

Native Legal Info

THE SUBPOENA

Éducaloi, in collaboration with the Quebec Native Women Association, presents Native Legal Info. These legal information sheets are aimed at informing Native women about their rights, as well as the judicial recourses that may help them defend their rights.

A few months ago, Julie was taking a walk with Peter when he was suddenly attacked by Alex. Alex hit Peter in the face twice and ran away before the police could get there.

Today, Julie received a Court document in the mail. She is very worried, so she goes to see her uncle, who happens to be a legal aid lawyer.

Mr. Tremblay: Hello Julie, what brings you here?

Julie: I don't know why I was sent this document! I haven't done anything wrong!

Julie gives the document to Mr. Tremblay.

Mr. Tremblay: Oh, you received a summons to appear as a witness. This is a Court order that is also called a "subpoena". It means that you are called to go before the court to give your version of the facts in a file involving someone named Alex...Does that ring a bell?

Julie: Yes, but I didn't do anything to him. He's the one who jumped my friend Peter.

Mr. Tremblay: Don't worry, it's not you they're charging, it's Alex! Since you witnessed an event, the Crown prosecutor wants you to present yourself before the Court to explain what you saw and heard that day. You know, your testimony might be crucial in Alex's trial...

Julie: Phew! I feel better – there I was thinking that I'd have a criminal record! By the way, do I really have to show up on the date written in the...uh...subpoena? You know how I always go hunting with my family at this time of year...

Mr. Tremblay: Yes, but unfortunately for you, that's not a valid reason to miss it. You will have to be at the Court at the place, date and time indicated. Don't forget that this is a Court order we're talking about! You would need a serious reason for your absence and only the judge has the power to cancel a subpoena.

Julie: Oh, I see. This is really not my thing! What would happen if I decide not to show up anyway?

Mr. Tremblay: That day, at the hearing, the judge will call you. If he sees that you are not there, he can decide to postpone the case until later, but you should know that the law gives him the power to issue an arrest warrant against you. Such a warrant orders the police to find you, arrest you and bring you in front of the judge.

Julie: Wow, this is serious! And what if I decide to go but not to answer any questions?

Mr. Tremblay: Be careful, Julie, if you don't answer the questions, the judge can convict you of contempt of court. He can then give you a fine or send you to prison, or the two at the same time. It is preferable that you cooperate with the justice system by answering the questions that are put to you by the Crown Prosecutor and Alex's lawyer. All you have to do is tell them what you know, without taking sides.

Julie: Okay fine, I'll go and do what has to be done. But will I be able to testify in my own language?

Mr. Tremblay: Yes, if you wish to speak in your language, an interpreter will translate your testimony.

Julie: One last thing: I don't want to go by myself, can someone accompany me?

Mr. Tremblay: Yes. Here, take the number for CAVAC, the Crime Victims Assistance Centre. This centre offers an accompaniment service that can help make things easier for you when you testify before the court. If you prefer, a friend or family member can accompany you. One last piece of advice: on the day of your testimony, bring your summons with you. Once you've finished testifying, stop by the office of the court

to collect the allowance you get for being a witness. You have the right to a certain amount of money to compensate you for your time. You can also get reimbursed for certain costs.

Julie: Thank you for all your advice!

If you are in a similar situation and would like someone to accompany you during your court testimony, do not hesitate to contact your local CAVAC.

Native Legal Info was developed with funding from the Ministère de la Justice du Québec and the Department of Justice Canada.