



Victims of criminal acts

» Understanding the court system and sentencing procedure



As the victim of a crime, you have called the police. The police have conducted an investigation, identified a suspect, and submitted a report to the Criminal and Penal Prosecuting Attorney, who has found that there is sufficient evidence to take the case to court. The Prosecuting Attorney will determine what charges are brought, and will handle the case until the end of the proceedings.

- [Principles of criminal law](#)
- [Arraignment](#)
- [Release hearing](#)
- [Preliminary inquiry and trial](#)
- [Appeal](#)
- [Sentencing](#)
- [Parole order](#)
- [Fine](#)
- [Suspended sentence](#)
- [Prison sentence](#)
- [Conditional release measures](#)
 - [Prison sentences of less than two years](#)
 - [Prison sentences of two years or more](#)
- [For more information](#)

» Principles of criminal law

Before seeing how the court system works, we will review some of the main principles of criminal law:

- According to law, a person accused of a crime is innocent until found guilty by a judge. As a result, a suspect can only be deprived of his or her liberty during legal proceedings on certain conditions. As a general rule, all suspects are released - detention is the exception.
- At the trial, the Prosecuting Attorney must show beyond reasonable doubt that the defendant is guilty. At this stage, any testimony you are asked to provide may be crucial.
- Court proceedings usually take place in public in order to ensure fairness. However, in certain circumstances, particularly in cases involving a sexual offence, the judge may decide to proceed behind closed doors, in other words in



the absence of the public.

- The accused is not obliged to testify in his or her own defence, or to call witnesses.

It is impossible to predict exactly how long a court case will last. Some cases take several months. If you are called to testify, you will receive a summons to appear (also called a subpoena), along with a document entitled [Witnesses: Your role in Criminal Court](#).

This document summarizes the various steps in a criminal trial.

» Arraignment

At the arraignment, the charges are read out to the defendant, who pleads guilty or not guilty before the judge. At this stage you, as the victim, are rarely required to be present.

If the accused pleads guilty, the judge will either hand down a sentence in accordance with the rules governing sentencing explained below, or postpone sentencing to a later date in order to seek additional information.

If the accused pleads not guilty, the judge sets the date for the next stage in the court process: disclosure, preliminary inquiry or trial.

» Release hearing

An accused who is in custody at the time of the arraignment must be released by the judge unless the Prosecuting Attorney objects to release and satisfies the court that it is necessary for the accused to remain in custody for the duration of the court process.

A judge who orders the accused to be released may impose a number of conditions, such as prohibiting the accused from contacting you, the victim, or ordering the accused to stay away from your home or your place of work. If you want specific conditions to be placed on the accused, you can give them to the Prosecuting Attorney, who will assess their relevance.

If the accused fails to comply with the conditions, charges may be brought, and the court will review whether or not the accused should have been released. It is extremely important for you to notify the police immediately if you become aware of any failure to comply with the conditions.

» Preliminary inquiry and trial

The preliminary inquiry (optional) and the trial follow the release hearing. These stages involve, first, determining whether there is enough evidence to warrant a trial and, second, proving that the accused is guilty *beyond a reasonable doubt*. At the trial, the Prosecuting Attorney and the counsel for the defence call and question witnesses, including the victim or victims, and present evidence with arguments in support of their respective cases. At each step in the process, the accused may be released from the charges if the evidence is insufficient.

After the trial, if the accused is found guilty, the judge will hand down a sentence.

In the case of a trial with a judge and [jury](#), the judge will instruct the jury, which must reach a unanimous verdict.

» Appeal

Either the accused, or the Prosecuting Attorney, may ask the Court of Appeal to review the verdict rendered or the sentence handed down by the trial judge.

A number of rules govern the appeal procedure; for example, parties cannot appeal a judgment simply because they are dissatisfied with it.

» Sentencing

If the accused is found guilty, the judge has several options for sentencing the accused, and may ask for a pre-sentencing report. The report is prepared by a parole officer and is intended to facilitate sentencing by informing the court about the accused's potential for rehabilitation, and the threat he or she presents for society in general. In preparing the report, the parole officer may contact you, as the victim, to determine the nature and seriousness of the harm you have suffered.



[Top](#)

» Parole order

The parole order contains various conditions that the judge considers appropriate in the circumstances. These may include basic obligations such as keeping the peace and being of good behaviour, appearing before the court when required, etc., or specific offence-related conditions such as an obligation to report regularly to a probation officer, undergo therapy, do community work, compensate the victim, or avoid all contact with the victim. If you, as the victim, want specific conditions to be imposed on the accused, you can discuss them with the Prosecuting Attorney responsible for the case.

An accused who fails to comply with the conditions imposed may be charged with breach of parole.

» Fine

A fine is a sum of money that must be paid to the State by an offender within a time frame determined by the judge. Before imposing a fine, the judge must be satisfied that the individual has the means to pay it.

» Suspended sentence

If the prison sentence for an offence is less than two years, with no minimum sentence prescribed by law, and if the judge is of the opinion that allowing the offender to serve the sentence in the community will not endanger the safety of the public, the judge can impose a suspended sentence. The accused must agree to respect certain conditions in the suspended sentence order, including reporting to a probation officer. An accused who fails to comply with the conditions will be required to return to court to explain his or her conduct.

» Prison sentence

The Criminal Code specifies the maximum period of imprisonment that may be imposed by a judge for each offence defined in the Code. In exceptional cases, it also specifies a minimum period of imprisonment.

A prison sentence of less than two years is served in a provincial detention facility; a sentence of more than two years is served in a federal penitentiary.

In the case of a sentence of ninety days or less, the judge may allow the offender to serve it intermittently, usually on weekends.

» Conditional release measures

While detained, the offender may be eligible for various conditional release programs intended to facilitate social rehabilitation. The programs are available at different times during the sentence, depending on whether it is being served in a provincial institution (less than two years) or in a federal penitentiary (two years or more).

Prison sentences of less than two years

Prison terms of less than two years are supervised by Services correctionnels du Québec, which promotes the rehabilitation of offenders by granting them temporary absence.

An offender granted temporary absence is subject to various conditions, and a failure to comply may result in the offender being required to serve the remainder of the sentence in prison.

The [Commission québécoise des libérations conditionnelles](#)  responsible for making decisions concerning the conditional release of offenders. Victims as well as their immediate family members may express their position using the form provided for that purpose, adding any relevant comments. The information is forwarded to the commissioners who then decide on the conditional release of the offender.

Prison sentences of two years or more

An offender serving a prison sentence of two years or more is under the authority of the [Correctional Service of Canada](#)  (CSC) and the [National Parole Board](#)  (NPB) for the full duration of the sentence.

The CSC is responsible for custody measures within the penitentiaries and for the programs set up to ensure that offenders serve their sentences. The CSC also oversees offenders on conditional release programs.

The NPB is an administrative tribunal responsible for making decisions concerning the conditional release of offenders.

Federal law grants victims the right to obtain certain types of information about the person who caused them harm while that person is under the authority of the CSC and the NPB. **The information** (for example, the place where the person is incarcerated and the date on which the person is eligible for parole) **is not communicated automatically; a victim wishing to obtain this information must register for the victim notification service.**

To learn about registering for the victim notification service, and for more information about [victims' rights under Canadian law](#) , **please call 1 866 789-INFO (4636).**

Canadian law recognizes that crime victims have an important role to play and allows them to participate actively in the federal corrections process. Victims may furnish information that will assist the NPB and the CSC in their consideration of an offender's conditional release. Victims may also assist at NPB hearings as observers where they are given an opportunity to read a statement prepared in advance and submitted to the NPB. The statement may also be given on tape or by video.

If you would like more information about your role as a victim in criminal court proceedings or about your rights and responsibilities, contact the [crime victims' assistance centre](#) closest to you. The CAVAC staff will listen to you attentively and provide assistance, whether or not you decide to file a complaint.

» For more information

Crime victims assistance centres (CAVACs):

- [CAVAC website](#) 

The rights, remedies and resources available to victims of crime:

- [Victims of crime - Rights, remedies and resources](#)

Preparing to testify in Criminal Court:

- [Witnesses: Your role in Criminal Court](#)

Preparing to testify in Youth Court:

- [Witnesses: Your role in the Youth Court](#)

The various stages in the judicial process for minors:

- [The Youth Criminal Justice Act: The legal procedure](#)
- [Victims of crime: Understanding the youth criminal justice system](#)

The addresses and telephone numbers of Québec courthouses:

- [Courthouses](#)

The judicial district a municipality is located in:

- [Search for a judicial district](#)

The conditions of the crime victims compensation program:

- [INFOVAC-Plus](#)  (In French)

Community resources (by category and region)

- [Ministère de la Santé et des Services sociaux](#)  (In French)

The Québec parole board:

- [Commission québécoise des libérations conditionnelles website](#) 

The Correctional Service of Canada:

- [Correctional Service of Canada website](#) 

The National Parole Board:

- [National Parole Board website](#) 

The federal Policy Centre for Victim Issues:

- [Policy Centre website](#) 

The content of this document is strictly informative and has no legal value.

If you find some of the information difficult to understand, do not hesitate to [contact us](#).

Please note, however, that we cannot interpret the information to apply it to a specific situation.



Latest update: May 22, 2007

-
- [General information](#) • [Policies, Studies and Reports](#) • [Administrative documents](#) • [Publications for sale](#)

Québec 

© [Gouvernement du Québec, 2003](#)



General Information

» Ministère de la Justice du Québec
Édifice [Louis-Philippe-Pigeon](#)
1200, route de l'Église, 6^e étage
Québec (Québec) G1V 4M1

Telephone: 418 643-5140

Toll free: 1 866 536-5140

Email: communications.justice@justice.gouv.qc.ca

Please note: The personnel at the Service de renseignements of the Ministère de la Justice can help you understand the general rules for applying Québec legislation. They cannot, however, interpret these rules to respond to a specific case or situation.

When contacting us by mail or e-mail, please indicate your address and telephone number so that we can contact you when necessary.

• [General information](#) • [Courthouses](#) • [Complaints Bureau](#) • [Public service directory](#) •

Québec



© [Gouvernement du Québec](#), 2003

- > [Minister](#)
- > [Department](#)
- > [Publications](#)
- > [Forms](#)
- > [Programs and services](#)
- > [Related links](#)
- > [Courts](#)
- > [Contact us](#)
- > [About this site](#)