

Youth Restorative Justice

POLICE/RCMP Orientation

REFERRALS TO RESTORATIVE JUSTICE

John Howard Society of Nova Scotia Central Region
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Nova Scotia Restorative Justice Program

Refer to Hyper Link Below

Program Description

<http://www.gov.ns.ca/just/RJ/description.asp>

Programs and Services

<http://www.gov.ns.ca/just/RJ/program.asp>

Frequently asked Questions

<http://www.gov.ns.ca/just/RJ/faq.asp>

Restorative Justice Protocols

<http://www.gov.ns.ca/just/RJ/documents/Restorative%20Justice%20Protocol%20Eng%20Web.pdf>

NSRJP Program Objectives:

- **Hold the offender accountable in a meaningful way**
- **Create a voice and an opportunity for victims**
- **Support the victim's reparation needs**
- **Create leadership roles for community members**
- <http://www.gov.ns.ca/just/RJ/program.asp>

SECTION 1

CHECKLIST FOR:

POLICE/RCMP OFFICERS

POLICE OPTIONS (S.6)

WHEN TO REFER:

(PER SECTION 6 OF THE YCJA)

- There is a person victim who could benefit from info & support
- YP could benefit from education or supportive intervention
- YP could benefit from a referral to community agency
- Parents of YP are requesting support
- Offence is a Level 1 or Level 2 offence
- Remember: YP can be referred more than once and does not require a prior warning or a caution to be referred.

HOW TO REFER:

(For electronic version of RJ checklist, go to RCMP forms)

Complete RJ Checklist, remember you do not have to lay an information. Crown does not need to sign off on referral

Forward Referral to:

John Howard Restorative Justice,
184 Arthur Street, Suite 220,
Truro, NS
B2N 1Y4 or
Fax: 843-3129

Checklist for Police Officers: Police Options (S. 6)

1. Do you have *reasonable grounds to believe* that the youth has committed an offence?

- **If you do not, then you should not continue with this checklist.**
- **If yes, then you may continue with this checklist.**

Note: You should ensure that you have advised the youth of his or her right to counsel and afforded him or her access to counsel wherever that is required during any exercise of police procedures or powers with respect to this incident. See the module on Right to Counsel.

Before starting judicial proceedings or considering an extrajudicial sanction, a police officer must consider whether it would be sufficient to administer one of the measures listed in *YCJA*, section 6: take no further action, warn, caution, or refer the young person.

http://jlc.nsc.ca/YCJA/YCJA_Pocket.pdf

Note: You should be aware that you may use a conference where you think it might assist you in decision-making in this part of the process. See the module on Conferences.

Checklist for Police Officers: Police Options (S. 6)

2. An extrajudicial measure is often the most appropriate, effective and timely response to criminal conduct by youth.

In this instance, you should consider using one of the measures listed in section 6 (take no further action, warn, caution, or referral), unless there are *clear indications* that these measures would not be adequate to hold the youth accountable for his or her conduct.

3. If this is a non-violent, first offence by this youth, an extrajudicial measure is presumed to be adequate to hold the youth accountable for his or her conduct.

Do you believe that the youth has committed a non-violent offence and has not previously been found guilty of an offence? If so, you must consider using one of the measures listed in section 6 unless there are *exceptional circumstances* that indicate it would not be adequate to hold the youth accountable for his or her conduct.

Checklist for Police Officers: Police Options (S. 6)

4. You may choose between one of four measures in order to hold the youth accountable for his or her offence. You may choose

- **to take no further action against the youth,**
- **to give the youth a warning,**
- **to issue a caution to the youth or**
- **to refer the young person, with his or her consent, to a program or agency in the community that may assist him or her not to commit offences.**

The measure that you use should be applied fairly and be proportionate to the offence. You should use the least restrictive measure that will hold the youth accountable, ensuring the minimum intervention warranted to respond to the conduct. The measure cannot be more than one a court would impose for this conduct, should the youth have been tried and found guilty of the offence.

http://jlc.nsc.ca/YCJA/YCJA_Pocket.pdf

Checklist for Police Officers: Police Options (S. 6)

Within the limits of fair and proportionate accountability, the measure should be designed and applied with the following principles and objectives in mind:

- emphasize timeliness (ensuring the measure is applied with as close a link to the conduct as possible, to help the youth understand the relationship between action and consequences);
- be an effective intervention;
- promote the rehabilitation of the youth;
- offer meaningful consequences to the youth;
- encourage the youth to acknowledge harm he or she may have caused;
- encourage the youth to repair harm he or she may have caused;
- involve the family and/or support people of the youth;
- respect the youth's rights, and especially any special protections or guarantees of rights applying to youth.

Note: For further details and information on the considerations you should bear in mind when deciding which measure to use, see Principles and Objectives in the current module.

Checklist for Police Officers: Police Options (S. 6)

Referrals can be made at four key entry points in the Criminal Justice process:

- Pre Charge – Police Entry Point
- Post Charge – Crown Entry Point
- Post Finding of Guilt – Court Entry Point
- Post Sentence – Corrections & Victim Services Entry Point

SECTION 2

RESTORATIVE JUSTICE PROTOCOL

ELIGIBILITY CRITERIA

REFERRAL PROCESSES

SECTION 2: ELIGIBILITY CRITERIA

In addition, prior to a young person being referred to the Restorative Justice Program, the referring body (peace officer or Crown Attorney) must ensure that the following discretionary factors, as found in the Restorative Justice Checklist, have been considered:

CRITERIA FOR REFERRAL

Minimum Requirements (All 7 MUST be met)

1. The referral is consistent with the protection of society;
2. The referral is considered appropriate having regard to the interests of the victim, the youth, and the community;
3. The youth accepts responsibility for his/her actions;
4. The youth has been informed of, and consents freely and fully, to participation in the Program; and
5. The youth is advised of his/her right to counsel without delay and is given a reasonable opportunity to retain and instruct counsel
6. There is sufficient evidence to proceed with the prosecution of the offence
7. Prosecution of the offence is not barred by law

SECTION 3

LEVELS OF OFFENCES

AS AN EXAMPLE REFER TO BILLY JAMES CASE

Introduction - Background

Case 1 - Billy James

Nova Scotia Restorative Justice Program

YCJA FLOW CHARTS

Levels of Offences

Please use hyperlink below for more information:

http://jlc.nsc.ca/YCJA/YCJA_flow_charts.pdf

LEVEL 1 OFFENCES:

These are ONLY offences for which a formal caution is an option:

- Provincial statute offences (Liquor Control Act, Protection of Property Act)
- Minor Property Offences
- Disorderly conduct offences (loitering and vagrancy)
- Assaults not resulting in bodily harm
- Mischief

LEVEL 2 OFFENCES:

These offences can be referred at all four entry points.

- This is the largest group of offences. They constitute all Criminal Code offences that are not Level 3 or Level 4 offences.

Examples:

- break and entering
- possession
- trespassing
- assaults
- property-related offences
- fraud/forgery under \$20,000
- theft-related offences where the value is under \$20,000

LEVEL 3 OFFENCES:

These offences can be referred ONLY at the court (post-conviction/pre-sentence) and corrections (post-sentence) entry points.

- Fraud and theft-related offences over \$20,000
- Robbery
- Sexual offences (proceeded with as a summary offence)
- Aggravated assault
- Kidnapping, abduction and confinement
- Criminal negligence/dangerous driving causing death
- Manslaughter
- Spousal/partner violence offences
- Criminal harassment
- Impaired driving and related offences.

LEVEL 4 OFFENCES:

These offences can be referred ONLY at the Corrections, Victim Services (post-sentence) entry point.

- Sexual offences (indictment)
- Murder

There is currently a moratorium on these offences being dealt with under the Nova Scotia Restorative Justice Program.

SECTION 4

USING THE RJ CHECKLIST FORM

COMPLETING THE RJ CHECKLIST

RESTORATIVE JUSTICE CHECKLIST
(PAPER FORM)

Using the New Restorative Justice Checklist Form (Hdp5463): A Quick Reference Guide for RCMP Officers

General information

- It will allow you to create an electronic RJ checklist and save the file in your police records according to your police services file procedures.
- **Police agencies will no longer have to send along a copy of the RJ checklist to the Department of Justice at 5151 Terminal Rd.**
- The new RJ Checklist will be replacing the older “pressure sensitive paper” form.
- The new RJ checklist has an optional “page two” for additional detail you may need to add regarding the youth, the offence or victims.
- The new RJ checklist is a **PDF form**, and requires ADOBE Reader 7 or 8 to be able to use its features. ADOBE Reader 8 is available free from the adobe website at www.adobe.com

New Restorative Justice Checklist Form

- The RJ checklist is set up as two PDF documents, both of which must be saved to your workstation or file server. You only need to open **Restore Chklst 2008. PDF**. If you need to add information to the second page, this form will automatically open the second PDF document.
- The RJ Checklist will print off as a Legal sized page.
- This RJ Checklist must also be attached to all youth files where the youth is charged with a level 1 or level 2 offence and must be in the Crown disclosure package.
- This RJ Checklist must be attached to any RJ referral where the youth is charged with a level 1 or level 2 offence and a referral is made to a community justice agency.

Completing the RJ Checklist

The Information Bars

- The RJ checklist form opens with grey and a purple information bars at the top. The grey bar lists all the various Adobe options and the purple information bar indicates the following:
- **A small icon on the left side with *“Please fill out the following form. You can save the data typed into this form”*.**
- If you click this icon, the page will format to full size, and the icon will appear along the side of the form.
- **On the right hand side a small icon indicates *“highlight fields”*.**
- Clicking this field will turn on a highlight function which highlights all the completeable fields. As you move from field to field, the highlight turns off so you can see where you are in the form, should you be interrupted.

Completing the RJ Checklist

- **The top of the form you will see three orange highlighted bars which indicate:**
- **Clear Form - Print - Click for Additional Pages**
- **Clear Form** allows you to clear the form if you need to start again, or if you have saved this version and need to begin a new RJ checklist
- **Print** allows you to print off the RJ checklist.
- **Click for Additional Pages** activates a second page which lets you add more detail than certain fields on the first page allow.

2) Navigating

- **The easiest way to navigate in the form is to tab from field to field and to click on check boxes.**
- **If you need more space to complete the comments and/or details sections for the first time. Simply click on the “*Click for Additional Pages* highlighted bar on the top of the form and a new “Restorative Justice RJ checklist – Additional Pages” will open. If you do not see the page simply follow the procedure below to navigate to that page.**
- **Moving between documents**
- **When you want to return to the first page of the RJ checklist, simply move your cursor to the grey information bar at the top of the document and select WINDOW. When this dialogue box opens, you will see at the bottom**
- **Restore Chklst 2008. PDF**
- **Restore Chcklst 2nd 2008. PDF**
- **Click on 1. Restore Chcklst 2008.PDF and you will be jumped back to the main RJ checklist page and vice versa to move back to the Additional Pages.**

3) Personal Identification Section

- The **Date** field will force you to enter yyyy/mm/dd (The four digit year must be entered first; you can spell or use the abbreviation for the month if you chose. When typing in the date it is not necessary to put in the slashes or convert month to the numeric value as the formatting will automatically do that once you tab to the next field.)
- The **Postal Code** field will force you to put in letter- number- letter- space- number- letter- number
- The **Details** section allows you to move to page 2 of the form if you need more space to complete case details. Simply click on the “*Click for Additional Pages*” highlighted bar on the top of the form

Personal Identification Section

- When you jump to Page 2 of the form you can continue to enter details into the details section. If you fill this section it automatically accommodates what you type, but the box doesn't grow until you tab or click out of the field. You will see a small up/down arrow icon on the RH side, which you can use to scroll through the details you have entered.
- When you complete this and want to return to the first page see above "Moving between documents" in Navigation above.

4) Parent/ Guardian Information

- This section offers three lines for this information, which allows you to capture parent information where parents are separated and allows you to capture other guardian info if relevant.

5) Offence Information

- In this section you can list the offences involved in the referral and have room to provide details related to the offence. When additional space is needed go to page 2 as described in Navigating above

6) Victim Information

- This section allows for additional fields on page 2 where you have several victims to list. On page 2 you will see a button **Add Victim**, which will create another set of data entry fields when clicked. Beside each victim data field is a **Delete Victim** button in case you have added too many sets or need to remove a set in the document.

7) Minimum Requirements

- In this section you test your case against the minimum requirements to see if the case can be referred. There is a set of selection boxes for police referrals, as well as a set of boxes for Crown referrals, because there are times when a police officer determines that a case is not eligible, but the Crown receives new information and determines that the case could be referred. In this way the Crown can review the case and indicate which minimum requirement has now been met.
- The comments section is a space which allows you to add important comments or observations related to the case. Another field is located on page 2 in order to provide you with more space to note your comments.

8) Recommendation

- This section allows you to indicate your recommendation

9) Digital Signature

The RJ Checklist allows you to use a digital signature function if this form of signature is permitted by your police Service administration. If you are permitted to use this as a legal signature on documents by your Police Service, you may follow the prompts affiliated with this feature to establish the linkage to your authorized digital signature