

Draft Regulation

Professional Code
(chapter C-26)

Criminologists —Code of ethics of criminologists

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Code of ethics of criminologists, made by the board of directors of the Ordre professionnel des criminologues du Québec and appearing below, is published as a draft and may be examined by the Office des professions du Québec then submitted to the Government which may approve it, with or without amendment, on the expiry of 45 days following this publication.

The draft Regulation determines the general and special ethical duties that members of the Ordre professionnel des criminologues du Québec have towards the public, their clients and their profession, including the duty to discharge their professional obligations with integrity. The draft Regulation contains in particular provisions to prevent conflict of interest situations, forbid any act involving collusion, preserve professional secrecy, set out the conditions and procedure applicable to the exercise of the rights of access to client files and govern advertising by members of the Order.

The draft Regulation has no impact on the public or on enterprises, including small and medium-sized businesses.

Further information on the draft Regulation may be obtained by contacting David Henry, Director General and Secretary, Ordre professionnel des criminologues du Québec, 1100, boulevard Crémazie Est, bureau 610, Montréal (Québec) H2P 2X2; telephone: 514 437-6727, extension 224, or 1 844 437-6727, extension 224; email: dhenry@ordrecrim.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Jean Gagnon, Acting Secretary, Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3; email: secretariat@opq.gouv.qc.ca. The comments may be forwarded by the Office to the Minister Responsible for Government Administration and Chair of the Conseil du trésor, and may also be sent to the Ordre professionnel des criminologues du Québec and to interested persons, departments and bodies.

JEAN GAGNON
*Acting Secretary,
Office des professions du Québec*

Code of ethics of criminologists

Professional Code
(chapter C-26, s. 87).

DIVISION I GENERAL

1. This Code determines the duties and obligations that must be discharged by criminologists, regardless of the context or manner in which they engage in their professional activities or the nature of their professional relationship with clients.

Criminologists must discharge their duties and obligations with professionalism in keeping with the values and ethical principles inherent to the profession of criminologist, including the enhancement of personal independence, the respect for privacy and the belief in a person's capacity for change and self-empowerment.

Those duties and obligations are not modified in any manner owing to the fact that a criminologist practises within an organization or a partnership or uses information technologies.

2. Criminologists must take the reasonable measures available to them to ensure that all persons who work collaboratively with them in their practice and any organization or partnership within which they practise comply with the Professional Code (chapter C-26) and its regulations.

3. For the purposes of this Code, unless the context indicates otherwise, “client” means a person, couple, family, group or organization to whom or which a criminologist provides or undertakes to provide professional services.

DIVISION II GENERAL DUTIES

§1. Conduct

4. Criminologists may not perform any act or conduct themselves in any manner contrary to what is generally accepted in professional practice, or that is likely to adversely affect the honour or dignity of the profession or to compromise the public's confidence in the profession.

5. Regardless of where they practise, criminologists must cooperate in the application of every law designed to protect vulnerable persons.

6. Criminologists must be mindful of all the foreseeable consequences their professional activity may have, not only on clients but also on society.

7. Criminologists must promote and support every measure conducive to improving the quality and accessibility of professional services in criminology.

Criminologists must recognize that the dual objective of informing and educating in matters of criminology is important for the protection of the public; they consequently must act in a manner they consider appropriate with that objective in mind.

8. Criminologists must refrain from practising in personal conditions or a state likely to compromise the quality of their professional services or the dignity and image of the profession.

9. Criminologists must refrain from any conduct likely to adversely affect the physical, mental or emotional integrity of persons with whom they establish a relationship in their professional practice. Abuse by criminologists of their role of authority in particular constitutes such conduct.

§2. Liability

10. Criminologists assume full professional liability. They may not evade or attempt to evade professional liability through any means, in particular by invoking the liability of the organization or partnership within which they practise, or that of another person carrying on activities within the organization or partnership, or by requesting that their client or the client's representative waive any recourse in the event of professional fault on their part.

§3. Integrity

11. Criminologists must discharge their professional obligations with integrity and objectivity.

12. Criminologists must refrain from any misrepresentation as to their competence or the effectiveness of their services, of those generally provided by the members of the profession or, if applicable, of those generally provided by the persons with whom they work collaboratively or who carry on activities within the same organization or partnership.

When criminologists engage in activities not related to their profession, such as in connection with an employment, a function, an office or the carrying on of an enterprise, they must avoid creating or allowing any ambiguity to persist as to the capacity in which they are acting.

If their right to practise is subject to a restriction, criminologists must take measures so that their clients and the persons with whom they have a relationship in their professional practice are aware of the restriction.

13. Criminologists must not commit or attempt to commit any act involving collusion, corruption, fraud, malfeasance, breach of trust or influence peddling, or counsel or encourage another person to commit such an act or conspire to do so.

Criminologists must not counsel a client to engage in illegal behaviour or encourage such behaviour.

14. Criminologists must not, as regards a client's record or any report, register, receipt or other document,

(1) falsify it, including by altering existing notes or inserting notes under a forged signature;

(2) fabricate a false record, report, register, receipt or document;

(3) enter false information in the record, report, register, receipt or document; or

(4) neglect to enter the necessary information in the record, report, register, receipt or document.

§4. Competence

15. Criminologists must act competently in fulfilling their professional obligations.

They must practise in accordance with generally accepted scientific principles, in keeping with good practice and the standards of practice in criminology.

16. With a view to offering and maintaining good quality professional services, criminologists must ensure their level of competence is kept up to date and developed.

17. Before and while providing professional services, criminologists must be mindful of their proficiency, knowledge, the limits of their competence and the means at their disposal.

18. Criminologists may not issue findings or recommendations, or give views, advice or professional opinions, unless they have the sufficient underlying facts to do so and an appropriate understanding of the situation.

19. Criminologists who produce a written or oral report must limit its content to interpretations, findings and recommendations based on their professional competence and related to their professional practice and the request for service.

20. Criminologists who use assessment tools must adhere to the standards of practice and generally accepted scientific principles for their use, administration, interpretation and results reporting procedure.

21. Criminologists called upon as experts or to conduct an assessment must

(1) clearly inform the person who is the subject of the expert opinion or assessment of the identity of the recipient to whom the report will be sent and of the manner in which a copy of the report may be requested;

(2) refrain from obtaining any information from that person or making any interpretation or comment not relevant to the expert opinion or assessment; and

(3) limit their report or recommendations and, if applicable, any deposition before a court solely to the elements relevant to the expert opinion or assessment.

DIVISION III

DUTIES AND OBLIGATIONS TOWARDS CLIENTS

§1. Consent

22. Before and while providing professional services, criminologists must take into account the ethical factors specific to the client and the client's request and expectations. They must also consider the context in which they will be working and the means at their disposal.

23. Criminologists must, except in an emergency, obtain the free and enlightened consent of their client, the client's legal representative or, in the case of a minor under 14 years of age, the person having parental authority or the tutor, before beginning to provide any professional services.

To enable their client to give free and enlightened consent, criminologists must inform the client of and ensure that the client understands

(1) the objective, nature and relevance of the professional services and the main procedures involved;

(2) the alternatives to and limits and constraints on the professional services;

(3) the use of the information obtained;

(4) the implications of information shared with third persons or a report being sent to third persons; and

(5) the amount of fees, interest owing on accounts payable and payment options, if applicable.

Communication of those elements must be adapted to the context of the professional services being provided.

24. Criminologists must ensure that a client's consent remains free and enlightened for the entire time the professional services are being provided.

25. Criminologists must acknowledge a client's right to revoke consent at any time and explain to the client the potential consequences of revocation.

§2. Quality of the professional relationship

26. In their practice, criminologists must show respect for the dignity and free choice of persons and refrain from any form of discrimination based on a ground set out in section 10 of the Charter of human rights and freedoms (chapter C-12).

27. Criminologists must act with availability and diligence. If they cannot satisfy a client's request within a reasonable time, they must inform the client accordingly and, should there be any risk of harm to the client, refer the client to an appropriate resource.

28. Criminologists must be transparent and seek to establish and maintain a relationship of mutual trust with their clients.

29. Criminologists must at all times recognize a client's right to consult another criminologist, a professional who is a member of another order or any other competent person. If appropriate, they must work collaboratively with that professional or person.

30. If the interest of a client so requires, criminologists must, with the client's authorization, consult another criminologist, a professional who is a member of another order or any other competent person, or refer the client to one of those persons.

31. Criminologists must respect the privacy of the persons with whom they enter into a professional relationship. They must refrain from interfering in the personal affairs of clients on subjects not relevant to the request for service or the professional practice.

32. During the professional relationship, criminologists must not establish a personal friendship or an intimate, amorous or sexual relationship with a client or a relative of the client that is likely to compromise the quality of their professional services. They must refrain from making remarks or improper gestures of a sexual nature to a client or a relative of the client.

The duration of the professional relationship is determined taking into account such factors as the nature and duration of the professional services provided, a client's vulnerability and the likelihood of having to again provide professional services to a client.

33. Criminologists must promptly inform their client of any harmful action taken in connection with a professional service provided to the client and, in addition, must without delay take the necessary measures to remedy, mitigate or offset the consequences of the action.

§3. Confidentiality and professional secrecy

34. Criminologists must preserve the secrecy of all confidential information that becomes known to them in the practice of their profession.

Criminologists may be released from their obligation of professional secrecy only with the authorization of their client or where so ordered or expressly authorized by law.

When seeking to obtain that authorization, criminologists must inform the client of the possible implications arising from the lifting of the obligation of professional secrecy.

35. Criminologists who communicate information protected by professional secrecy pursuant to section 60.4 of the Professional Code (chapter C-26) must

(1) proceed without delay and communicate only such information as is necessary to achieve the purposes for which the information is communicated;

(2) choose the most efficient means adapted to the circumstances to communicate the information;

(3) inform the person to whom the information is communicated that the information is protected by professional secrecy; and

(4) as soon as possible, enter in the client's record the purpose and underlying reasons for the communication, the date and time of the communication, the name of the person who received the communication and the method of communication used.

36. For the purpose of preserving professional secrecy, criminologists must,

(1) including on social media, refrain from any indiscreet conversation concerning a client and the professional services provided to the client;

(2) not consult a record for any reason other than a professional one and restrict the consultation to elements relevant to the professional services being provided;

(3) take reasonable means with respect to their colleagues and persons under their supervision to ensure professional secrecy is preserved;

(4) limit the transmission of confidential information, including within a multidisciplinary or interdisciplinary team, to information relevant and necessary to achieve the objectives pursued;

(5) obtain prior written authorization from the client or the client's legal representative to make an audio or video recording of an interview or activity; the authorization must specify the subsequent use to be made of the recording and the conditions on which the authorization may be revoked and the recording destroyed; and

(6) not disclose that a person has required or intends to require their professional services.

37. Criminologists must not use confidential information with a view to obtaining a benefit for themselves or for a third person.

38. Criminologists providing professional services to a couple, a family or a group must preserve the right each member of the couple, family or group has to professional secrecy.

39. Criminologists providing professional services to a group must inform the members of the group of the possibility that some aspect of their private life or that of a third person may be revealed, and have them commit to preserving the confidentiality of the information.

40. Unless provided otherwise in the law, criminologists must, before transmitting a report to a third person, obtain explicit authorization from their client after the client has been made aware of the information in the report.

§4. Professional independence and conflict of interest

41. Criminologists must act with objectivity and subordinate their personal interest or, if applicable, that of their employer, colleagues, the organization or partnership within which they practise or that of a third person who pays their fees, to the interest of their client.

42. Criminologists must practise within a framework that allows them to ensure the quality of the professional services they provide. If a criminologist's practice is impaired by financial, institutional or political pressures or constraints, the criminologist must clearly inform the client of any possible consequences as a result.

43. Criminologists must safeguard their professional independence at all times by avoiding any situation of real or apparent conflict of interest, in particular by ignoring any intervention by a third person that could influence their professional judgment or professional activities to the detriment of their client, and by not having any economic relationship with their clients other than for fees.

To that end, they must also refrain from using their professional relationship with a client to obtain benefits of any nature for themselves or for a third person.

44. On becoming aware they are or risk being in a situation of real or apparent conflict of interest, criminologists must define the nature of their obligations and responsibilities, inform their client accordingly and if need be, agree on appropriate measures to prevent any harm to the client.

That information must be entered in the record.

45. Criminologists must not unnecessarily perform or increase the number of professional acts or perform any act that is inappropriate or disproportionate to the needs of a client.

46. Criminologists must not urge a person insidiously, pressingly or repeatedly to retain their professional services.

47. Except where necessary, criminologists must refrain from providing professional services to persons with whom they have a relationship that is liable to adversely affect the quality of their services, in particular their family members, close friends, work colleagues, employees and students they teach.

48. Criminologists providing professional services to clients in connection with their professional practice within an organization may not encourage those clients to become clients in their private practice.

49. Except for the remuneration to which they are entitled, customary tokens of appreciation and gifts of small value, criminologists may not receive, pay or undertake to pay any benefit, rebate or commission related to their professional practice.

§5. Record access and correction

50. Criminologists practising in a professional context subject to an Act that provides for special rules applying to record access and correction by clients must comply with those rules and facilitate their application.

In other cases, they must comply with sections 27 to 41 of the Act respecting the protection of personal information in the private sector (chapter P-39.1) and facilitate exercise by clients of the rights under that Act. Those sections are supplemented by the special provisions in this subdivision.

51. Criminologists must respond without delay to any written request from a client to have information deleted if it is outdated or not justified by the object of the record established in the client's respect.

52. Criminologists who refuse to follow through on a request for access or correction or on a request made under section 51 must enter the reasons for the refusal in the client's record along with a copy of the decision sent to the client.

The decision must inform the client of their right to prepare written comments and to request they be filed in their record. If applicable, criminologists must without delay send the client an attestation stating that the client's comments have been filed in the record.

53. Criminologists must respond promptly and at the latest within 30 days after receipt of any written request made by a client wishing

(1) to have a document in the criminologist's possession returned; or

(2) to have their record or a part of it transferred to another criminologist or to a professional who is a member of another order.

§6. Fees and other costs

54. Criminologists must charge and accept fair and reasonable fees, taking into account, in particular,

(1) their experience and special competence;

(2) the time devoted to providing the professional services agreed on;

(3) the nature and complexity of the professional services;

(4) professional services that are unusual or provided in unusual circumstances;

(5) the exceptional competence and promptness required to provide the professional services; and

(6) the expenses and costs incurred.

55. Criminologists must ensure clients are informed in writing of the approximate and foreseeable amount of all fees and other costs. They must also without delay inform clients of any modification to the fees or costs.

56. Criminologists may charge fees only for professional services provided.

They may, however, charge reasonable cancellation fees for missed appointments according to a predetermined agreement, so long as those fees do not exceed the amount of the lost professional fees.

57. Criminologists may not, as a favour or for any other reason, issue inaccurate receipts or provide, in any manner, false or unverified information, in particular to facilitate insurance coverage.

Criminologists must use the title “criminologist” or the abbreviation “criminol.” in every receipt issued to clients.

58. Criminologists must provide clients with a clear and detailed statement of fees and with all explanations necessary to an understanding of the statement and payment options.

59. Criminologists may share their fees only insofar as it corresponds to the sharing of the professional services provided and responsibilities assumed and does not affect their professional independence.

60. With regard to the collection of accounts, criminologists must

(1) not collect interest on outstanding accounts unless they have a prior written agreement with the client to that effect and the rate of interest charged is reasonable;

(2) exhaust all other means at their disposal to obtain payment of their fees before instituting judicial proceedings; and

(3) ensure, to the extent possible, that the person entrusted to collect accounts proceeds with tact and moderation and respects confidentiality and the debt collection practices authorized by law.

§7. Termination of professional services

61. Criminologists may cease to act on behalf of a client only for just and reasonable grounds. Such grounds include

(1) the inability to establish or maintain a relationship of trust or respect with a client;

(2) a real or apparent situation of conflict of interest or a situation in which the criminologist’s professional independence could be questioned;

(3) inducement by a client or a relative of a client to perform an act that is illegal or fraudulent or contrary to the provisions of this Code;

(4) abusive behaviour by a client such as harassment, threats, aggressive acts or acts of a sexual nature;

(5) non-compliance by a client with the conditions agreed on for the professional services to be provided, including fees, and the impossibility of negotiating a reasonable service resumption agreement with the client;

(6) the prospect that maintaining the professional services could, in the criminologist’s opinion, become more harmful than beneficial for the client, unless providing the professional services is ordered by the court; and

(7) the criminologist’s decision to scale down or terminate their professional practice for personal or professional reasons.

62. Before ceasing to act on behalf of a client, criminologists must within a reasonable time give prior notice to the client and take the necessary measures to prevent harm to the client, in particular by referring the client to another criminologist or to a professional who is a member of another order.

63. On ceasing to perform their professional duties for an employer, criminologists must inform the employer of any confidential information contained in the records for which they were responsible and propose the measures necessary to preserve the confidentiality of the information.

In the event there is a possibility the confidentiality of the information could be compromised, they must notify the secretary of the Ordre professionnel des criminologues du Québec accordingly.

DIVISION IV

DUTIES AND OBLIGATIONS TOWARDS THE PROFESSION

§1. Professional collaboration and relations with the Order

64. Criminologists must not discredit any person with whom they have dealings in their professional practice or engage in unfair practices against the person.

65. Criminologists may not take credit for work not performed by them.

66. Criminologists consulted by another criminologist must provide their opinion and recommendations within a reasonable time. If unable to do so, they must notify the other criminologist accordingly as quickly as possible.

67. Criminologists must collaborate with the Order in fulfilling their duties, including the duty to ensure the protection of the public.

68. Within 10 days after the date on which they are so informed, criminologists must inform the secretary of the Order that they are or were the subject of a criminal, penal or disciplinary decision or of proceedings for an offence punishable by a term of imprisonment of 5 years or more.

69. Criminologists must refrain from exerting any undue pressure or engaging in collusion to influence the board of directors of the Order, a committee of the Order or any other person acting on behalf of the Order.

70. Criminologists must

(1) inform the secretary of the Order if they have reason to believe that

(a) an applicant for admission to the profession does not meet the permit issue requirements or those for entry on the roll;

(b) a criminologist is not complying with restrictions placed on the criminologist's right to practise;

(c) a person who is not a member of the Order is using the title "criminologist" or the abbreviation "criminol." or a title, abbreviation or initials that could lead to the belief that the person is a criminologist; or

(d) a person is illegally engaging in a professional activity reserved to members of the Order; and

(2) inform the syndic of the Order if they have reason to believe that

(a) an offence against the Professional Code (chapter C-26) or any of its regulations has been committed by another criminologist;

(b) a criminologist does not have the competence required or displays conduct that is derogatory to the dignity of the profession; or

(c) a situation likely to adversely affect the competence or integrity of another criminologist has arisen.

Disclosure of such information must preserve professional secrecy.

71. Criminologists must collaborate with any person exercising functions under the Professional Code (chapter C-26) and its regulations.

They must reply fully and truthfully as soon as possible to any verbal or written request from such a person, using the means of communication determined by the person, and make themselves available for any meeting the person may request.

72. Criminologists who are served with a complaint or are informed of the holding of an inquiry into their conduct may under no circumstances, directly or indirectly, communicate with the person who made the complaint or prompted the inquiry or with any other person involved, unless written permission has been obtained from the syndic.

73. Criminologists must not influence, intimidate, threaten, harass or take reprisals against a person because the person has reported or intends to report conduct that contravenes their professional obligations, or because the person has collaborated or intends to collaborate in an inspection or inquiry into such a matter.

74. Criminologists must comply with every decision made by the Order and respect any agreement they have made with the board of directors, the secretary of the Order, a syndic or the professional inspection committee and with any committee to which the board of directors has delegated powers pursuant to the Professional Code (chapter C-26).

§2. Research

75. Criminologists who undertake, participate or collaborate in a research project involving persons must ensure that the project has been approved by a recognized research ethics committee that adheres to current standards, including as regards its composition and operating methods.

To that end, for each participant or their representative, criminologists must refer to and comply with the methodology approved by the committee, in particular to

(1) inform the participant or representative of the nature of the research project and its goal, objectives and the manner in which it will be conducted, as well as the benefits, risks or disadvantages involved in their participation;

(2) obtain their free and enlightened consent;

(3) inform the participant that consent is revocable at all times; and

(4) ensure that measures have been taken to preserve the confidentiality of information collected in the course of the research project.

76. Criminologists must not exert any pressure on a person who may be a prospective participant in a research project.

77. Before undertaking a research project, criminologists must assess the foreseeable consequences for the participants and for the community.

If conducting a research project is likely to be detrimental to persons or the community, the criminologists participating in the project must inform the research ethics committee or any other competent authority of that possibility.

78. Criminologists must ensure that all persons collaborating with them in the research project are informed of the duties and professional obligations incumbent on the criminologists.

79. Criminologists must cease any form of participation in a research project in which the disadvantages for the participants appear to outweigh the expected benefits, after informing the research ethics committee or any other competent authority accordingly.

80. Criminologists must not conceal any negative results of a research project in which they have participated.

§3. Contribution to development of the profession

81. To the extent of their resources, qualifications and experience, criminologists must contribute to the development and quality of the profession in particular by accompanying students and trainees and through discussions with other criminologists.

DIVISION V **DUTIES AND OBLIGATIONS TOWARDS THE PUBLIC**

§1. Advertising

82. Criminologists may not, by any means whatsoever including through social media, engage in or allow advertising that

(1) is specifically aimed at persons who are vulnerable owing in particular to their age, state or the occurrence of a specific event;

(2) is false, incomplete, deceitful or likely to mislead the public, including as relates to their competence and the effectiveness of their professional services and those provided by other criminologists;

(3) discredits another professional or is contrary to the honour or dignity of the profession;

(4) is likely to tarnish the image of the profession; or

(5) imparts a mercantile character to the profession.

83. All advertising must indicate the criminologist's name followed by professional title.

84. Criminologists must refrain from participating as criminologists in any form of advertising recommending the public buy or use a product or service unrelated to the field of criminology.

85. Criminologists must keep a copy of every advertisement for a period of 3 years following the date on which it was last broadcast or published. On request, the copy must be turned over without delay to the secretary of the Order, a syndic, an investigator, an inspector or a member of the professional inspection committee.

§2. Public statements

86. When criminologists speak in public on matters pertaining to criminology, their remarks must be supported by data generally accepted in the profession and be objective, moderate and devoid of any form of sensationalism.

In any activity of a professional nature intended for the public, criminologists must stress the relative value of the information or advice being given.

§3. *Graphic symbol of the Order*

87. When criminologists use the graphic symbol of the Order in their advertising, they must

(1) ensure that the symbol conforms to the original held by the secretary of the Order; and

(2) ensure that it does not suggest the advertising emanates or is authorized by the Order.

DIVISION VI
FINAL

88. This Code comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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