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Canadian Centre for Justice Statistics



Statistics Canada – Catalogue no. 85-002-XIE Vol. 20 no. 6

ALTERNATIVE MEASURES IN CANADA, 1998-99

by Cheryl Engler and Shannon Crowe

Highlights

- Alternative measures are formalized programs across Canada by which offenders who would otherwise proceed to court are dealt with through non-judicial, community-based alternatives. Typical programs could include community service, personal service or financial compensation to a victim, apologies, or educational sessions.
- In 1998-99, 33,173 youth cases reached agreement to participate in alternative measures. For every 10,000 youth in Canada, 135 participated in alternative measures.
- Among jurisdictions, Alberta had the highest rate of youth assigned to alternative measures (384 per 10,000 youth). British Columbia (63) and Ontario (66) had the lowest participation rates.
- Males represented the majority of youth participating in alternative measures. Almost two-thirds (63%) of alternative measures cases involved males. However, this is lower than the proportion of cases heard in youth courts involving males (79%).
- Six out of ten youth assigned to alternative measures were 15 years of age or older.
- Aboriginal youth are disproportionately represented in alternative measures. While representing 4% of the youth population, Aboriginal youth accounted for 15% of alternative measures cases in jurisdictions that were able to provide data.
- For the second year in a row, youth who committed property-related crimes were most often referred to alternative measures. Over one-half (57%) of all cases in alternative measures were for theft under \$5,000.
- Similar to that found in 1997-98, the most frequent types of alternative measures interventions administered to youth in 1998-99 were community service (22%) and apologies (17%).
- The majority of youth in alternative measures successfully completed all measures agreed to (93%).
- Six jurisdictions were able to report data for adult alternative measures in 1998-99 (Prince Edward Island, Nova Scotia, New Brunswick, Saskatchewan, Alberta, and British Columbia). Among these jurisdictions, 13,226 cases reached agreement to participate in adult alternative measures. This is equivalent to a rate of 17 per 10,000 adults in the populations of these jurisdictions (this does not include Saskatchewan, as they could only report on 45% of all adult alternative measures cases).



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This product, Catalogue no. 85-002-XPE, is published as a standard printed publication at a price of CDN \$10.00 per issue and CDN \$93.00 for a one-year subscription.
ISSN 0715-271X

The following additional shipping charges apply for delivery outside Canada:

| | Single issue | Annual subscription |
|-----------------|--------------|---------------------|
| United States | CDN \$ 6.00 | CDN \$ 78.00 |
| Other countries | CDN \$ 10.00 | CDN \$ 130.00 |

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ISSN 1209-6393

July 2000

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INTRODUCTION

In recent years, highly publicized cases of violent crime have drawn attention to the way in which offenders are dealt with in the Canadian justice system and the effect of offender's actions on victims. While the crime rate has been decreasing (Tremblay, 1999), serious crime, especially crimes perpetrated by youth, remain a growing concern for the general public.

Concerns about youth crime are being examined by researchers who seek to understand what events lead people to commit crimes. Studies show that a history of offences, increasing in severity, often characterize adult-aged violent offenders. Some studies contend that re-offending can be prevented if the first offence (usually committed at a young age) is subject to restorative, rather than punitive, measures (Braun, 1996; MacKillip & Trevethan, 1997).

It is also argued that although introducing individuals to the justice system may succeed in showing them that there are consequences associated with breaking the law, the experience itself can have more negative than positive consequences. According to criminology 'labeling' theory, the psychological and social consequences of early deviance and subsequent participation in the justice system serve to 'label' individuals as 'offenders'. For youth, interaction with more experienced young offenders in correctional facilities can impede an offender's rehabilitation. It may also result in reinforcing a 'criminal' self-perception in the individual (Williams & McShane, 1994). This theory has aided the development of formal 'diversionary' methods of addressing the crimes of first-time offenders.

Diversion is a process by which individuals are dealt with through non-judicial, community-based alternatives rather than the formal judicial process. Currently, two forms of diversion are in use in Canada: *police discretion*, which is utilized primarily by police departments and does not involve the court system, and *alternative measures*, which are usually administered by the Crown. Alternative measures involves the individual accepting responsibility for the offence and consequences follow to ensure accountability. The purpose of this *Juristat* is to provide information on the administration of alternative measures in Canada, and its relative success in diverting individuals out of the court system. The report will focus on alternative measures for youth, but also includes a short section presenting data on adult alternative measures.

Box 1: Police Discretion

Police discretion is an informal measure used by police officers to keep persons alleged to have committed a crime from being involved in the justice system. If the youth is a first-time offender and the offence is relatively minor, the police officer may decide not to lay formal charges. Instead, the youth may be required to apologize to the victim, or the police may escort the youth home to discuss the incident with his/her parents. The police may also make voluntary referrals to community agencies.

The primary data source for this report is the Alternative Measures Survey for Youth and Adults. Data were provided for alternative measures cases involving youth aged 12 to 17 and for adults 18 and older. This *Juristat* represents the first time data on alternative measures for adults have been collected at a national level. Data on alternative measures for 1998-99 for both youth and adults are described based on case commencement (the number of cases reaching agreement), the seriousness of the offence, the alternative measure assigned to the individual, and the case's outcome. Some comparisons to 1997-98 data will be made.

What are alternative measures?

Broadly speaking, alternative measures aim to divert persons accused of less serious crimes out of the justice system. They are formalized programs through which persons who would otherwise proceed to court are dealt with through non-judicial, community-based alternatives. They offer individuals the opportunity to avoid the

consequences of a criminal record¹, while holding them accountable in a manner that is visible to the community. From an operational standpoint, alternative measures are also meant to reduce the number of persons going through the traditional court system.

In order to proceed to alternative measures, the individual must acknowledge responsibility for the offence. Generally, individuals facing minor charges without previous records are eligible. Typical alternative measures programs include personal service to a victim, financial compensation to a victim, community service, educational sessions, personal or written apologies, and essays or presentations related to the offence.

Legislation governing youth alternative measures is set out in Section 4 of the *Young Offenders Act (YOA)* (see Box 2). There are proposals before the Parliament that may change how youth are treated in the criminal justice system, for example, the *Youth Criminal Justice Act (YCJA)* (see Box 3). Adult alternative measures legislation is contained in Bill C-41, passed in 1996. The provisions of this legislation are very similar to the ones for youth.

Alternative measures are administered differently from one jurisdiction to another. Alternative measures may be offered at the pre-charge stage, the post-charge stage, or both². The delivery of alternative measures may be through government agencies such as probation services, through non-governmental organizations, or through Youth Justice Committees as allowed by section 69 of the *Young Offenders Act*. The types of alternative measures assigned to an individual may vary, as do eligibility requirements. As a result, any inter-jurisdictional comparisons of data on alternative measures should be made with caution.

The alternative measures process

Figures 1 and 2 illustrate the alternative measures process for youth and for adults (for a more in-depth discussion of the alternative measures process, please see MacKillop, 1999). Generally, the alternative measures process comprises four basic steps: referral, authorization, agreement, and outcome.

Box 3: The Youth Criminal Justice Act

It is expected that Bill C-3, the *Youth Criminal Justice Act (YCJA)*, will be enacted to replace the *Young Offenders Act (YOA)*. While the YOA permits the authorization of alternative measures programs by the Attorneys General in each of the jurisdictions, the YCJA goes further to encourage the use of alternative measures - to be known as Extrajudicial Sanctions. This will be done through a variety of means, including: a) creating a presumption that Extrajudicial Sanctions, rather than court proceedings, are to be used for non-violent first offenders, b) by requiring police officers, before laying a charge, to consider taking no further action, issuing a warning, administering a caution, or making a referral to a community based program, c) establishing as a principle that Extrajudicial Measures are often the most appropriate and effective way to address youth crime, and d) clarifying that access to Extrajudicial Sanctions does not need to be restricted to first time offenders. It is expected the implementation of the YCJA will lead to a decrease in the number of young persons being processed through youth court.

Department of Justice Canada: personal communication, April 2000.

Box 2: Section 4 of YOA: The Legal Framework for the Operation of Alternative Measures Programs for Youth

Alternative Measures are authorized by the Attorney General in each province and territory in accordance with s.4 of the YOA.

- 4 (1) Alternative measures may be used to deal with a young person alleged to have committed an offence instead of judicial proceedings under this Act only if:
 - (a) the measures are part of a program of alternative measures authorized by the Attorney General or his delegate or authorized by a person, or a person within a class of persons, designated by the Lieutenant Governor in Council of a province;
 - (b) the person who is considering whether to use such measures is satisfied that they would be appropriate, having regard to the needs of the young person and the interests of society;
 - (c) the young person, having been informed of the alternative measures, fully and freely consents to participate therein;
 - (d) the young person has, before consenting to participate in the alternative measures, been advised of his right to be represented by counsel and been given a reasonable opportunity to consult with counsel;
 - (e) the young person accepts responsibility for the act or the omission that forms the basis of the offence that he is alleged to have committed;
 - (f) there is, in the opinion of the Attorney General or his agent, sufficient evidence to proceed with the prosecution of the offence; and,
 - (g) The prosecution of the offence is not in any way barred at law.
- (2) Alternative measures shall not be used to deal with a young person alleged to have committed an offence if the young person:
 - (a) denies his participation or involvement in the commission of the offence; or
 - (b) expresses his wish to have any charge against him dealt with by the youth court.

Adult legislation

With respect to adults, the proclamation of *Bill C-41* in September 1996 provided for the establishment of formal adult alternative measures programs. These programs are authorized pursuant to section 717 of the *Criminal Code (Canada)* and provisions are very similar to those for youth programs.

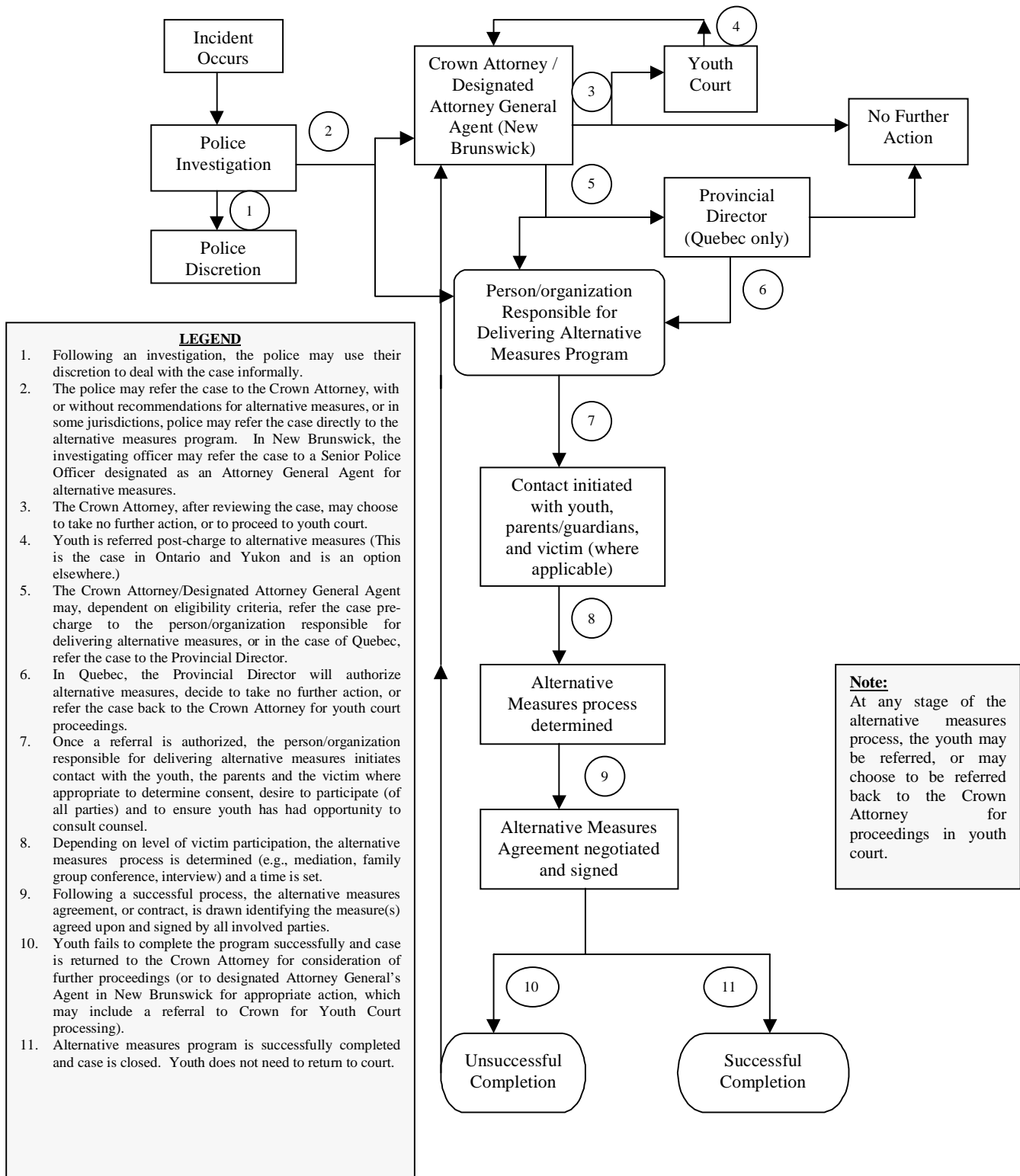
In most provinces and territories³, referrals to alternative measures programs originate from the Crown Attorney. However, the police play an important role in the overall delivery of alternative measures programs. When called to investigate a specific incident, police can exercise discretion, lay a charge, or recommend a referral to alternative measures.

¹ Under section 45(1d) of the Young Offenders Act, a record is retained and can be disclosed for up to two years. This may not occur in some instances of pre-charge alternative measures.

² Alternative measures programs for youth in Canada, with the exception of New Brunswick, Ontario and Yukon, are combined pre-and post-charge programs. In New Brunswick, Alberta and Manitoba, alternative measures are pre-charge only. In Ontario and Yukon, alternative measures are post-charge; although in Yukon, youth are occasionally referred at pre-charge.

³ In Manitoba and the Northwest Territories, the Crown Attorney may delegate the authority to refer persons to alternative measures to the police. In New Brunswick, police officers are designated attorney general agents for the purpose of alternative measures, and in Quebec, all referrals come from the Provincial Director.

Figure 1: Alternative Measures Process for Youth

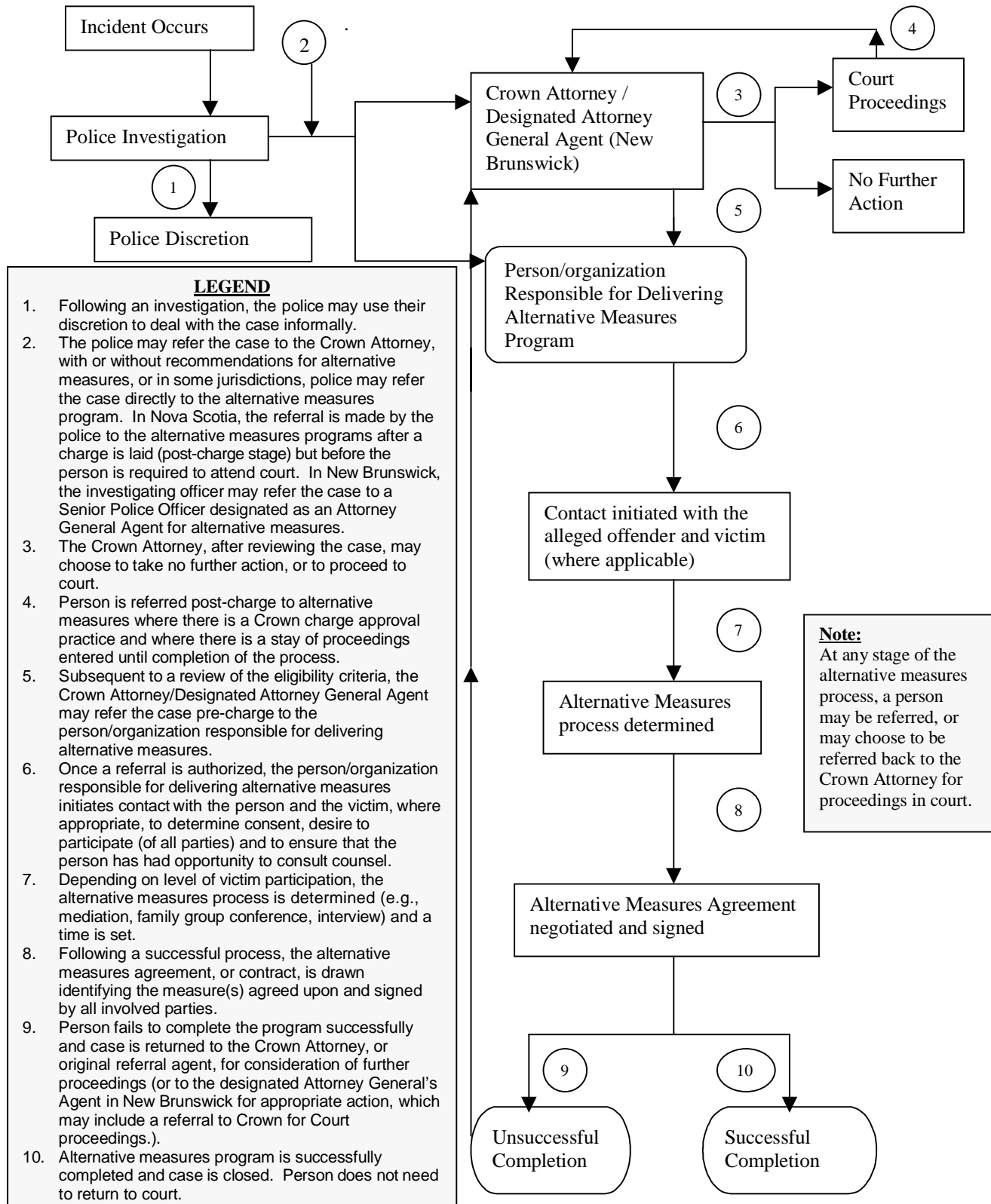


LEGEND

1. Following an investigation, the police may use their discretion to deal with the case informally.
2. The police may refer the case to the Crown Attorney, with or without recommendations for alternative measures, or in some jurisdictions, police may refer the case directly to the alternative measures program. In New Brunswick, the investigating officer may refer the case to a Senior Police Officer designated as an Attorney General Agent for alternative measures.
3. The Crown Attorney, after reviewing the case, may choose to take no further action, or to proceed to youth court.
4. Youth is referred post-charge to alternative measures (This is the case in Ontario and Yukon and is an option elsewhere.)
5. The Crown Attorney/Designated Attorney General Agent may, dependent on eligibility criteria, refer the case pre-charge to the person/organization responsible for delivering alternative measures, or in the case of Quebec, refer the case to the Provincial Director.
6. In Quebec, the Provincial Director will authorize alternative measures, decide to take no further action, or refer the case back to the Crown Attorney for youth court proceedings.
7. Once a referral is authorized, the person/organization responsible for delivering alternative measures initiates contact with the youth, the parents and the victim where appropriate to determine consent, desire to participate (of all parties) and to ensure youth has had opportunity to consult counsel.
8. Depending on level of victim participation, the alternative measures process is determined (e.g., mediation, family group conference, interview) and a time is set.
9. Following a successful process, the alternative measures agreement, or contract, is drawn identifying the measure(s) agreed upon and signed by all involved parties.
10. Youth fails to complete the program successfully and case is returned to the Crown Attorney for consideration of further proceedings (or to designated Attorney General's Agent in New Brunswick for appropriate action, which may include a referral to Crown for Youth Court processing).
11. Alternative measures program is successfully completed and case is closed. Youth does not need to return to court.

Note:
At any stage of the alternative measures process, the youth may be referred, or may choose to be referred back to the Crown Attorney for proceedings in youth court.

Figure 2: Alternative Measures Process for Adults



It is the referral, or authorization, of the Crown that determines whether an alternative measures program is appropriate for a given offender. The Crown reviews the case and determines whether there is sufficient evidence to support a charge. Then they decide if an alternative measures program is appropriate. Then they proceed with a referral to the appropriate organization. If the referral is at the post-charge stage, as is always the case in Ontario and is an option in other jurisdictions, the Crown will usually put the charge on hold (or, enter a stay of proceedings) until the process is complete.

Although victim participation is not a prerequisite to a person's participation in alternative measures, the victim's input is usually sought by the organization responsible for delivering alternative measures. The extent of victim participation in the alternative measures process and the role they play differs across the country and often within jurisdictions. In jurisdictions where the process of negotiating an alternative measure consists of an interview with the offender, the victim may not be required to be present. While victim participation is desirable in alternative measures, a victim's decision not to participate will not affect the eligibility of an offender for the program.

Once all parties agree to an alternative measures program, an agreement is developed. The terms and conditions of the agreement are tailored to fit the circumstances of the offence, taking into account the attitude and motivation of the person as well as the needs and concerns of the community and the victim. When the all of the terms of the alternative measures agreement are met, the case is 'completed successfully' and charges (if it is a post-charge referral), which were previously stayed, are withdrawn at another court appearance. A case can be partially closed when the terms of an agreement are only partially met.

Procedures for non-compliance vary across Canada. If a person is alleged to have committed a new offence while in alternative measures, this may not affect the person's right to continue with the current alternative measures, except in cases where custody is required. In a case where the person is no longer willing to complete the alternative measures, the supervising agency may close the case without any further action, or refer it back to the Crown. In this case, the Crown may consider another term in alternative measures, prosecute the case in court, or close the case and take no further action. The offender would, in this case, be prosecuted for the original offence, not a breach of the alternative measures agreement.

ALTERNATIVE MEASURES FOR YOUTH

In 1998-99, 33,173 youth alternative measures cases reached agreement in Canada (see Table 1). In other words, for every 10,000 youth in Canada in 1998-99, 135 participated in alternative measures. This cannot be directly compared to the previous year because data for British Columbia were not available for 1997-98. If British Columbia is removed from the 1998-99 total, the number of cases reaching agreement would be 30,999, a slight decline from the 32,872 cases reaching agreement in 1997-98. However, excluding British Columbia, the rate increased from 134 youth per 10,000 in 1997-98 to 145 in 1998-99.

To place these rates in context, a comparison with police charge rates and youth court rates can be made. Whereas 135 youth per 10,000 participated in alternative measures, 439 youth per 10,000 were charged by police in 1998 (Tremblay, 1999) and 435 cases per 10,000 were brought to youth court in 1998-99 (CCJS, 2000)⁴.

Box 4: Interpreting alternative measures

For the purpose of this report, analysis is based on cases that have reached agreement to participate in the alternative measures process. A case refers to one person's activity in alternative measures for an incident. An incident is a specific event wherein the person is alleged to have committed one or more related offences, with or without victims. "Related" refers to a sequence of criminal actions that occurred at the same location or in which one action led to the occurrence of another.

A more comprehensive analysis of alternative measures would be to examine the number of youth who received alternative measures out of the total number who were apprehended by the police. However, because alternative measures can be pre- or post-charge, the population of youth who had contact with the police is not currently available.

Alberta had the highest rate of youth assigned to alternative measures

For the second year in a row, Alberta had the highest youth participation rate (384) in alternative measures⁵ (see Figure 3). Saskatchewan had the second highest rate with 186 per 10,000 youth, followed by Quebec (165), and Prince Edward Island (155). British Columbia and Ontario had the lowest participation rates among the jurisdictions, with 63 and 66 youth participating in alternative measures per 10,000, respectively.

Table 1

| | 1997-98 | | 1998-99 | |
|-----------------------|-----------------|-------------------|-----------------|-------------------|
| | Number of cases | Rate ¹ | Number of cases | Rate ¹ |
| Newfoundland | 780 | 150 | 502 | 101 |
| Prince Edward Island | 180 | 153 | 187 | 155 |
| Nova Scotia | 1,182 | 155 | 1,010 | 134 |
| New Brunswick | 718 | 115 | 726 | 117 |
| Quebec | 9,683 | 167 | 9,279 | 165 |
| Ontario | 7,294 | 81 | 6,000 | 66 |
| Manitoba | 1,934 | 201 | 1,509 | 155 |
| Saskatchewan | 1,731 | 179 | 1,796 | 186 |
| Alberta | 9,111 | 359 | 10,014 | 384 |
| British Columbia | .. | .. | 2,003 | 63 |
| Yukon | 47 | 168 | 42 | 140 |
| Northwest Territories | 212 | 312 | 105 | 150 |
| Canada | 32,872 | 134 | 33,173 | 135 |

¹ Rate is per 10,000 youth.

.. Figures not available.

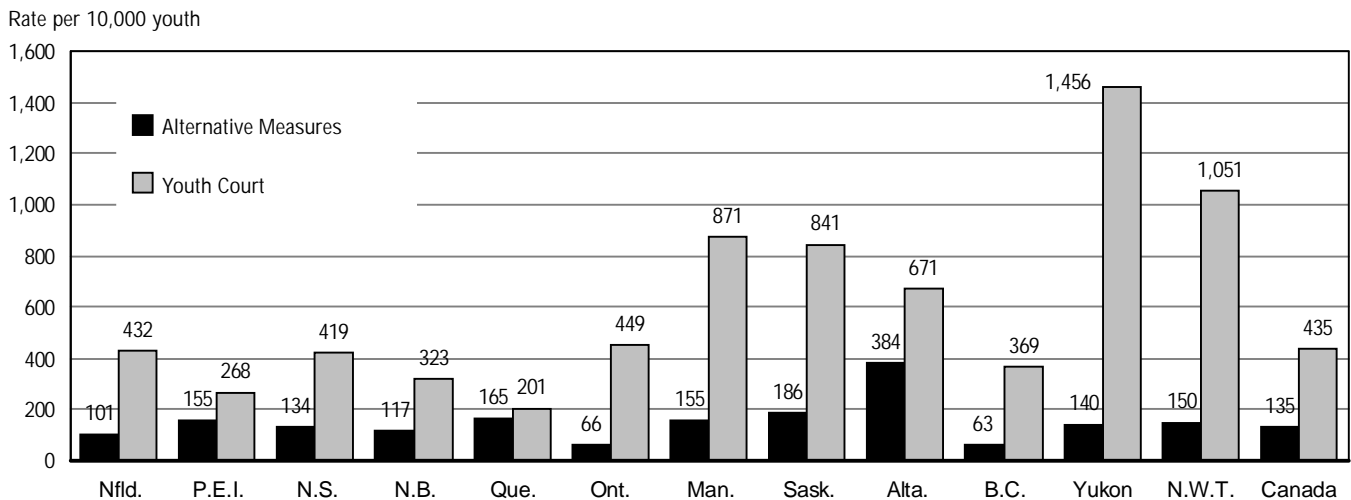
Source: Canadian Centre for Justice Statistics, Alternative Measures Survey 1997-98 and 1998-99.

⁴ We can examine differences among jurisdictions in those going through alternative measures versus those going to court. However, caution should be used because some jurisdictions use post-charge alternative measures, so there may be double counting in police and youth court data.

⁵ Alberta's high rate of youth participation is partly explained by their use of caution letters, which accounted for 16% of their active caseload in 1998-99.

Figure 3

Participation in Alternative Measures and Youth Court Caseload, 1998-99, by Jurisdiction



Sources: Canadian Centre for Justice Statistics. *Alternative Measures Survey (1998-99)* and the *Youth Court Survey (1998-99)*. Updated post-censal estimates for 1998, Demography Division, Statistics Canada.

Table 1 illustrates the differences in participation rates in alternative measures from 1997-98 to 1998-99. The participation rate increased in four jurisdictions. Alberta and Saskatchewan showed the largest increases in participation rates. Alberta had a participation rate of 384 per 10,000 in 1998-99 compared with 359 in 1997-98. Saskatchewan had a rate of 186 in 1998-99 compared with 179 in 1997-98. The participation rate decreased in the remaining seven jurisdictions. The Northwest Territories, Newfoundland and Manitoba showed the largest decreases in participation rates, with the rate for the Northwest Territories decreasing from 312 to 150 per 10,000, Newfoundland from 150 to 101, and Manitoba from 201 to 155 per 10,000.

As noted above, there were higher rates of youth brought to court than were sent to alternative measures in 1998-99 (Figure 3). The rate of youth brought to court (435) is about four times the rate of youth participating in alternative measures (135). For the second year in a row, the largest difference in participation rates occurred in Yukon, which had the highest rate of youth being brought to court across Canada (1,456 per 10,000), but a fairly low youth participation rate in alternative measures (140). In contrast, Quebec had the most similar rates for youth cases heard in court and youth participation in alternative measures (201 and 165, respectively).

Age and sex of youth in alternative measures⁶

Males represent the largest proportion of youth participating in alternative measures. Males accounted for almost two-thirds (63%) of the alternative measures cases, while females made up the remaining 37% of cases. This is similar to 1997-98. However, the proportion of females participating in

alternative measures is almost double the proportion of female cases heard in youth courts (21%) (CCJS, 2000), and police-reported incidents by female youth (23%) (CCJS, 1999).

The largest proportion of youth participating in alternative measures were 15 years of age (21%)⁷. Youth 16 years of age or 17 and older each represented 20% of youth in alternative measures. Youth aged 14 represented 19%. Smaller proportions of youth were 13 or 12 or under (13% and 7%, respectively). For the second year, six out of ten youth assigned alternative measures were 15 years of age or older. This is younger than cases heard in youth court (26% of all youth were 17 years of age) (CCJS, 2000).

The involvement of male youth in alternative measures tended to increase with age, while female involvement peaked at 15 years of age (see Figure 4). Fourteen percent of youth participating in alternative measures were males 17 years of age or older. Females in alternative measures were slightly younger than their male counterparts, with 9% of youth being females aged 15. These proportions are consistent with 1997-98.

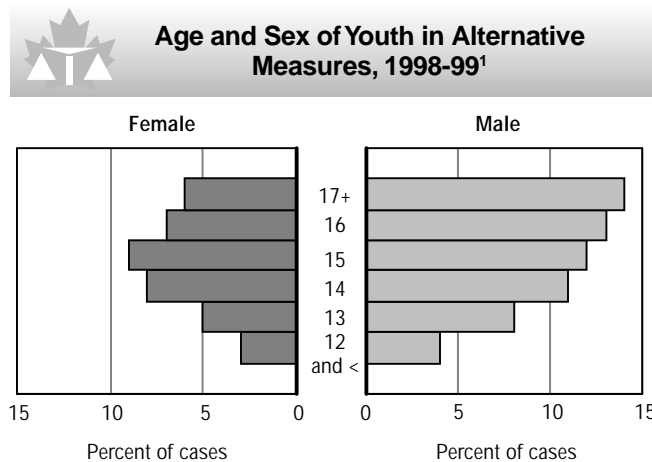
Aboriginal youth are over-represented among those in alternative measures

Aboriginal youth are disproportionately represented at all levels of the criminal justice system, including alternative measures programs. While representing 4% of the youth population, Aboriginal youth accounted for 15% of alternative

⁶ Data on age and sex were not available for Quebec.

⁷ The age of the young person is recorded at the start date of alternative measures.

Figure 4



¹ Data unavailable for Quebec.
 Source: Canadian Centre for Justice Statistics, Alternative Measures Survey (1998-99).

measures cases in jurisdictions that were able to provide data⁸. This is slightly higher than in 1997-98 (12%). The fact that Aboriginal youth are over-represented in alternative measures programs could be interpreted as a positive development, demonstrating that they are being diverted out of the formal court system. Since data on Aboriginal status are not available from the courts, it cannot be determined whether Aboriginal youth are over-represented among those going through the court system. However, there is an even larger over-representation of Aboriginal youth among those in custody (approximately one quarter of admissions to custody are Aboriginal) (Leonard, Olah & Dilworth, 1999).

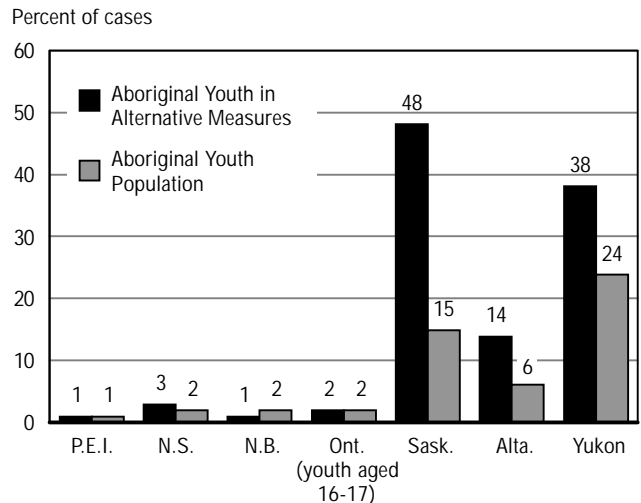
Among those jurisdictions that provided data, the largest proportion of Aboriginal youth participating in alternative measures occurred in Saskatchewan, which made up 48% of alternative measures cases assigned (see Figure 5). This proportion is more than three times higher than Saskatchewan's percentage of Aboriginal youth (15%). In addition to Saskatchewan, both Alberta and Yukon had much higher proportions of Aboriginal youth in alternative measures than their relative proportion of Aboriginal youth in the population. While Aboriginal youth accounted for 6% of the youth in Alberta, 14% of youth participating in alternative measures were Aboriginal. While 24% of Yukon's youth population are Aboriginal, 38% of youth participated in alternative measures were Aboriginal.

For the second year in a row, over one-half of alternative measures cases involved theft under \$5,000⁹

In the majority of alternative measures cases for which data were available, the most serious offences were *property-related* (73%, up from 70% in 1997-98) (see Table 2). Eight percent of alternative measures cases involved *violent offences*, while 15% had committed *other Criminal Code offences* (i.e., mischief, disturbing the peace). The remaining 4% were federal statute offences or other offences.

Figure 5

Proportion of Aboriginal Youth in Alternative Measures and Aboriginal Youth Population, by Jurisdiction, 1998-99^{1,2}



¹ Data unavailable for Newfoundland, Quebec, Ontario (youth aged 12-15), Manitoba, British Columbia and the Northwest Territories.
² Unknown Aboriginal Status: Prince Edward Island (0%); Nova Scotia (19%); New Brunswick (11%); Ontario (youth aged 16-17) (0%); Saskatchewan (18%); Alberta (44%); Yukon (0%).
 Source: Canadian Centre for Justice Statistics, Alternative Measures Survey (1998-99).

Box 5: Description of crime categories

Violent offences include: murder, manslaughter, infanticide, criminal negligence causing death, attempted murder, sexual offences, assault, robbery, kidnapping, extortion.

Property offences include: break and enter, motor vehicle theft, theft over \$5,000, theft under \$5,000, arson, have stolen goods, fraud.

Other Criminal Code offences include: mischief, disturbing the peace, prostitution, gaming and betting, counterfeiting, obstructing a public peace officer, trespass at night, threatening/harassing phone calls, conspiracies, dangerous operation, other *Criminal Code* traffic violations.

Federal statutes include: drug offences, Bankruptcy Act, Income Tax Act, Canada Shipping Act, Public Health Act, Customs Act, Young Offenders Act, Immigration Act, other Federal Statutes.

Other includes: bail violations, escape custody, failure to appear, breach of probation, offences against the administration of law and justice, failure to provide blood or breath sample, explosives, firearm transfers.

⁸ Data were not available for Newfoundland, Quebec, Ontario (12-15 years), Manitoba, British Columbia and the Northwest Territories. Therefore, the population data from the above-mentioned jurisdictions were also excluded from the calculation of proportions. In the jurisdictions where Aboriginal status data were available, the proportion of 'not stated' ranged from 0% in Prince Edward Island and Yukon to 44% in Alberta.
⁹ Quebec and Ontario (16-17) were unable to provide data for the "most serious offence".

Table 2

Proportion of Youth Cases Reaching Agreement in Alternative Measures by Most Serious Offence and Sex, 1998-99¹

| | Total Number | Violent | Property | Other Criminal Code | Federal Statutes | Other |
|------------------------------|--------------|---------|----------|---------------------|------------------|-------|
| | | % | | | | |
| Newfoundland | | | | | | |
| Total | 719 | 5 | 55 | 20 | 4 | 16 |
| Male | .. | .. | .. | .. | .. | .. |
| Female | .. | .. | .. | .. | .. | .. |
| Prince Edward Island | | | | | | |
| Total | 187 | 17 | 67 | 11 | 5 | 1 |
| Male | 131 | 12 | 66 | 15 | 7 | 1 |
| Female | 56 | 29 | 70 | 2 | - | - |
| Nova Scotia | | | | | | |
| Total | 1,010 | 6 | 69 | 13 | 4 | 8 |
| Male | 577 | 6 | 63 | 18 | 6 | 8 |
| Female | 433 | 7 | 77 | 6 | 1 | 9 |
| New Brunswick | | | | | | |
| Total | 726 | 11 | 61 | 21 | 1 | 6 |
| Male | 540 | 12 | 55 | 25 | 1 | 7 |
| Female | 186 | 10 | 76 | 9 | - | 5 |
| Ontario (12-15) | | | | | | |
| Total | 4,818 | 5 | 82 | 10 | - | 2 |
| Male | 2,874 | 5 | 77 | 16 | - | 2 |
| Female | 1,944 | 4 | 91 | 3 | - | 2 |
| Manitoba | | | | | | |
| Total | 1,509 | 4 | 80 | 14 | 2 | - |
| Male | 898 | 4 | 74 | 19 | 3 | - |
| Female | 611 | 5 | 89 | 6 | - | - |
| Saskatchewan | | | | | | |
| Total | 1,794 | 12 | 61 | 27 | - | - |
| Male | 1,113 | 10 | 57 | 32 | - | - |
| Female | 681 | 15 | 66 | 19 | - | - |
| Alberta | | | | | | |
| Total | 10,014 | 10 | 71 | 13 | 2 | 4 |
| Male | 6,441 | 9 | 68 | 18 | 3 | 3 |
| Female | 3,573 | 11 | 78 | 7 | 1 | 4 |
| British Columbia | | | | | | |
| Total | 2,003 | 11 | 74 | 14 | 1 | 1 |
| Male | 1,280 | 10 | 70 | 18 | 1 | 1 |
| Female | 723 | 12 | 82 | 6 | - | - |
| Yukon | | | | | | |
| Total | 42 | 10 | 57 | 7 | 7 | 19 |
| Male | 24 | 4 | 54 | 8 | 13 | 21 |
| Female | 18 | 17 | 61 | 6 | - | 17 |
| Northwest Territories | | | | | | |
| Total | 87 | 5 | 77 | 19 | - | - |
| Male | 73 | 3 | 81 | 16 | - | - |
| Female | 14 | 14 | 57 | 28 | - | - |
| Canada | | | | | | |
| Total | 22,738 | 8 | 73 | 14 | 1 | 3 |
| Male | 13,850 | 8 | 69 | 18 | 2 | 3 |
| Female | 8,169 | 9 | 81 | 6 | 1 | 3 |

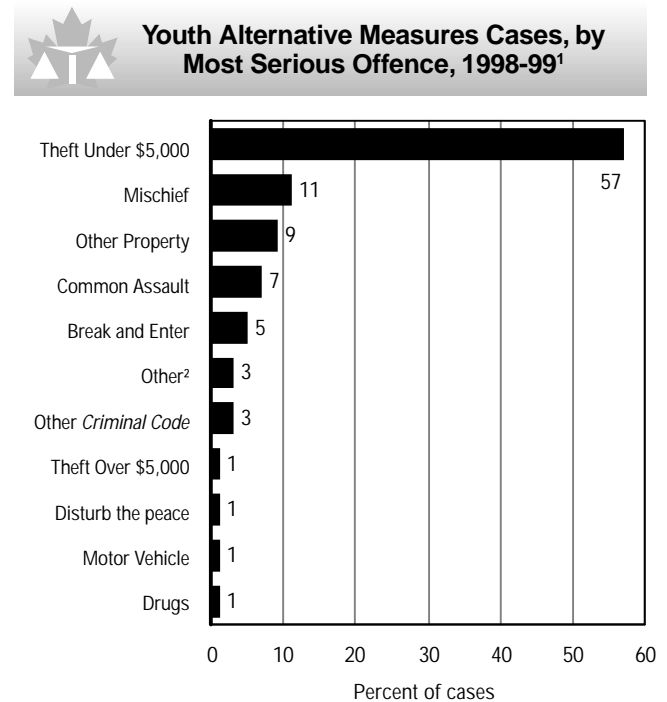
Note: Due to rounding, total may not add up. Gender breakdown unavailable for Newfoundland.

¹ Data unavailable for Quebec and Ontario (16-17).

Source: Canadian Centre for Justice Statistics, Alternative Measures Survey, 1998-99.

Figure 6 provides a breakdown of the most common offences. The largest proportion of alternative measures cases involved theft under \$5,000 (57%). The next largest proportions were for mischief, other property offences, common assault, and break and enter (11%, 9%, 7%, and 5%, respectively).

Figure 6



Note: Due to rounding, totals may not add up.

¹ Data unavailable for Quebec and Ontario (16 and 17 year olds).

² Other² includes offences such as offences against the administration of law and justice, impaired operation/related violations, firearms, other offensive weapons, etc.

Source: Canadian Centre for Justice Statistics, Alternative Measures Survey (1998-99).

While violent offences are not commonly diverted through alternative measures, jurisdictions differed in the proportion of alternative measures cases involving violent offences. Whereas the most serious offences for 8% of all cases involved a violent offence, in Prince Edward Island, 17% of cases involved a violent offence. Prince Edward Island and Yukon also had higher than average proportions of violent offences committed by females participating in alternative measures (29% and 17%, respectively). In both cases, almost all of these violent offences were charges of common assault, the least serious of offences grouped under the category.

Manitoba had the lowest proportion of youth in alternative measures for violent offences (4%) and the highest proportion for property offences (80% compared to 73% at the national level). This is consistent with 1997-98 data. The lowest proportion of cases with property-related offences occurred in Newfoundland (55%). Newfoundland had a higher proportion of 'other' crimes (16% compared to 3% nationally). These points seem to highlight the fact that alternative measures is administered differently in the various provinces and territories.

The majority of youth participating in alternative measures were first-time offenders

On the whole, youth participating in alternative measures had no prior criminal or alternative measures experience. Of jurisdictions that provided data on prior criminal history¹⁰, less than 1% of youth participating in alternative measures had prior findings of guilt. Similarly, only 2% of youth assigned to alternative measures had prior experience in formal diversion. Both of these statistics are consistent with data from 1997-98.

Of the youth participating in alternative measures, most had committed only one offence (89%) in relation to the current case¹¹. Nine percent had committed two offences, and 3% had committed more than two offences. This was similar among the jurisdictions that provided the data. This is also consistent with 1997-98.

Offences were most often committed against a business

Information on the type of victim of youth who were assigned alternative measures was available from a few jurisdictions¹². For the jurisdictions that reported data, 44% of victims were businesses, 39% were offences against persons, 9% were against public property, and 2% were against private property. The remaining 7% of the cases were victimless offences (there was no identifiable victim). This was similar to the findings from 1997-98.

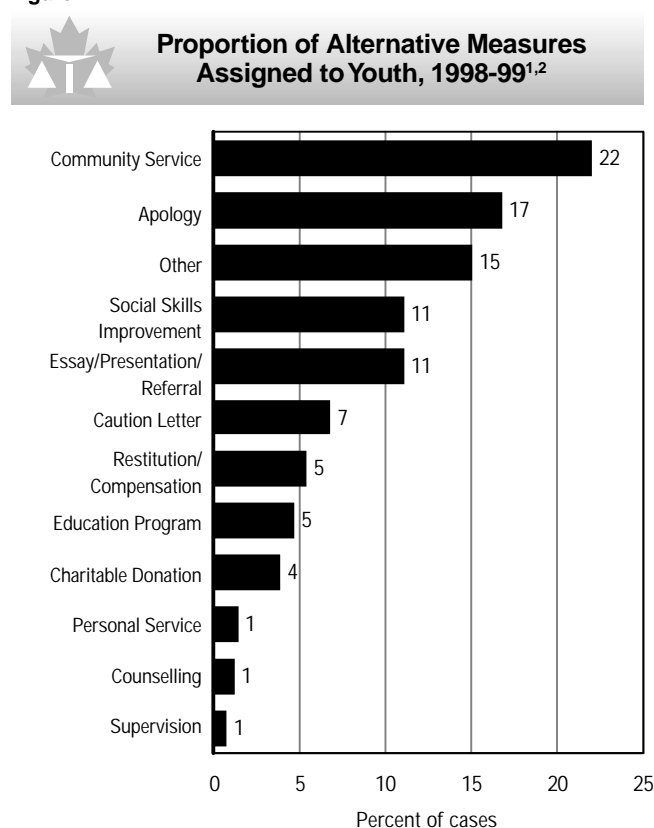
In Newfoundland, Prince Edward Island, and New Brunswick, about one-half of victims were businesses (52%, 45%, and 43%, respectively). However, in Saskatchewan¹³, and Yukon, the largest proportions of victims were a person (50% and 38%, respectively). A smaller proportion of victims in these two jurisdictions were businesses (39% and 29%, respectively).

Data on victim involvement was available from only two jurisdictions: Prince Edward Island and Manitoba. In these two jurisdictions the largest proportions of victims were not involved in the alternative measure process (72% and 69%, respectively).

Community service was the most common alternative measure administered to youth¹⁴

The alternative measures agreement identifies the terms and conditions of the young persons' participation in alternative measures. A youth can be assigned more than one alternative measure intervention. It is possible that some alternative measures, such as apologies, were given in conjunction with other types of alternative measures. As illustrated in Figure 7, the most frequent type of alternative measure administered to youth for those jurisdictions that provided data was community service (22%), followed by an apology (17%) and social skills improvement (11%). Other types of alternative measures were given in 15% of cases. Supervision, personal service and counselling tended to be given the least frequently (1% each). This is similar to 1997-98, when the most frequent types of alternative measures were community service, apologies, and 'other' alternative measures.

Figure 7



¹ More than one type of alternative measures can be recorded per case.
² Data unavailable for Ontario (16 and 17 year olds), and British Columbia and excludes 33% of cases for which the type of alternative measures is unknown. This is primarily due to a large number of unstated cases from Ontario (12-15 year olds) and Alberta.
 Source: Canadian Centre for Justice Statistics. Alternative Measures Survey (1998-99).

Some variations between jurisdictions were identified, notably the use of supervision and caution letters. Yukon continued to administer more supervision than any other alternative measure (30% in 1998-99 and 32% in 1997-98). Supervision was the most widely administered measure in Prince Edward Island, up from 17% in 1997-98 to 27%. In addition, all youth alternative measures cases are supervised in New Brunswick. Caution letters continued to be the most common measure administered in Manitoba (with 24% in 1998-99 and 30% in 1997-98).

¹⁰ Data on prior findings of guilt were available from Manitoba, Alberta, British Columbia and Yukon. In addition to these jurisdictions, data on prior alternative measures were also available from New Brunswick.
¹¹ Data were available from Prince Edward Island, Alberta, British Columbia and Yukon.
¹² Data were available for Newfoundland, Prince Edward Island, New Brunswick, Saskatchewan and Yukon. The type of victim is based on the most serious offence. In cases where the offence took place in a small business, which was housed in a private dwelling, this is scored as a place of business.
¹³ In Saskatchewan, 'Private Property' victims are included in the 'Against Person' category.
¹⁴ Type of alternative measures data were unavailable for Ontario (16-17) and British Columbia.

Box 6: Manitoba - a closer look

Only Manitoba reported to this year's survey in micro-data format. Because micro-data is disaggregated, it is possible to make more comparisons. One possible analysis permitted here is the examination of the type of interventions that youth received by the offence they committed. Of the offence categories that were associated with each of the 1,509 cases reaching agreement in Manitoba, there are six categories that did not contain enough to report on. Therefore, analysis is limited to the remaining eight. It should be noted that particular alternative measures programs are not necessarily assigned to particular offences. However, it is interesting to examine which offence types tend to receive which interventions the most often.

As discussed in the text, the largest proportion of youth in Manitoba received an apology as their intervention. However, differences occurred by offence type. Over a quarter of all youth who committed break and enters or common assaults received an apology as one of their alternative measures (27% and 25%, respectively). Over forty percent of youth who committed theft <\$5,000 were assigned caution letters (41%). Just under a quarter of those youth who committed other property offences received essays, presentations, or referrals (22%). Those youth who had committed drug offences were also assigned essays, presentations or referrals over a quarter of the time (30%).

The most frequent intervention given in Nova Scotia, New Brunswick and Saskatchewan was an apology (31%, 27% and 38%, respectively). In the Northwest Territories, the majority of alternative measures involved restitution and/or compensation (67%). In Newfoundland, the most common intervention was the 'other' category (33%).

Community service and personal service hours were collected to determine the amount of time that a youth is assigned to those interventions¹⁵. For the most part, youth were not assigned more than 50 hours of service, and there were no substantial differences noted between males and females. For those jurisdictions that provided data and assigned youth to community service, 94% of youth were assigned between 1 and 49 hours of service. Similarly, the largest proportion of personal service assigned was for 1-49 hours (94%).

Information on the amount of money that youth were required to pay for restitution/compensation and charitable donations was also collected¹⁶. Among those jurisdictions that were able to provide data, one-third of youth assigned to restitution/compensation was ordered to pay less than \$50 (33%). A further one third was ordered to pay \$150 or more (31%). This is similar to 1997-98. Of the cases where youth were required to donate to a charity, 66% were required to pay less than \$50.

The majority of alternative measures cases were successfully completed

Youth may be considered unsuccessful in alternative measures if they do not complete the terms and conditions of the agreement¹⁷. Of the cases that were closed in 1998-99, 93% of youth successfully completed all measures agreed to¹⁸ (see Table 3). Another 1% partially completed their measures. Approximately equal proportions of males and females successfully completed alternative measures (92% and 93%, respectively). The proportion of successful completions is up from 89% 1997-98. While the majority of alternative

measures cases were successfully completed across all reporting jurisdictions, successful completions varied among the provinces and territories. The proportion of youth successfully completing alternative measures ranged from 85% in Yukon to 95% in Newfoundland and New Brunswick.

Box 7: Manitoba – another look

Of the cases closed in 1998-99 in Manitoba, 90% of youth successfully completed all measures agreed to. A successful outcome would mean that all terms and conditions for a particular case have been completed. With the micro-data provided by Manitoba, it is also possible to examine successful completion of specific interventions.

Among the 1,760 cases closed, 2,300 interventions were given. These were most often caution letters, apologies and essays/presentations/referrals. Although 90% of cases were successfully completed, 99% of the individual interventions were completed. Therefore, in most cases at least some interventions are completed.

Table 3

Outcome of Closed Cases in Alternative Measures for Youth, 1998-99¹

| | Total number | Completed successfully | Partially Completed | Not successfully |
|---------------------------|---------------|------------------------|---------------------|------------------|
| | % | | | |
| Newfoundland | 666 | 95 | 2 | 4 |
| Prince Edward Island | 145 | 92 | 4 | 3 |
| Nova Scotia | 967 | 90 | - | 10 |
| New Brunswick | 771 | 95 | - | 5 |
| Ontario | 6,277 | 94 | 1 | 5 |
| Manitoba | 1,760 | 90 | - | 10 |
| Saskatchewan ¹ | 1,794 | 89 | 4 | 8 |
| Yukon | 36 | 85 | 3 | 12 |
| Total | 12,416 | 92 | 1 | 6 |

¹ Data unavailable for Quebec, Alberta, British Columbia and the Northwest Territories. Outcome not stated for between 1-8% among jurisdictions who provided data.

² Saskatchewan provides information for this survey from two databases. Only one system was able to report on this variable.

Source: Canadian Centre for Justice Statistics, Alternative Measures Survey, 1998-99.

¹⁵ Data on community service hours were only available from Newfoundland, Prince Edward Island, Manitoba, Saskatchewan and Yukon. However, Prince Edward Island and Yukon were unable to provide data for personal service hours.

¹⁶ Data on restitution/compensation were only available from Prince Edward Island, Manitoba, Saskatchewan and Yukon. However, Manitoba does not use charitable donations.

¹⁷ This includes cases when the youth: cannot be located; shows an unwillingness to complete the terms and conditions of the alternative measures agreement; or refutes his/her earlier acceptance of the responsibility or involvement in the offence(s).

¹⁸ Data were not available for Quebec, Alberta, British Columbia and the Northwest Territories.

Some data were also available for the number of cases that were referred back to the Crown¹⁹. Among the seven jurisdictions who provided information, 796 cases were referred back to the Crown in 1998-99. This number cannot be directly compared to the number of cases that reached agreement in 1998-99, since it is possible that the case which was referred reached agreement in a different year. However, it is clear that a very small proportion of alternative measures cases are referred back to the Crown (less than 5%).


ALTERNATIVE MEASURES FOR ADULTS

This report is the first time that an attempt to collect data on adult alternative measures at a national level was made. Only six of the 12 jurisdictions were able to respond for 1998-99, therefore analysis for this section is limited, and does not illustrate adult alternative measures across Canada. Jurisdictions that provided data were Prince Edward Island, Nova Scotia, New Brunswick, Saskatchewan, Alberta and British Columbia. These provinces represent 32% of the Canadian adult population.

In total, 13,226 cases reached agreement for adult alternative measures in 1998-99 for the six reporting jurisdictions²⁰.

The rate of adults in alternative measures was 17 people per 10,000 adults (for the population in the five jurisdictions, excluding Saskatchewan). As shown in Table 4, the rates of adults in alternative measures ranged from 4 per 10,000 adults in New Brunswick to 39 in Alberta.

Table 4

|  | | |
|---|-----------------|-------------------|
| | Number of cases | Rate ² |
| Prince Edward Island | 65 | 6 |
| Nova Scotia | 588 | 8 |
| New Brunswick | 261 | 4 |
| Saskatchewan ³ | 547 | ... |
| Alberta | 8,412 | 39 |
| British Columbia | 3,353 | 11 |
| Total | 13,226 | 17 |

... Figures not applicable or appropriate.

¹ Data unavailable for Newfoundland, Quebec, Ontario, Manitoba, Yukon, Northwest Territories.

² Rate is per 10,000 adults.

³ Saskatchewan's rate could not be calculated because data are only available for approximately 45% of the total number of cases.

Source: Canadian Centre for Justice Statistics, *Alternative Measures Survey, 1998-99*.

Similar to youth, larger proportions of adult males than females participated in alternative measures. Adult males represented 61% of alternative measures cases reaching agreement for the six jurisdictions.

Young adults comprised the largest proportion of adults participating in alternative measures. Close to one-half (49%) of all alternative measures cases involved adults between

18-24. Those between 25-34 years of age were the second most represented group (21%), followed by those aged 35-44 (14%). Only 8% of adults assigned alternative measures were 45-54 years of age, and the remaining 7% were 55 and older. In contrast, in adult court the largest proportion of adults were 25-34 years of age (32%) (Roberts & Grimes, 2000).

As was found with youth, Aboriginal adults were disproportionately represented among those in alternative measures programs. While representing 3% of the adult population, Aboriginal adults accounted for 11% of alternative measures cases in the six jurisdictions²¹.

Property offences were the most common offences committed by adults in alternative measures

The most serious offence (MSO) for two-thirds of adults participating in alternative measures were property offences (67%). Thirteen percent of cases involved violent offences, 17% "other" *Criminal Code* violations (including mischief and disturbing the peace), 2% federal statute offences, and the remaining 2% involved "other" offences. This was similar to youth in alternative measures. However, a lower proportion of adult cases involved property offences (67% versus 73%), and a higher proportion involved violent offences (13% versus 8%).

As illustrated in Figure 8, similar to youth alternative measures, the most common offence was theft under \$5,000, which accounted for just over one-half of all MSOs (55%). Other common offences were common assault, other property offences and mischief (12%, 10% and 10%, respectively).

Supervision the most common alternative measure administered to adults²²

The largest proportion of adults was assigned supervision as one of their alternative measures interventions (44%). Other common interventions were apologies (19%) and community service (12%). Charitable donations (2%), essay/presentation/referral (2%) and caution letters (1%) were the least frequently assigned interventions for adults.

Most adults successfully completed alternative measures²³

Of the adult alternative measures cases closed during 1998-99 in the five jurisdictions that provided data, 87% were completed successfully. A further 6% were partially completed. Only 7% were unsuccessful. Among the five jurisdictions, the proportion of cases that were successfully completed ranged from 84% in British Columbia to 93% in Nova Scotia and New Brunswick.

¹⁹ Data were available for Prince Edward Island, Nova Scotia, Ontario (12-15), Manitoba, Saskatchewan and the Northwest Territories. In addition, Quebec provided the number of cases referred back to the Crown, but no information on sex or age.

²⁰ The number for Saskatchewan represents about 45% of the total number of adult cases in alternative measures. Saskatchewan has other agencies that deal with adult alternative measures that were not able to report data.

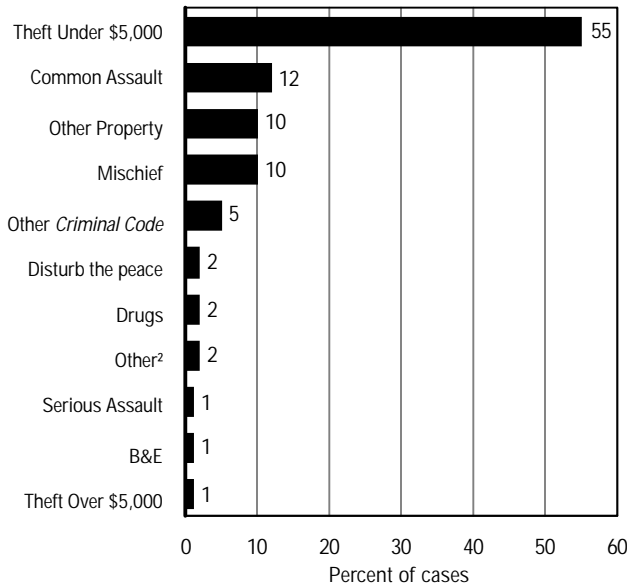
²¹ The proportion of 'not stated' ranged from 0% in Prince Edward Island and British Columbia to 40% in Alberta.

²² Data were not available for Alberta.

²³ Data were not available for Alberta.

Table 8

 **Proportion of Alternative Measures Assigned to Youth, 1998-99^{1,2}**



¹ Data for Prince Edward Island, Nova Scotia, New Brunswick, Saskatchewan, Alberta and British Columbia.

² 'Other' includes offences such as offences against the administration of law and justice, impaired operation/related violations, firearms, other offensive weapons, etc.

Source: Canadian Centre for Justice Statistics. *Alternative Measures Survey (1998-99)*.

METHODOLOGY

Alternative Measures (AM) Survey

The information presented in the *Juristat* uses data from the Alternative Measures Survey conducted by the Canadian Centre for Justice Statistics. The survey provides statistical information on the administration of alternative measures in Canada. The survey collected aggregate or microdata, depending on the reporting capacities of jurisdictions.

While there was substantial variation in coverage in some data elements, the youth survey received a 100% response rate from all jurisdictions. Six jurisdictions provided data on adult alternative measures. Those jurisdictions are: Prince Edward Island, Nova Scotia, New Brunswick, Saskatchewan, Alberta, and British Columbia. There are two years of youth AM data available (reference years 1997-98 and 1998-99). This is the first year that adult AM data have been collected and analyzed at this level.

In regards to youth data, all jurisdictions (with the exception of Manitoba, who sent micro-data) reported their data in aggregate format. As far as adult data is concerned, all reporting jurisdictions sent aggregate data. None of the

jurisdictions reported full data for all survey variables for either the youth or adult surveys. The quantity and nature of missing data varied from one jurisdiction to another. The amount of detail that any given jurisdiction reported also varied between jurisdictions. Consequently, data can be 'missing' at more specific levels because of the collapsing of data into broader categories. This can have implications at the analytical stages and can affect data comparability between survey respondents. For the reasons above, the reader should be aware that some of the results published in this *Juristat* are not nationally representative and should be used with caution.

The unit of analysis that is used in the Alternative Measures survey is the case. A case refers to one person's activity in the alternative measures program for one incident. An incident is a specific event wherein the person is alleged to have committed one or more related offences, with or without victims. "Related" refers to a sequence of criminal actions that occur at the same location or where one action led to the occurrence of another. The focus of this survey is on cases for which an agreement for alternative measures has been reached (i.e., when a person agrees to participate in the alternative measures process, according to the conditions and obligations contained therein).

Offence groupings are based on the seriousness of an offence according to the type of offence and its potential impact on the person as per the Uniform Crime Reporting (UCR) Survey's offence seriousness index. A single "most serious offence" (MSO) is counted for each case reaching agreement²⁴. In a case where there is only one offence, that offence is the most serious. In a case where there is more than one offence, the most serious offence severity scale determines the most serious offence.

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