



CAVAC

CRIME VICTIMS
ASSISTANCE CENTRE

Support, Help and Resources



A DAY IN COURT

For victims and witnesses
of criminal acts as well as
their families.



Support, Help and Resources

This guide was produced by the Montérégie Crime Victims Assistance Center (CAVAC).
The opinions expressed are those of the authors.

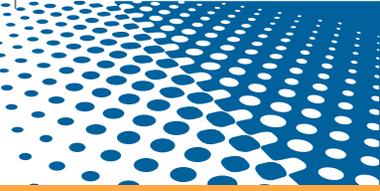
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What is the CAVAC ?

Welcome to Crime Victims Assistance Center. In Quebec, each courthouse has a space designated for victims and witnesses known as the CAVAC.

The role of the CAVAC counsellor is to support people having been victim or witness of a criminal act. We offer different services depending on the needs of the victim. Accompaniment, information about the judicial system and support are all part of the services we offer.

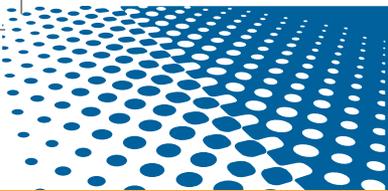
The CAVAC counsellor is here to welcome you, to explain your role as a witness to the court and to answer any questions you may have. She will inform the police officer and the prosecutor assigned to your case of your arrival. The CAVAC counsellor will be available all throughout the day. If you have any questions, hesitations or fears at any point during the day, speak with her, she is here for that purpose.

What is the CAVAC ? (Cont.)

If you are interested in meeting a counsellor regarding our services such as the consequences of a criminal act, filling out an IVAC application or finding out about other resources available in your neighbourhood, you can make an appointment with the counsellor on hand or by contacting the CAVAC regional office.

If you are interested in follow-up information regarding the criminal case, you can also contact the CAVAC counsellors who can verify the information for you in a timely manner.





What you need to know about testifying in criminal court

The police officer who participated in the case will be present at the courthouse. The officer will bring a copy of the statement the witness made at the time of the crime. The witness will also meet the prosecutor in charge of the case. Often the police officer and the prosecutor will explain how the day will unfold, how to testify in court, and answer any questions you may have.

A day in court sometimes involves a lot of waiting. When it is your turn to testify, you will take your place in the witness stand. It is possible that there be people seated in the courtroom, as it is a public hearing. The accused will also be seated in the courtroom, either in the detainee's box or in the audience. The constable, the court clerks, the lawyers and the judge will all be present in the courtroom.

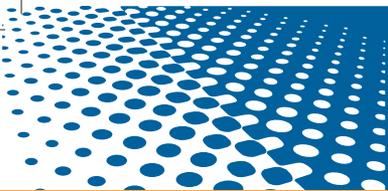
The first step is the swearing-in of the witness. The court clerk will ask the witness to make a solemn oath to tell the truth. The clerk will also ask you your name, your date of birth, your occupation and your address. Your address can remain confidential. The witness is then ready to testify.

What you need to know about testifying in criminal court (Cont.)

The prosecutor will start by asking questions to the witness. Their objective is to help the witness tell the story of the events as they happened at the time of the crime. The witness, in a clear and detailed fashion, tells the story so the judge will understand what happened. The judge only knows the name of the accused and the charges with which he has been accused.

The prosecutor asks open-ended questions, and may ask the witness to reread certain sections of their statement to jog their memory if necessary. When the prosecution's interrogation is finished, it is the defence lawyer who proceeds with their line of questioning. The objective is to evaluate the credibility of the witness and to see if they are telling the truth. The defence lawyer may suggest answers to a witness or ask if the witness has a criminal record. The witness must answer all questions unless the prosecutor objects and the judge agrees. The judge may also ask you a question at any time.

When the cross-examination is finished, the witness can remain in the courtroom, but only if it is the trial. If there is a preliminary hearing, the witness must leave the courtroom, so as to not hear the other witnesses. The prosecutor will call the next witness, if there are any and then the defence will present their witnesses. The next step is the closing arguments either in favour of a guilty or not guilty plea. It is the judge's duty to make the decision.



The role of the Criminal and Penal Prosecuting Attorney

The criminal and penal attorney also known as the Crown prosecutor is counsel for the public prosecution. Every courthouse in Quebec has a team of prosecutors. The prosecutor is not the victim's lawyer but rather represents society at large when a crime is committed. It is important to note that a victim does not pay for their services, neither does a witness.

One of the important roles of the prosecutor is the authorization of court cases. The cases are submitted by the various police forces of the area. It is the prosecutor who determines whether an individual will be pursued and on which charges.

***Directeur
des poursuites
criminelles et pénales***

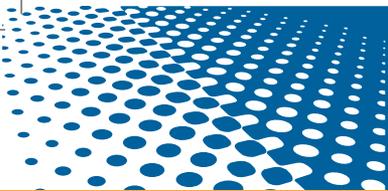
Québec



The role of the Criminal and Penal Prosecuting Attorney (Cont.)

The prosecutor in charge of the case usually meets the person who has been assigned to testify on the morning of the hearing. The meeting could take place in the CAVAC office or in a cubicle nearby. The police officer who intervened when the events occurred may also be present. The CAVAC counselor can help you identify the prosecutor handling your case.

When a person has to testify, it is the prosecutor who asks the questions first. Their role is to help the witness, with open-ended questions, tell the judge the events that occurred when the crime was committed. The prosecutor will ensure that all the important elements are mentioned to the judge. When the questioning is completed, it is the defense attorney who will then ask questions. The purpose of the cross-examination is to determine whether the witness is credible and reliable. Unlike the prosecutor, the defense attorney has the right to suggest answers. At all times, a witness must answer truthfully and to the best of their recollection of the events.



The role of the police officer

Usually at least one police officer is assigned to each court case. It is usually the officer who took the statement from the victim and witness, or who arrested the accused. Sometimes, an investigator takes charge of the case and is assigned to court.

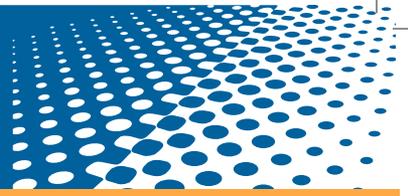
On the day of the preliminary hearing or the trial, the role of the police officer is to meet the victim and witnesses to give them the statement they wrote at the time when the crime was committed. He or she is also present when the prosecutor meets with victims and witnesses prior to the hearing.

If the victim stays in the CAVAC office, the police officer will stay in the courtroom to have an idea of how the day will proceed and keep you informed.

In certain cases, the police officer is also a witness and will be called to testify. They may testify on what they saw at the crime scene; if they witnessed any criminal acts or the victim's injuries. The police officer is questioned by the prosecutor and then cross-examined by the defence like any other witness.

In some cases, the prosecutor will call a meeting with the victim, for example before authorizing a case or prior to the trial. The investigator will also be present at this meeting.

Judicial intervention in matters of domestic violence



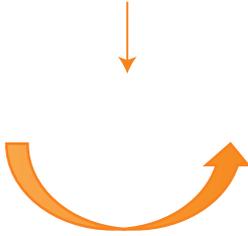
In certain districts, the prosecuting attorneys along with the CAVAC counsellors have brought special attention to victims in cases of domestic violence. A specialized team has been created as well as a courtroom specifically reserved for these types of cases.

The objective of the program “The Victim at the Heart of the Legal Process” is to meet with the victim, to inform them of their rights and recourses, to evaluate their situation in real time and to discuss the particularities of the case.



Matters of domestic violence

Court Appearance



It is during the pro-forma step of the legal process that a victim will receive a subpoena to meet the domestic violence team. The number of meetings required will vary according to the nature of the case. At this stage, testimony in the courtroom is not required.

Settlement

Trial

In time, a decision will be made regarding the criminal court case. This decision is one of the prosecutor, who has evaluated many factors including the position of the victim. A trial date may be set or a settlement may be reached.

The domestic violence policy states that only the direct victim is not obligated to testify. All the same, the victim must present themselves at the courthouse to meet the prosecutor. If there is independent proof (another witness) in the file, the prosecutor may decide to proceed without the victim.

Taxation is an amount of money given to a person who has been called to testify in criminal court.

Since coming to testify is an obligation, various fees are reimbursed by the ministry of justice. Usually, a person is reimbursed upon completion of their testimony. However, there is a one-year window for reimbursement.

A victim or witness can go to the cashier (caisse) with their subpoena and proofs of purchases, such as parking and lunch bill. The costs associated with mileage are also reimbursed. Some unions pay their workers for time lost and they will not be reimbursed by the ministry of justice. If someone has forgotten or has not received a subpoena, they can speak to the CAVAC counsellor.

Usually if a victim or witness lives far from the courthouse and an overnight stay is required, arrangements are made with the Crown office. A hotel room can be reserved and meals during travel will also be reimbursed.

The role of the Constable

The constable is responsible for public security in the courthouse, including each courtroom. The constable has the authority to arrest someone with or without a warrant; the courthouse is under their jurisdiction.

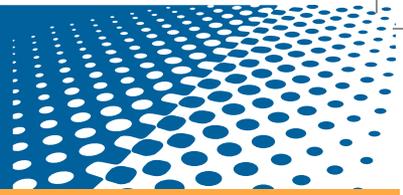
The constable's role is to preserve order in the courtroom. If he or she notices that someone is not appropriately dressed; that a cell phone is ringing or that people are talking in the presence of the judge, the constable will intervene.

On the day you are assigned to testify in court, if you feel intimidated by the accused, you can let the constable know. They will keep an eye out for any problems.

If a person becomes victim of a criminal act in the courthouse, he or she can advise the constable or the CAVAC counsellor can do it on the person's behalf. For example, if the accused speaks to you, and the accused has conditions, he has breached them; this is a criminal act.

The constable is also responsible in the event of an emergency such as fire, a bomb scare or medical emergency. The constables will contact the appropriate emergency services and provide first aid if necessary.

The role of the constable and journalists (Cont.)



Journalists

It is possible that journalists will be present at certain court proceedings. They are, however, bound by rules. Journalists are not allowed to film or take pictures in the courtroom. Outside of the courtroom, they have designated spaces, and they are allowed to film and take photos from these areas.

The media might solicit an interview from victims, witnesses and family members during highly publicized cases. You are not required or obligated to speak with them. If the judge believes that the publicity will threaten the course of the case, he or she will order a publication ban.





What is IVAC ?

Ivac is the compensation for which victims of certain criminal acts are eligible. Called IVAC in French, the Crime Victims Compensation Act or CVCA falls under the umbrella of the direction of the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST).

An application form must be completed to be eligible for services. Ivac has certain criteria for benefits: the crime must have been committed after 1972; the crime must fall in a particular category listed below; the crime must have taken place in Quebec; and the victim must not have contributed to their own injuries either by negligence, provocation or illegal activities. It is also necessary to obtain a certificate from a professional mentioning a physical or psychological injury.

The types of crimes for which IVAC offers compensation are crimes against the person. For example, assault, sexual assault, armed robbery and murder are all crimes against the person. IVAC will not compensate for property crimes, such as mischief, breaking and entering, and theft. Only under particular circumstances, will a person benefit from the services of IVAC for crimes such as harassment, threats and harassing phone calls.



IVAC

Indemnisation
des victimes
d'actes criminels

What is IVAC ? (Cont.)

After a victim's application is evaluated and accepted, different indemnities are offered. Here is a brief list of possible compensations: salary replacement if a person was unable to work following a crime; installation of an alarm system or moving costs; medical assistance such as ambulance fees or rehabilitation services such as therapy, etc.

IVAC also offers assistance for close relatives. Close relatives of a victim who died, as well as anyone who contributes to a victim's rehabilitation, may receive psychotherapeutic services. Services are also offered to people who have voluntarily rescued someone from danger under the act to promote good citizenship. Dependents of a victim who dies may also receive benefits.

A couple of precisions: a person who is victimized in the workplace must fill out a CNESST application; a person who becomes a victim where an automobile is part of the crime must file an application with the SAAQ. Examples of this type of crime are a crashes caused by impaired or reckless driving.

The logo for CNESST (Commission des normes, de l'équité, de la santé et de la sécurité du travail) features the word "CNESST" in a bold, green, sans-serif font. Below the text are two horizontal green lines of varying lengths, with the longer one on top.

**Société de l'assurance
automobile**

Québec 



? On my subpoena, it says to be present at 9 am. Will I be first? **A** No, everyone must be present at 9. At 9:30, the role is called, the judge takes the bench and the lawyers go through the cases on the docket. It is impossible to know exactly when your case will be heard.

? Will the accused be present during my testimony? **A** Yes, the accused will be present either in the courtroom or in the detainee's box if he has been detained. During your testimony, the accused can in no way interfere, interrupt or approach you. A constable is stationed in each courtroom for this purpose.

? I am the victim and have been assigned to court, do I need a lawyer? **A** No, the crown has a team of prosecutors in each of Quebec's courthouses. A prosecutor has been assigned to your case and you will meet him or her before you testify.

? I filled out the Victim Impact Statement at the beginning of the proceedings; can that be used instead of my testimony? **A** No, the defence lawyer must be able to cross-examine a witness.

? I would like my friend to testify on my behalf because he knows the accused. Can he be assigned? **A** No, the prosecutor will determine who is assigned to testify. The prosecutor will take into account all the police statements submitted. A person cannot testify if they have not written a statement.

FAQ ! (Cont.)

? My father is with me today, will he be able to enter the courtroom? **A** Yes, but only if he is not a witness in the case. The courtroom is a public place.

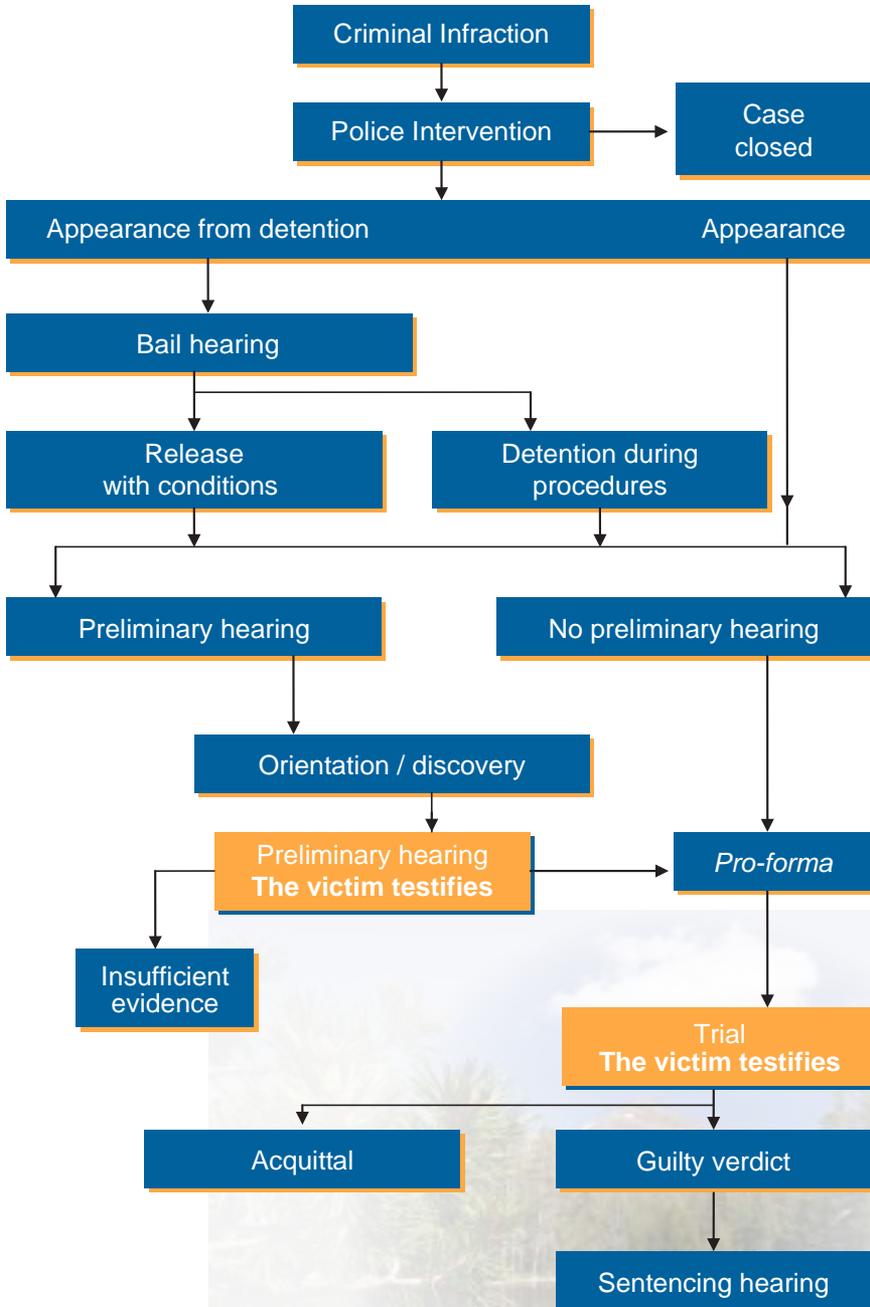
? I have moved since the event and I don't want to mention my new address, can I refuse to give it to the court clerk? **A** Yes, you can ask that your address remain confidential. The prosecutor may ask for this as well.

? On the day of the trial, I am planning to bring a medical report and some emails, which the accused sent to me when he had conditions to respect, to give to the prosecutor. Will the prosecutor show the judge? **A** No, any proof that you have must be given to the police officer and not the prosecutor. The police will need sufficient time before the trial to submit it to the prosecutor and give a copy to the defence lawyer.

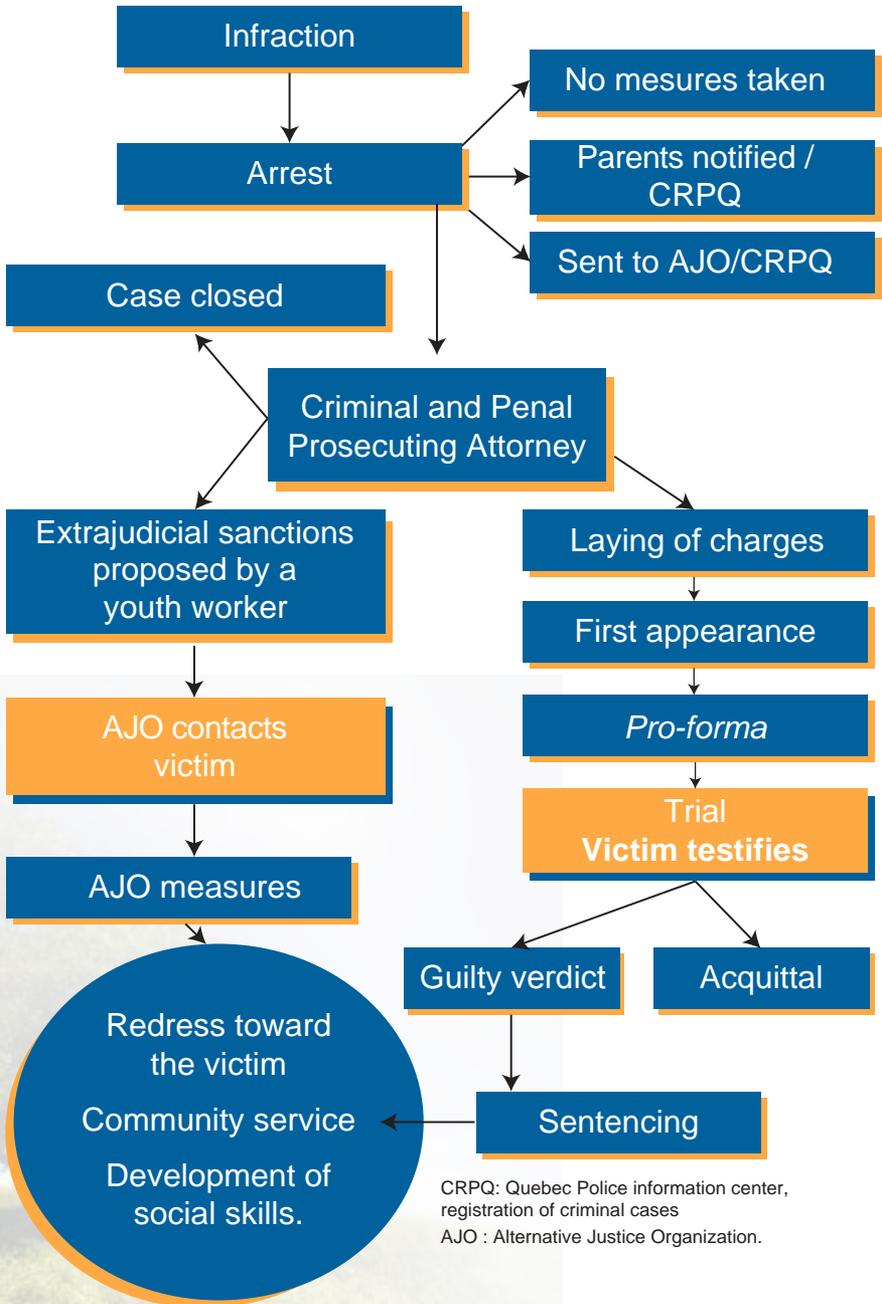
? The defense lawyer called me. Do I have to call him back? **A** No. A witness for the crown has no obligation to speak with opposing counsel.



The Criminal Justice Process



Youth Criminal Justice System



CRPQ: Quebec Police information center, registration of criminal cases
 AJO : Alternative Justice Organization.