necessary for evaluation purposes.

9.6 VICTIM SERVICES

- The Victim Services Coordinator will ensure that the interests of the person harmed are represented in the alternative measures process by liaising with the Diversion Coordinator and attending Alternative Measures 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 to the imposed accountability measure(s) and whether the adult has been referred to community programs or services to address underlying risk factors believed to be contributing to the offending behavior.

9.7 PERSON HARMED

- The person harmed has the right to voice his/her 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 harmed.
- 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.

9.8 ADULT (ACCUSED)

If the adult consents to participate in the Adult Diversion Program, they will:

- respond immediately to any communication received relative to the Adult 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 Alternative Measures Committee as requested; and
- comply with the recommended intervention plan and accountability measure(s) as per the program agreement.

9.9 ALTERNATIVE MEASURES COMMITTEES

- The Committee will work collaboratively with the coordinator to ensure that an appropriate intervention plan is developed to address the adult's identified risk 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 adult, and relevant to the development of an appropriate intervention plan for them. The coordinator will provide committee members with written consent to obtain information (Consent to Obtain and Disclose Information form) prior to requesting that committee members disclose this information.
- The Committee will sign an Agreement of Confidentiality thereby agreeing to keep all Adult 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
 - Adult service providers (i.e. training and skills development)
 - Health: Mental Health and Addictions
 - Social Development
 - Healthy and Inclusive Communities
 - Victim Services
 - Police
 - Post-Secondary Education, Training and Labor
 - First Nations (this is mandatory when an Alternative Measures Committee is convened on behalf of an Aboriginal adult)
 - Other community members
 - Business community
- Attendance of at least three of the agencies represented on the Alternative Measures Committee will sufficiently meet quorum requirements.
- When mental health needs have been identified in any adult, representation from the field of mental health must be present before decision-making can occur related to interventions and accountability measure(s) specific to the adult.
- When the adult has an existing Probation Order, it is recommended that the Probation Officer responsible for case management of the adult attend any Alternative Measures Committee meetings held specific to the adult.

- The Alternative Measures Committee will operate separately from the s. 18 Youth Justice Committee given the unique differences between youth and adults. However, overlap in committee membership is possible when the person being diverted is still eligible for youth-specific programs and services.

9.10 INTEGRATED SERVICES DELIVERY MODEL

- In locations where the ISD services exist, and the adult is between the ages of 18 and 21 years and attending school, the ISD team will participate in Alternative Measures Committees, at the request of the Coordinator.
- The ISD team members will share pertinent information related to the young adult, and assist in the development of appropriate intervention plans for the adult to address his/her identified risk factors.
- The ISD team will assume a case management role for the young adult, as deemed appropriate.

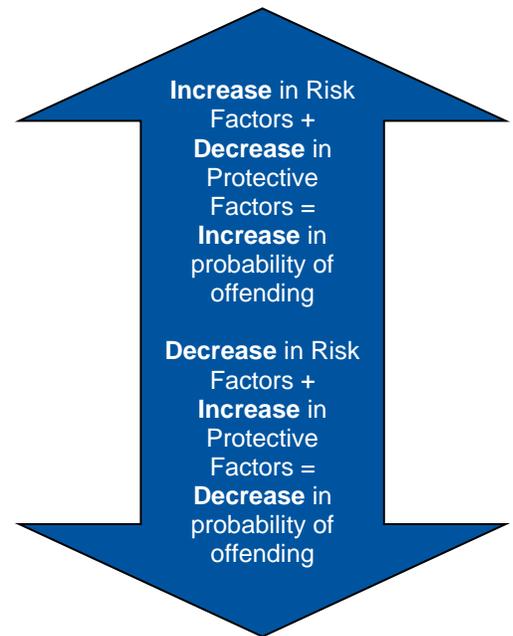
10. Adult Diversion Program Guidelines

10.1 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.⁶

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.⁷ 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>

10.2 RISK ASSESSMENT TOOLS

10.2.1 Level of Service Inventory-Revised: Screening Version (LSI-R: SV)

The LSI-R:SV is a screening tool designed to identify adults 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 Level of Service/Case Management Inventory - Risk/Needs Assessment. Developed for persons aged 16 and older, the tool helps place individuals along a risk continuum ranging from “no risk” to “high risk”. Results provide a complete summary of dynamic risk areas that may require further assessment and possibly intervention. The LSI-R:SV includes eight items: criminal history; education/employment; family/marital; leisure/recreation; companions; alcohol/drug problem; attitudes/orientation; and personal/emotional. The screening tool can minimize net-widening in the criminal justice system by screening out “no risk” and “low risk” adults. However, since it is a short version of the LS/CMI, the screening tool should not be used alone in making or supporting decisions for higher risk adults. These adults require a more comprehensive risk assessment.

10.2.2 Level of Service/Case Management Inventory (LS/CMI)

Based on the principles of risk, needs, and responsivity, the LS/CMI is an assessment tool that measures the risk and need factors of late adolescent and adults in order to facilitate the development of appropriate treatment and case management plans. It assesses individuals on 43 risk factors identified by research literature as those most predictive of criminal activity in adults. These risk factors fall into the following eight categories:

- criminal history;
- education/employment;
- family/marital;
- leisure/recreation;

- companions;
- alcohol/drug problem;
- procriminal attitude/orientation;
- antisocial pattern.

The completed assessment will identify the adult as very low, low, medium, high, or very high.

10.2.3 Diagnostic and Statistical Manual of Mental Disorders (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 adult version should be used when the person who has caused harm is 18 years of age or older. 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 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.

10.3 ACCOUNTABILITY MEASURES

Accountability measures for adults must be:

- timely;
- 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 adults to repair the harm caused to persons 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

10.4 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 (persons harmed, persons who have 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 offender 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 the 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 AM 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 adults, as well as those adults 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.

10.5 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 adults assessed as medium or high risk/need, and for adults with mental health needs.

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

10.6 EVALUATION AND OVERSIGHT

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

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

Appendix A: Adult Schedule of Offences

MAY 2021

*The Schedule of Offences may be updated periodically.
Please check that you are using the most recent version.*

Note: Offences that are related to D/IPV and sexual violence are required to have a referral sent to a regional Victim Services office, have Regional Crown approval and can only proceed via post-charge diversion

Criminal Code Section / Legislation	Offence	Eligibility	Restrictions
66(1)	Unlawful assembly	Yes	Crown approval
73	Forcible entry/detainer	Yes	Crown approval
86(3)	Careless use of firearm	Yes - summary	Crown approval
87(2)	Pointing a firearm	Yes - summary	Crown approval
88(2)	Possession of weapon for dangerous purpose	Yes - summary	Crown approval
89(2)	Carrying weapon while attending public meeting	Yes - summary	Crown approval
90(2)	Carrying concealed weapon	Yes - summary	Crown approval
91(3)	Unauthorized possession of a firearm/prohibited or restricted weapon	Yes - summary	
93(2)	Possession at unauthorized place	Yes - summary	Crown approval
94(2)	Unauthorized possession of firearm in a motor vehicle	Yes - summary	Regional Crown approval
95(2)	Possession of prohibited/restricted firearm w/ ammunition	Yes - summary	Regional Crown approval
96(2)	Possession of weapon obtained by commission of offence	Yes - summary	Crown approval
101(2)	Transfer without authority	Yes - Summary	Regional Crown approval
105(2)	Not reporting lost or found prohibited firearm etc. to a peace officer	Yes - summary	
106(2)	Destroying prohibited firearm etc. and not reporting it to a peace officer	Yes - summary	
107(2)	False statement to a peace officer re: loss theft or destruction of prohibited firearm etc.	Yes - summary	
108(2)	Tampering with serial number of firearm	Yes - summary	Crown approval
129(e)	Obstruction etc. of peace officer	Yes - summary	Crown approval

140(2)	Public mischief	Yes - summary	Crown approval
142	Corruptly taking reward for recovery of goods	Yes - summary	
145(1)(b)	Escape and being at large without excuse	Yes - summary	
145(2)	Fail to attend court	Yes - summary	
145(3)(b)	Fail to comply with appearance notice	Yes - summary	
145(4)(b)	Fail to comply with undertaking	Yes - summary	
145(5)	Fail to comply with release order or other order etc.	Yes - summary	
162.1(1)(b)	Publication, etc, of an intimate image without consent	Yes - summary	Regional Crown approval
169(b)	Punishment for possessing obscene materials, immoral theatrical performance and mailing obscene material	Yes - summary	Regional Crown approval
173(1)(b)	Indecent acts	Yes - summary	
173(2)(b)	Exposure	Yes - summary	
175(1)	Causing disturbance, indecent exhibition, loitering, etc.	Yes	
176(1)	Obstructing or violence to or arrest of officiating clergymen	Yes	Crown approval
176(2) and (3)	Disturbing religious worship or certain meetings	Yes	Crown approval
177	Trespassing at night	Yes	
180(1)	Common nuisance	Yes	
182	Dead body	Yes - summary	Regional Crown approval
184(1)(b)	Interception (private communication)	Yes - summary	
184.5(1)(b)	Interception of radio-based telephone communications	Yes - summary	
193(1.1)	Disclosure of information	Yes - summary	
193.1(1)	Disclosure of information received from interception of radio-based telephone communications		
201(2)	Person found in or owner permitting use of gaming/betting house	Yes	
206(1)	Offence in relation to lotteries and games of chance	Yes - summary	Crown approval
206(4)	Buying, taking or receiving lot, ticket or other device	Yes	Crown approval
209(b)	Cheating at play	Yes - summary	Crown approval
213(1)	Stopping or impeding traffic	Yes - summary	

213(1.1)	Communicating to provide sexual services for consideration	Yes - summary	Crown approval
215(3)(b)	Fail of duty of persons to provide necessities	Yes - summary	Crown approval
218(b)	Abandoning child	Yes - summary	Crown approval
245(1)	Administering noxious thing	Yes - summary	
263(3)(c)	Fail in duty to safeguard opening in ice/excavation on land	Yes - summary	Crown approval
264(3)(b)	Criminal harassment	Yes - summary	Crown approval
264.1(2)(b) 264.1(3)(b)	Uttering threats	Yes - summary	
266(b)	Assault	Yes - summary	
267	Assault w/ a weapon or causing bodily harm/ choking complainant	Yes - summary	Crown approval
269(b)	Unlawfully causing bodily harm	Yes - summary	Crown approval
270(2)(b)	Assaulting a peace officer	Yes - summary	
270.01(2)(b)	Assaulting peace officer w/ weapon or causing bodily harm	Yes - summary	Crown approval
271(b)	Sexual assault	Yes - summary	Regional Crown approval
279(2)(b)	Forcible confinement	Yes - summary	Crown approval
280(1)(b)	Abduction of person under age of 16	Yes - summary	
281(b)	Abduction of person under age of 14	Yes - summary	
282(1)(b)	Abduction in contravention of custody or parenting order	Yes - summary	
286.1(1)(b)	Obtaining sexual services for consideration	Yes - summary	Regional Crown approval
286.4(b)	Advertising sexual services	Yes - summary	
294	Pretending to solemnize marriage	Yes - summary	Crown approval
295(b)	Marriage contrary to law	Yes - summary	Crown approval
300(b)	Publishing defamatory libel known to be false	Yes - summary	
301(b)	Publishing defamatory libel	Yes - summary	
327(1)(a) and (b)	Possession of device to obtain use of telecommunication facility or service	Yes - summary	
333.1(1) (b)	Motor vehicle theft	Yes - summary	
334(a)(ii) and (b)(ii)	Theft	Yes - summary	
335(1)	Taking motor vehicle or vessel or found therein without consent	Yes - summary	

338(2)(a) and (b)	Fraudulently taking cattle or defacing brand	Yes - summary	
339(1)	Taking possession etc. of drift timber	Yes - summary	
339(2)	Dealer in second-hand goods	Yes - summary	
340	Destroying documents of title	Yes - summary	
341(b)	Fraudulent concealment	Yes - summary	Crown approval
342(1)(f)	Theft, forgery, etc of credit card	Yes - summary	Crown approval
342(3)(b)	Unauthorized use of credit card data	Yes - summary	Crown approval
342.1(1)	Unauthorized use of computer	Yes - summary	Crown approval
342.2(1)(b)	Possession of device to obtain unauthorized use of computer system or to commit mischief	Yes - summary	Crown approval
347(1)(a) and (b)	Criminal interest rate	Yes - summary	Crown approval
348(1)	Breaking and entering with intent, committing offence or breaking out	Yes - summary	Regional Crown approval
349(1)	Being unlawfully in dwelling-house	Yes - summary	
351(1)(b)	Possession of break-in instrument	Yes - summary	
351(2)(b)	Disguise with intent	Yes - summary	Crown approval
352(a) and (b)	Possession of instruments for breaking into coin-operated or currency exchange devices	Yes - summary	
353(1)	Selling, etc., automobile master key	Yes - summary	Crown approval
353(4)	Failure to keep records	Yes	
353.1(4)(b)	Tampering with vehicle identification number	Yes - summary	Crown approval
355 (b)	Possession of property obtained by crime	Yes - summary	
356(3)(b)	Theft from mail	Yes - summary	
357(b)	Bringing into Canada property obtained by crime	Yes - summary	
362(2)(b), (3)(b)	Obtain anything in respect of which the offence of theft may be committed or causes it to be delivered to another person, etc.	Yes - summary	
363	Obtaining execution of valuable security fraud	Yes - summary	
364(1)	Fraudulently obtaining food, beverage or accommodation	Yes	
367(b)	Forgery	Yes - summary	
368(1.1)(b)	Use possess or traffic forged document	Yes - summary	
368.1	Forgery instruments	Yes - summary	

372(4)(b)	False information, indecent communications and harassing communications	Yes - summary	
377(1)	Damaging documents	Yes - summary	
380	Fraud	Yes - summary	
381	Using mails to defraud	Yes - summary	
387	Fraudulent sale of real property	Yes - summary	Crown approval
388	Misleading receipt	Yes - summary	
389(1)	Fraudulent disposal of goods on which money advanced	Yes - summary	
390	Fraudulent receipts under <i>Bank Act</i>	Yes - summary	
392	Disposal of property to defraud creditors	Yes - summary	Crown approval
393(1) and (2)	Fraud in relation to fares, etc.	Yes - summary	
393(3)	Fraudulently obtaining transportation	Yes - summary	
394(5)	Fraud valuable minerals	Yes - summary	Crown approval
394.1(3)(b)	Possession of stolen or fraudulently obtained valuable mineral	Yes - summary	Crown approval
396(1)	Offences in relation to mines	Yes - summary	Crown approval
397(1)	Destroy, etc. book or document	Yes - summary	Crown approval
397(2)(b)	Privy to 397(1)	Yes - summary	Crown approval
398	Falsifying employment record	Yes	
399	False return by public officer	Yes - summary	Regional Crown approval
400(1)	False prospectus, etc.	Yes - summary	Crown approval
401(1)	Obtaining carriage by false billing	Yes - summary	
402.2(5)	Identity theft and trafficking in identity information	Yes - summary	Regional Crown approval
403(3)	Identity fraud	Yes - summary	
412b)	Used goods sold without disclosure, forging trademark, passing off, instruments for forging trademark, other offences re trademarks	Yes - summary	Crown approval
415(g)	Offences re wreck	Yes - summary	
417(1)	Applying ore removing marks without authority	Yes - summary	
417(2)(b)	Unlawful transactions in public stores	Yes - summary	
420(1)(b)	Military stores	Yes - summary	
422(g)	Criminal breach of contract	Yes - summary	
425	Offences by employers	Yes	Crown approval
425.1(2)(b)	Threats and retaliation against employees	Yes - summary	Crown approval

426(3)(b)	Secret commissions	Yes - summary	Crown approval
430(3)(b) and (4)(b)	Mischief	Yes - summary	
430(4.1)(b)	Mischief to religious property, educational institutions, etc.	Yes - summary	
430(4.11)(c)	Mischief to war memorials	Yes - summary	
430(4.2)(b)	Mischief cultural property	Yes - summary	
430(5)(b)	Mischief to computer data	Yes - summary	
430(5.1)(b)	Wilfully do or omit to do an act that is likely to cause danger to life, etc.	Yes - summary	Crown approval
432(1)(b)	Unauthorized recording of a movie	Yes - summary	
432(2)(b)	Unauthorized recording for purpose of sale, etc.	Yes - summary	
437(b)	False alarm of fire	Yes - summary	
438(1)	Interfering with saving of wrecked vessel	Yes - summary	
438(2)	Interfering with saving of wreck	Yes	
439(1)	Interfering with marine signal	Yes - summary	
439(2)(b)	Interfering with marine signal	Yes - summary	
440(b)	Removing natural bar without permission	Yes - summary	
441(b)	Occupant injuring building	Yes - summary	
442	Interfering with boundary lines	Yes	
443(1)	Interfering with international boundary marks	Yes - summary	
445(2)(b)	Injuring or endangering other animals	Yes - summary	Crown approval
445.1(2)(b)	Causing unnecessary suffering	Yes - summary	Crown approval
445.2(5)	Cretaceans	Yes	Crown approval
446(2)(b)	Causing damage or injury	Yes - summary	Crown approval
447(2)(b)	Arena for animal fighting	Yes - summary	Crown approval
451(b)	Having clippings	Yes - summary	
454	Slugs and tokens	Yes	
456	Defacing current coins	Yes	
457(3)	Likeness of bank-notes	Yes	
460(1)	Advertising and dealing in counterfeit money	Yes - summary	
463(c) and (d)(ii)	Attempt to commit or accessory after the fact to the commission of offences	Yes - summary	Crown approval
464(b)	Counselling offence that is not committed	Yes - summary	Crown approval

465(1)(d)	Conspiracy	Yes - summary	Regional Crown approval
486.6(1)	Failure to comply with 486.4(1) to (3) or 486.5(1) or (2) order	Yes	Crown approval
517(2)	Fail to comply with a 517(1) ban publication of bail hearing	Yes - summary	Regional Crown approval
539(3)	Fail to comply w/ order restricting publication of prelim evidence	Yes - summary	Regional Crown approval
672.37(3)	Application for federal employment offence	Yes - summary	
672.501(1)	Fail to comply w/ order restricting publication – sexual offences	Yes - summary	Regional Crown approval
733.1(1)	Breach of probation	Yes - summary	
811(b)	Breach of recognizance	Yes - summary	
CDSA 4(4)(b)	Possession of a substance	Yes- summary	

Source: Department of Justice and Public Safety. (2021). *Revised Offence Schedule for Alternative Measures (Adult Schedule)*.

Appendix B: Standard Introduction of Risk Screening Tools to Participants

When introducing risk screening and assessment tools to participants, it is important for Coordinators to recognize the sensitive nature of the questions being asked. Participants 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 Alternative Measures 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/work, friends, family, alcohol/drugs, past trouble with the police, and how you think about certain things. Experience tells us that when adults 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 	<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 All offences involving Domestic/Intimate Partner violence and children harmed are post-charge only and require further Regional Crown approval in order to be eligible. D/IPV and sexual violence offences would also require a referral to Victim Services and charges laid in order to be eligible. Adult must accept responsibility Adult must be aware of the program and consent to participate Those facing a pending charge may still be eligible for diversion if approved by a Crown Prosecutor NO limit to the number of times referred

		<ul style="list-style-type: none"> Youth with addictions, mental health concerns or intellectual disabilities can be considered 	<ul style="list-style-type: none"> Youth record does not preclude eligibility Views of the person harmed must be considered Adults with addictions, mental health concerns, or intellectual 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</p> <p>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</p> <p>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 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
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	Can be used to allow the participant to take responsibility but	Can be used to allow the participant to take responsibility and to repair	Can be used to allow the participant to take responsibility and to repair

	reparation of harm is limited to accountability described above.	the harm caused to the person harmed.	the harm caused to the person harmed.
Non-compliance Options	No opportunity to re-visit the charge	Can re-visit the charge (12-month statute of limitations apply to pre-charge referrals)	Can re-visit the charge (12-month statute of limitations apply to pre-charge referrals)
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 • Program 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 • Program Agreement Form

References

¹ Andrews, D.A., & Bonta, J. (2010). *The psychology of criminal conduct* (5th edition). New Providence, NJ: Anderson Publishing.

² Canadian Institute for Health Information. (2008). *Improving the health of Canadians: Mental health, delinquency, and criminal activity*. Ottawa, ON: Canadian Institute for Health Information.

³ Kirby, M. J. L., Hon., & Keon, W. J., Hon. (2006, May). *Out of the shadows at last - Transforming mental health, mental illness, and addiction services in Canada: Final Report of the Standing Senate Committee on Social Affairs, Science and Technology*. Ottawa, ON: Parliament of Canada.

⁴ Sorenson, K. (2010). *Mental health and drug and alcohol addiction in the federal correctional system: Report of the Standing Committee on Public Safety and National Security*. Ottawa, ON: Parliament of Canada.

⁵ Trevethan, S., Moore, J.-P., & Rastin, C. J. (2002). *A profile of Aboriginal offenders in federal facilities and serving time in the community*. FORUM on Corrections Research, 14(3), 17-19; Canadian Institute for Health Information. (2008). *Improving the health of Canadians: Mental health, delinquency, and criminal activity*. Ottawa: Canadian Institute for Health Information.

⁶ Institute for the Prevention of Crime. (2008). *Making cities safer: Canadian strategies and practices*; Sprott, J., Jenkins, J., & Doob, A. (2000). *Early offending: Understanding the risk and protective factors of delinquency*. HRDC Catalogue no. W-01-1-9E.; U.S. Surgeon General. (2001). *Youth violence: A report of the Surgeon General*. Rockville, MD: Public Health Service.; World Health Organization. (2002). *World Report on Violence and Health*.

⁷ Andrews, D.A., & Bonta, J. (2010). *The psychology of criminal conduct* (5th edition). New Providence, NJ: Anderson Publishing.; Bartol, C.R., & Bartol, A.M. (2011). *Criminal behaviour: A psychological approach* (9th edition). New York, NY: Prentice Hall.; Public Safety Canada. (2011). *Crime prevention*. Retrieved from: <http://www.publicsafety.gc.ca/prg/cp/index-eng.aspx>; Serin, R., Forth, A., Brown, S., Nunes, K., Bennell, C., & Pozzulo, J. (2011). *Psychology of criminal behaviour*. Toronto, ON: Pearson Canada.; World Health Organization. (2002). *World Report on Violence and Health*.