



**Youth Criminal Justice Act –
Young offenders and the criminal
justice system**



In this brochure, masculine personal pronouns are used in order to lighten the text. They are to be read as designating both males and females.

For more information on judicial and extrajudicial sanctions, see the following information leaflets:

- *Youth Criminal Justice Act – Judicial Sanctions;*
- *Youth Criminal Justice Act – Extrajudicial Sanctions.*

You can view these two leaflets and this brochure on the website of the Ministère de la Santé et des Services sociaux (msss.gouv.qc.ca) in the Publications section.

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Masculine pronouns are used generically in this document.

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Youth Criminal Justice Act

Young offenders and the criminal justice system



Young offenders and the criminal justice system

This brochure is mainly aimed at youths, but also at their parents, workers in the health and social services network, and concerned persons in schools and the community. It sets out the broad lines of the Youth Criminal Justice Act (YCJA).

The YCJA came into force in April 2003 and was amended in October 2012. This federal law defines the extrajudicial and judicial intervention framework to follow for youths aged between 12 and 17 who commit an offence under the Criminal Code or other federal laws.

The YCJA is designed to protect the public in various ways, particularly by:

- holding young offenders accountable through measures that are proportionate to the seriousness of the offence and their degree of responsibility;
- promoting the rehabilitation and reintegration of youths who have committed offences;
- assisting crime prevention by referring youths to programs or agencies in the community to address the circumstances underlying their offending behaviour.

The youth criminal justice system differs from the adult system, mainly in its objectives and its judicial and extrajudicial procedures. It is designed in particular to:

- ensure that youths are treated fairly and that their rights are protected;
- clearly establish the link between the offending behaviour and its consequences;
- ensure that persons responsible for enforcing the YCJA intervene efficiently and fairly and act promptly, given youths' perception of time.

The measures taken against youths are designed to:

- reinforce respect for societal values;
- encourage the reparation of harm done to victims and the community;
- be meaningful for the individual youth given his needs and level of development;
- involve the parents, the extended family, the community and social or other agencies in the youth's rehabilitation and reintegration.

The YCJA provides three types of measures for young offenders:

1. extrajudicial measures taken by police officers;
2. extrajudicial sanctions under the responsibility of the provincial director (in Québec, this is the Director of Youth Protection);
3. judicial sanctions under the authority of the Court of Québec – Youth Division.



Extrajudicial measures taken by police officers

For a minor nonviolent offence, such as the theft of an object of little value or a disturbance of the peace, a police officer can take one of the following three decisions:

- take no further action against the young offender and close the file;
- give the youth a warning;
- refer the youth to a community organization.

In the case of a referral to a community organization, the youth must agree to take part in the activities that the organization proposes, whether these be awareness-raising activities or community work. The organization's objective is to help him not commit further offences.

When a police officer decides to give a young offender a warning or refer him to a community organization, the youth's name and information related to the police officer's decision are recorded in a provincial register. This information is kept on file and may be considered in the event of a repeat offence.

In the event of a repeat offence or a first violent offence, the police officer may ask the criminal and penal prosecuting attorney (CPPA) that judicial proceedings be taken against the young offender. He therefore forwards his request to the CPPA, also known as *Crown prosecutor* or *Crown attorney*. The CPPA considers whether the evidence is sufficient to initiate proceedings against the youth. If the evidence is sufficient, and depending on the nature and seriousness of the

offence, the CPPA may either ask the provincial director to assess the young offender's situation, in order to examine his eligibility for an extrajudicial sanction, or bring charges before the Court of Québec – Youth Division.

A YOUTH HAS THE RIGHT:

- to request the assistance of an attorney following his arrest, before the signature of an extrajudicial sanction, and as soon as a prosecution is brought against him;
- to consult an attorney and his parents before making a statement to a person in authority;
- to be heard and to take part in the proceedings brought against him;
- to agree or refuse to agree to an extrajudicial sanction.



Extrajudicial sanctions under the responsibility of the provincial director

When the CPPA requests the provincial director to assess the young offender's file, a youth worker – a delinquency specialist at the integrated centre* child and youth protection services – must assess the youth's eligibility for an extrajudicial sanction. During the assessment, a number of persons are consulted: the youth, his parents, the victim of the offence, and other adults in the youth's entourage, if necessary.

The youth worker's assessment of the youth's situation focuses on the following elements in particular:

- the youth's recognition of his responsibility for the delinquency;
- the youth's reactions and desire to repair the harm caused to the victim and the community;
- the youth's social difficulties;
- the youth's level of development and maturity, and his abilities;
- the youth's social functioning at home, at school or at work;
- the youth's risk of reoffending;
- the resources available in the youth's family and social environment;
- the expectations of the victim of the offence committed by the youth.

* The term integrated centre includes both integrated health and social services centre (CISSS) and integrated university health and social services centre (CIUSSS).

After the assessment, the youth worker chooses the decision that best suits the youth's situation from among the three following options:

- take no further action and close the youth's file, provided that sufficient appropriate actions have already been taken concerning him by his parents or other adults;
- apply an extrajudicial sanction;
- submit the youth's file to the CPPA so that he will appear before a Youth Division judge.

Whichever decision is taken, the aim is to make the youth accountable for his delinquent behaviour, and to enable him to repair the harm his offence has caused.

However, the youth worker cannot choose to take no further action or to apply an extrajudicial sanction unless the youth has acknowledged his responsibility for the offence committed.

If the youth worker decides to apply an extrajudicial sanction, he must explain the sanction to the young offender and his parents and impress upon them the importance of the youth's commitment. The involvement of the youth's parents is desirable, so that they can support him in his process of reintegration. If the youth agrees to an extrajudicial sanction, an agreement for a period not exceeding six months is signed between him and the youth worker.

THE YOUNG OFFENDER'S PARENTS HAVE THE RIGHT:

- to be informed of proceedings brought against their son or daughter;
- to participate actively in measures taken to foster the youth's reintegration into society.

THE VICTIM OF THE OFFENCE HAS THE RIGHT:

- to know the identity of the youth responsible for the offence (last name, first name, date of birth, and the last names and first names of his parents);
- to be informed of proceedings brought against the youth and to participate in them, if they wish;
- to bring a prosecution against the youth;
- to demand that they are treated with courtesy and compassion and that their privacy is respected.

If the youth fails to fulfil the undertakings he makes when an extrajudicial sanction is applied to his offence, the youth worker may submit his file to the CPPA so that the latter can initiate legal proceedings. At the trial, the evidence gathered by the police officer during his investigation will be used by the Court of Québec – Youth Division.

Information on an extrajudicial sanction is kept in a provincial register for a period of two years. It may be made available to the Court of Québec – Youth Division if the youth has to appear in court on new charges. In addition, it may be considered at the time of determining a custody sentence.

Possible extrajudicial sanctions

An extrajudicial sanction is a way of repairing the harm caused to the victim of the offence. It may consist in:

- meeting the victim in the presence of a mediator;
- doing work for the victim;
- giving stolen items back to the victim;
- paying a sum of money to the victim;
- apologizing to the victim.

In the case of a meeting between the young offender and the victim of the offence, the persons concerned must agree on the nature of the harm caused by the young offender and the means of repairing it. Then, an agreement between the youth and the victim must be drawn up.

Sometimes, the extrajudicial sanction is a form of reparation for harm caused to the community. It may consist in:

- doing community work;
- making a donation to a community organization.

The extrajudicial sanction may also be aimed at developing the young offender's social skills. For example, the youth could take part in individual or group activities that meet certain needs related to his delinquent behaviour.



Judicial sanctions under the authority of the Court of Québec – Youth Division

After finding a youth guilty of an offence, the Court of Québec – Youth Division judge imposes a sentence, also called a *judicial sanction*. In determining the sentence, the judge must take into consideration various factors set out in the YCJA together with aspects related to the youth's personality and living circumstances, such as information on his family, friends, studies, work, leisure activities, lifestyle, attitudes, etc.

The sentence imposed by the judge:

- must be fair and proportionate to the seriousness of the offence and the degree of the youth's responsibility for the offence;
- must not be more severe than the punishment that would be imposed on an adult for the same offence;
- must be as suitable as possible for the youth's particular situation.

To help him determine the sentence, the judge may request a presentence report from the youth worker. The youth worker will assess the young offender's situation on the basis of the elements mentioned above regarding eligibility for an extrajudicial sanction.

Possible judicial sanctions

The following sentences may be imposed on a young offender:

- absolute discharge, the effect of which is that the youth is considered as not having been found guilty of the offence;
- conditional discharge, where conditions are imposed on the youth in order to support his parents in the exercise of parental authority;
- a fine;
- volunteer work;
- participation in a nonresidential program (without custody), where the young offender is obliged to take part in the activities of a program approved by the provincial director;
- probation, where conditions are imposed on the young offender to control his behaviour and oblige him to participate in certain activities;
- an intensive assistance and supervision program, where the youth must be supervised continuously over a period of time by the provincial director and must receive support to help him resolve his difficulties;
- deferred custody and supervision, where the youth is obliged to serve his custody sentence in the community;
- custody and supervision.

A judge may impose only one of these sentences or a combination of several of them.

The youth worker must ensure that the sentences and conditions imposed on the young offender by the Court of Québec – Youth Division are followed up and supervised. The youth worker's actions are aimed both at protecting the public and at fostering the youth's rehabilitation and reintegration.

Custody and supervision sentences are reserved for the most serious crimes. They are only imposed when protection of the public requires them and when no other solutions exist. Any order to place a young offender in custody at the integrated centre rehabilitation services for youths in trouble of adaptation includes a supervision period in the community during which the youth must respect conditions.

In exceptional circumstances, the Court of Québec – Youth Division may impose an adult sentence on the young offender. The youth is then considered as an adult in the meaning of the YCJA (section 72) and is subject to the adult criminal justice system.

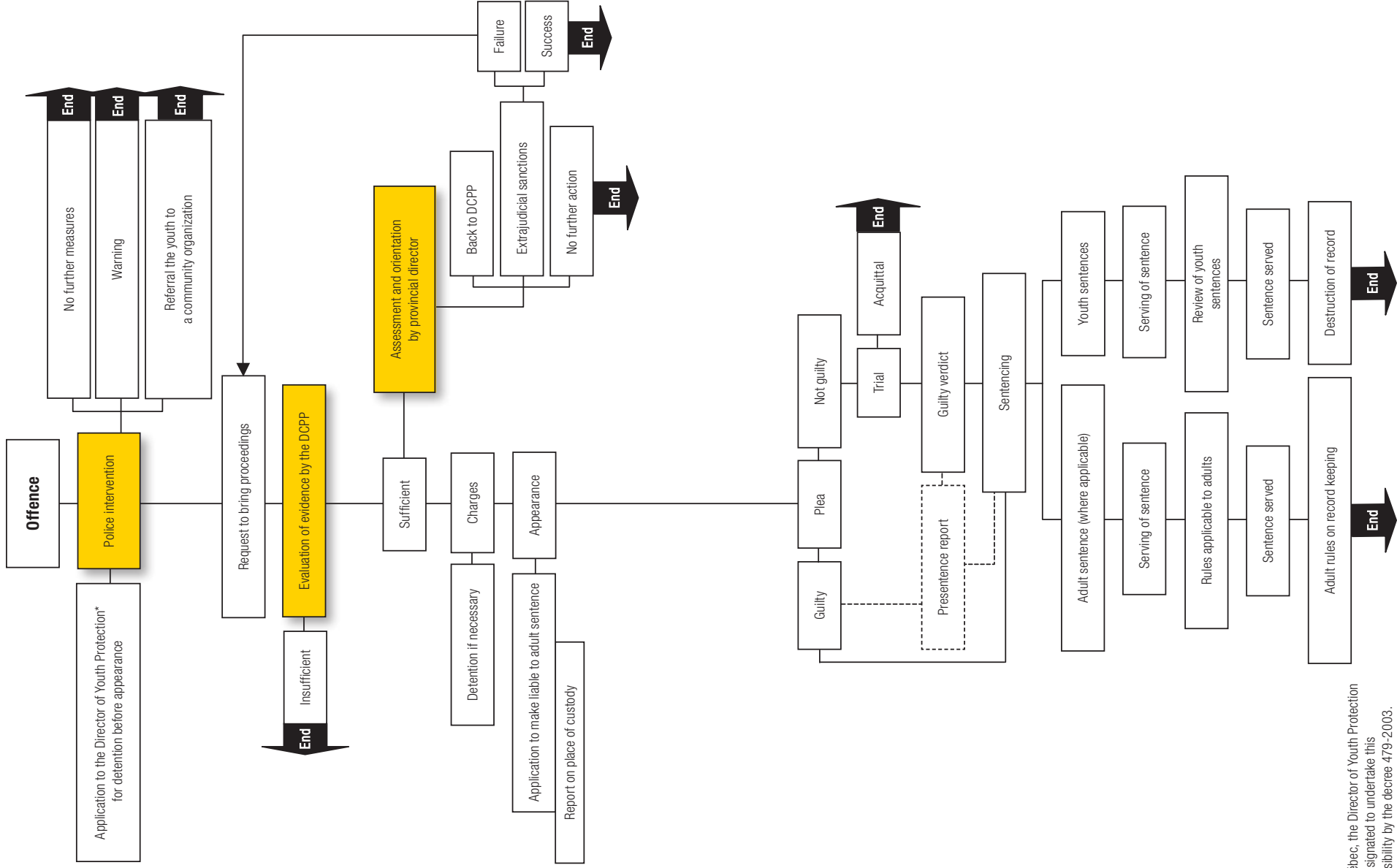
Young offenders' responsibilities

A young offender is obliged to respect all the conditions ordered by the Court of Québec – Youth Division from the moment that the judge pronounces sentence upon him. If he rejects or fails to comply with these conditions, this may be reported, which will result in his having to appear before the Court of Québec – Youth Division again.

Period of access to files and ban on publishing information

The period of access to files kept by the Court of Québec – Youth Division varies from one to five years. If a youth reoffends after reaching the age of 18 before the file access period has expired, the offences he committed before the age of 18 will be considered as his judicial record at the time of imposing an adult sentence. Barring exceptional circumstances, the YCJA prohibits disclosure or publication of a young offender's name or information that would allow his identity to be established.

Summary of the application of the YCJA in Québec



*In Québec, the Director of Youth Protection was designated to undertake this responsibility by the decree 479-2003.

Glossary

Court of Québec – Youth Division

In Québec, the Youth Division acts as a court for youths.

Director of Criminal and Penal Prosecutions (DCPP)

The DCPP appoints specialized lawyers, *known as criminal and penal prosecuting attorneys* (CPPA), who act as public prosecutors in criminal matters, under the overall authority of the Minister of Justice and the Attorney-General. The prosecutions are for offences under the Criminal Code, the YCJA and any other federal law.

Provincial director

In Québec, the role of provincial director is assumed by the Director of Youth Protection who, together with the police, CPPAs and the Court of Québec – Youth Division, sees to the application of the YCJA.

Youth worker

Youth workers are specialists in delinquency who work at the integrated centre child and youth protection services; they are mandated by the provincial director.

Alternative justice organization (AJO)

An AJO has the mandate of intervening with young offenders under the responsibility of the provincial director. AJO workers handle mediation meetings. They are also responsible for the planning and supervision of extrajudicial sanctions and of certain sentences imposed by the court.

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