



LEGAL AID:
A NETWORK AT YOUR SERVICE
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Legal Brief*

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April-May 2017

Youth Criminal Justice Act and Extrajudicial Sanctions

Ethan, who is 12 years old, is visiting his cousins with his parents. While his parents are playing cards with his uncles and aunts, Ethan takes the opportunity to play various games in the basement with his two cousins, Sam and William, who are 6 and 8 years old, respectively. After Ethan and his parents leave in the late afternoon, Sam and William confess some *disturbing* facts to their parents. Among other things, they mention that their cousin asked them to show him their genitals and to touch his genitals. The following day, the cousins' mother calls Ethan's mother to inform her about the situation. While discussing the situation with his mother, Ethan admits everything that happened and agrees to go see a sexologist in order to determine whether assistance is needed so as to remedy the situation. In the meantime, Josephine, the cousins' mother, files a complaint with the police. The police officers open a sexual assault investigation with respect to the offence.

A few weeks later, Ethan meets with the investigators and makes a statement in which he admits all the facts mentioned by his cousins—i.e., he makes an incriminating statement. He leaves the police station after having been handed a promise to appear. In the following days, Ethan and his parents meet with M^c Delovely, a legal aid lawyer.

After analyzing the file, M^c Delovely contacts the criminal and penal prosecuting attorney (CPPA) in order to check whether Ethan's file can be referred to the *Extrajudicial Sanctions Program*, because Ethan has no prior file that was dejudicialized (i.e., diverted from the judicial process) and he has no criminal record.

In exercising his discretion in order to make a decision, the CPPA will have to consider several factors, including the accused's young age (Ethan is 12 years old), the fact that he has no criminal record, the fact that he has no prior file that was dejudicialized, the seriousness of the offence committed by Ethan (offence of a sexual nature during a single occurrence), the importance of Ethan's rehabilitation and social reintegration, the importance of offering positive prospects to Ethan in light of his needs and level of development (Ethan's mother has already consulted a sexologist to help her son), and the importance of using extrajudicial sanctions in order to intervene promptly and efficiently to correct Ethan's conduct.

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* The information provided in this document is not a legal interpretation.

The masculine gender has been used to designate persons solely in order to simplify the text.



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The CPPA must also consult with the Provincial Director¹ before making a decision regarding the dejudicialization of Ethan's file. When analyzing the file, the members of the Provincial Director's office meet with the young offender and his family, with the victims and with the victims' parents. In Ethan's case, the members of the Provincial Director's office recommend that the file be dejudicialized and that the appropriate *extrajudicial sanction* be mediation between the parties.

By emphasizing the lesser moral culpability of teens as compared to adults and by favouring the rehabilitation of the offender as a means of guaranteeing the lasting protection of the public, in certain cases, such as Ethan's case, the use of extrajudicial sanctions is a sufficient way to hold teens accountable for their criminal acts.

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¹In Québec, it is the Director of youth protection