



# **Your right to Property in federal prison**

**This booklet is about your rights to personal property while you are in federal custody and what you can do if your property has been lost or damaged, or if your property rights have been violated.**

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## Property you can have in federal custody

The Correctional Service of Canada (CSC) must provide you with basic and necessary items. It must allow you to purchase other comfort items and to have sentimental items sent to you. But CSC can also place limits on the types of items you can have and the total dollar value of items that you can have at one time.

In general, you are allowed to have the following items:

- Items listed in the National Lists of Personal Property for Men / Women Inmates (see CD 566-12, Annexes B & C)
- 5 computer floppy disks (or 20 if you are authorized to have a computer)
- Items that you need for your personal health, safety and dignity, including clothing, hygiene products and other personal health items that fit your gender identity and expression. This includes access to items from both the men's and women's catalogues.<sup>1</sup>

The items you are allowed will depend on your security level. You are not allowed items that create a security, health or safety risk.

There is a limit on the total value of the items you can have in your cell and in storage. **You are allowed a maximum of \$1,500 worth of personal effects.**

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1 CD 566-12, para 11, Annexes B & C; Interim Policy Bulletin 584 Gender.

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In addition to that, you are **also** allowed:

- Jewellery up to a maximum value of \$300;
- Medical bracelets approved by Health Services;
- Religious, spiritual or cultural items, if approved;
- Hobby craft tools and raw materials, if approved.<sup>2</sup> The tools and raw materials and the item you are working on do not count towards your \$1,500 limit. But when you have finished making it, you should add the completed item to your Personal Property Record if you want to keep it. The *completed* item will count towards your \$1,500 maximum;
- Up to \$2,500 worth of computer hardware and software **if** your computer was approved before October 2002 and you obey the conditions.<sup>3</sup>

You are allowed up to \$90 of canteen items in your cell. As part of that, you are allowed up to \$20 of stamps. You are also allowed “holiday canteen items” up to an extra \$90 until February 1 of each year.<sup>4</sup>

**You can keep 0.085 cubic metres of property in storage. This equals about 3 cubic feet. If you are double-bunked, you may want to ask the warden to approve extra storage space for you.<sup>5</sup>**

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2 CD 573, para 6.

3 CD 566-2, paras 21, 29, 31-32, 42-42, Annex D.

4 CD 566-12, paras 33-34.

5 CD 566-12, para 56.

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If you want to keep an electronic item in your cell, CSC will seal it and mark it to identify it as yours. Any USB ports have to be disabled and sealed. If you have an electronic item that needs to be repaired, you are only allowed to get it repaired at a licensed repair facility, and you need the warden's approval.<sup>6</sup> There is a list of specific television models that you are allowed to buy.<sup>7</sup>

You will need to ask permission to have the following items:

- non-essential health care items;
- religious items;
- spiritual or cultural items;
- educational textbooks and supplies; and
- tools and raw materials for arts and crafts.<sup>8</sup>

CSC will consider the safety and security of staff, prisoners and visitors when it makes decisions about what property you can have. Limits on your right to property can be made based on the following considerations:

- institutional limitations (amount of space for storage, etc.);
- health and safety;
- fire safety requirements; and
- the security of the institution.<sup>9</sup>

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6 CD 566-12, paras 19, 23, 44.

7 CD 566-12, para 22.

8 CD 566-12, paras 6, 25; CD 573, paras 6-7.

9 CD 566-12; CD 345.

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CSC must restrict your right to have property as little as possible. They must also respect your cultural, religious and gender needs.<sup>10</sup>

You will not be allowed to have anything considered to be contraband. This means you cannot have:

- an intoxicant;
- a weapon or part of a weapon;
- ammunition for a weapon;
- anything that is designed to kill, injure or disable a person or anything that is altered so as to be able to do so;
- an explosive, bomb or part of either;
- unauthorized currency over the allowed amount; or
- an unauthorized item that could jeopardize the security of the prison or a person's safety.<sup>11</sup>

You are not allowed to have money or credit or debit cards, knives, other dangerous items, cell phones, pagers, other communication devices, medication, passports, or other items that are unauthorized – either in your cell or in storage. These items must be sent back to the issuing office (for example, the bank), stored outside the institution, or disposed of.<sup>12</sup>

CSC can seize anything it believes to be unauthorized or contraband. You may also be charged with a disciplinary offence for having the item. For further information on how CSC must

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10 Interim Policy Bulletin 584.

11 CCRA, s 2.

12 CD 566-12, paras 15-16, 60, 70-72; CD 568-5.

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handle seized items, please see the section on seized property below.

You should normally be allowed to have written, audio or video material that is legally available and does not infringe any copyright laws, unless it:

- jeopardizes the safety of a person or the security of the institution;
- contains detailed information on how to make a weapon or how to commit a crime;
- advocates or promotes genocide or hatred of an identifiable group;
- is sexually oriented material that promotes a criminal act or involves violence or children;
- portrays excessive violence, aggression, or prison violence; or
- would undermine a person's sense of personal dignity by demeaning, humiliating or embarrassing a person on the basis of sex, race, national or ethnic origin, colour or religion.<sup>13</sup>

If you have an item that is not on the National Lists of Personal Property, but that was authorized when you got it, you are allowed to keep it for the life of the item (unless it is a risk to security).<sup>14</sup> For example, stereos with detachable speakers are no longer allowed. If you have one of these, you can keep it until it stops

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13 CRR, s 96; CD 764, paras 4-7; CD 566-12, para 5.

14 CD 566-12, para 18.

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working. If it stops working, you can either pay to get it repaired, or you can dispose of it. After disposing of it, you are only allowed to buy a one-piece stereo system that meets the current requirements in the National Lists of Personal Property.<sup>15</sup>

## Getting your property

CSC does not allow you to receive, give, trade, loan, rent or sell personal or other property to other people in custody. You must get all of your property by an approved method.<sup>16</sup>

When you enter federal custody, you may have some personal property with you. You can also arrange to have items sent to you from the community within 30 days after you arrive in prison (your “pen pack”). The Warden can give you more time to arrange for your property to be delivered if they agree that you need more time.<sup>17</sup>

If you are transferred to a new institution, you should normally get your belongings within 10 days of when they arrive at Admissions and Discharge (A&D) in your new institution.<sup>18</sup>

If your conditional release is suspended and you are returned to custody, you will likely not get your personal effects unless and until your release is revoked. If your release is revoked, you will have a 30 day period to get personal effects sent to you from outside the institution.<sup>19</sup> If you were in a community correctional

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15 CD 566-12, paras 24, 45, Annexes B, C.

16 CD 566-12, para 20.

17 CD 566-12, para 11.

18 CD 566-12, para 69.

19 CD 566-12, para 11.



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centre before being suspended, CSC is required to get your items to your institution within 30 days of your release being revoked.<sup>20</sup>

If you are suspended from a community residential facility (CRF) and returned to custody, you can arrange for someone to have your belongings sent to your institution. This may be somebody at the CRF, or family or friends.

If you escape custody or are at large without excuse, CSC must try to return your property to a next of kin. If CSC is not able to locate a next of kin, it can dispose of your property after two years, or seven years for legal or official documents.<sup>21</sup>

While you are in custody, you are normally only allowed to buy things from CSC's national supplier. However, the deputy warden or assistant may approve a purchase from another source if you need something for cultural or spiritual reasons, or in exceptional circumstances.<sup>22</sup>

If you do not have enough money in your current account, you can ask to transfer money from your savings account. There are limits on how much money you can transfer and how often you can make transfers. You can read about how the accounts and transfers work in *CD 860 Offender's Money*.

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20 CD 566-12, para 87.

21 CCRR, s 85; CD 566-12, paras 71, 86.

22 Interim Policy Bulletin 528.

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## Keeping a record of your property

It is important to keep an up-to-date record of your property on your Personal Property Record. This way, you can ask for compensation if anything is lost or damaged.<sup>23</sup> It also protects you from having items seized and protects you from being charged for having unauthorized items.<sup>24</sup>

Your Personal Property Record and hobby craft permit are kept at A&D. You should advise A&D of any changes to your property.<sup>25</sup> This includes:

- any new items that you obtain;
- changes to existing items (for example, if you complete a hobby craft);
- disposal of unwanted items; and
- items in storage.<sup>26</sup>

This record should include a monetary value for each of the items in your possession. This value is assigned by the officers at A&D and they are required to consult with you to determine this value. If there is a disagreement about the value of any item, it will be decided by the officer at A&D.<sup>27</sup> The value assigned to an item at this time will stay the same throughout its life and will not be reduced if the item is lost or damaged.<sup>28</sup>

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23 See CD 566-12, para 39.

24 CCRA, ss40 (e), (i), (j).

25 CD 566-12, para 14.

26 CD 566-12; CD 702, Annex E.

27 CD 566-12, para 38.

28 CD 566-12, para 35.

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Any time you buy a non-perishable item, it will go through A&D first and they will record it on your Personal Property Record. Its value will be listed at the purchase price, including taxes.<sup>29</sup>

Your valuables (up to a maximum of \$1,000) and important documents to be kept in a fireproof safe at the prison will also be recorded on your Personal Property Record.<sup>30</sup> These will normally count towards your \$1,500 maximum (the first section in this booklet tells you what you can have that does not count towards the maximum). If you wish for them not to count towards your maximum, you can arrange to have them sent to somebody outside the prison to keep them for you.

For valuables, important documents, jewellery, electronic items, religious, spiritual, and cultural items, CSC must take a photo of the items and ask you to sign the Personal Property Record. Before you sign it, check that it accurately lists all the items and their proper value.<sup>31</sup>

If you and the A&D officer do not agree on the value of jewellery, you can send the item to someone in the community to keep for you or you can have the jewellery appraised. CSC will choose the expert and you will pay for the appraisal.<sup>32</sup>

Some prisoners under-value their effects on their records so they can have more property and remain under the \$1,500 limit. But if items are lost or stolen, you will be able to claim only the value of the item that is listed on your record.

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29 CD 566-12, paras 36, 41.

30 CD 566-12, para 58.

31 CD 566-12, paras 37, 58.

32 CD 566-12, para 40.

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## **Make sure your record includes details of items, such as colours and brand names.**

The general working condition of your electrical equipment should be recorded, in writing, on your property record when you are admitted to prison and when you are transferred or released.<sup>33</sup>

You will be given a copy of your personal property record.

## **Protection of your property**

CSC will require you to agree, in writing, to accept responsibility for the safekeeping and reasonable use of your property in your cell.<sup>34</sup>

But CSC also has a duty to take all reasonable steps to protect your property from being lost or damaged.<sup>35</sup> This means that CSC must take reasonable steps to secure your property when it is not in your care, such as when you are transferred or taken to segregation before having an opportunity to pack up your property.

CSC must keep your valuables (up to \$1,000) and important documents in a fireproof cabinet or safe.

Whenever possible, you will be responsible for packing your own cell property.<sup>36</sup> When you pack up your cell and take your items to A&D, the officer will record the number of boxes received and seal the boxes in your presence. The officer should also complete

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33 CD 566-12, paras 64, 68, 85, 88.

34 CD 566-12, para 14.

35 CCRR, s 84.

36 CD 566-12, para 61.

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the “Inmate Clearance Form” (CSC/SCC 1012) to show that reasonable steps have been taken to secure your property.<sup>37</sup>

If you are not able to pack your own property, staff must secure it as soon as you have been removed from your cell. Staff must record the date and time they secured your property. If you have a roommate, staff must assign a secure area and take any other reasonable steps to protect your property.<sup>38</sup>

At least two staff members should pack your cell effects without delay. Staff must list all of the items in your cell. Both staff members must sign off on this list and provide you with a copy.<sup>39</sup>

When you take your property to A&D for transfer or release, or staff pack your cell, they will check the items in your cell against your property record and hobby permit. Again, it is important to make sure that your property record is up to date to ensure you are not charged for having unauthorized items and to allow you to make a claim if your belongings are lost or damaged.<sup>40</sup>

If you are being transferred to another institution, your personal property (up to about 3 cubic feet) should normally go with you at the time of your transfer. If your items need to be sent by a shipping company, CSC must verify that all your property arrives in the same condition as it was sent, and must make a claim with the shipping company if there are missing or damaged items.<sup>41</sup>

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37 CD 566-12, para 64.

38 CD 566-12, para 65.

39 CD 566-12, para 66.

40 CD 566-12, paras 64, 66.

41 CD 566-12, paras 62-63, 67.

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## Seizure of property

CSC can seize your property if it is unauthorized, considered to be contraband, or not listed on your property record or hobby craft permit.<sup>42</sup> Authorized items that have been altered are considered to be unauthorized and can be seized.<sup>43</sup> CSC can also confiscate your property if you use it in a way that jeopardizes safety or security.<sup>44</sup>

CSC's duty to protect your property from loss or damage includes property that they have seized.

CSC staff must give you a receipt for seized property without delay.<sup>45</sup> Staff must place the item in a secure evidence locker to ensure that it is not lost, damaged or tampered with.<sup>46</sup>

**If an item has been seized, you can submit a written request for the return of this item. Your request must be made within 30 days of the notice of seizure.<sup>47</sup>**

CSC should return the requested item to you if:

- the item is not required as evidence in a disciplinary or criminal proceeding;

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42 CD 566-12, para 54.

43 CD 566-12, para 54.

44 CD 566-12, para 48.

45 CD 568-5, paras 5, 14.

46 CD 568-5, paras 5-13.

47 CD 568-5, para 16.

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- the item is in control of CSC; and
  - you are legally allowed to have the item.<sup>48</sup>

If the item that was seized is lawful *outside* the institution but considered contraband or an unauthorized item *within* the institution, CSC must provide you with a reasonable opportunity to dispose of the item or to send it to somebody outside the institution to hold onto for you.<sup>49</sup>

If you have not requested the return of your property within 30 days of your notice of seizure, or made alternative arrangements for its safekeeping outside the institution (if the item is lawful), the property goes to the government or is disposed of.<sup>50</sup> In some limited cases, it is possible to get an item back within 30 days of it being given from CSC to the government.<sup>51</sup>

## Exercising your property rights

### Compensation for lost or damaged items

If your property is lost or damaged while it is in CSC's care, you can submit a claim against the Crown. If your claim is successful, CSC must pay you for the lost or damaged item.<sup>52</sup>

CSC will only compensate you for lost or damaged property if it was responsible for your property when it was lost or damaged,

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48 CD 568-5, para 16.

49 CD 568-5, para 17.

50 CD 568-5, paras 18, 22.

51 CD 568-5, paras 19-20.

52 CD 566-12, para 73; CD 234; Also see GL 234-1.

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such as when you are in segregation or CSC is transporting your property. When your property is in your possession, CSC will expect you to be responsible for its care.<sup>53</sup>

You will not be compensated for the sentimental value of items. Only the monetary value assigned to an item on your personal property record can be compensated.<sup>54</sup>

CSC will not normally compensate you for consumable canteen items that you claim were lost or stolen, unless you can show that there is a good reason for them to compensate you because of the circumstances of how they were lost or damaged.<sup>55</sup>

Address your claim to the Warden responsible for your property at the time of the loss or damage.

When investigating your claim, CSC will ask these questions:

- Did CSC take all reasonable steps to protect your property?
- Was the property returned to you or did CSC explain to you why it was not returned?
- Was your property damaged before it was in CSC's care?<sup>56</sup>

If it is not clear who is responsible for the loss or damage, CSC must accept your claim if the item is listed on your property record (or it is a non-consumable canteen item that does not need to be on your property record).<sup>57</sup>

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53 CD 234, paras 19-20.

54 CD 234, paras 31, 33.

55 CD 234, para 22.

56 CD 234, para 20.

57 CD 234, para 21.



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CSC must investigate and respond to your claim in writing within 60 days of receipt. It is allowed to take up to 90 days in exceptional circumstances. If CSC is unable to respond within 90 days, staff must give you the reasons for the delay and tell you when you can expect a response.<sup>58</sup>

CSC's written response to your claim must explain what compensation is being offered or why your claim is being denied. It will also tell you about your right to consult with independent legal counsel. If your claim is accepted, in most cases, you will be given a release form for your review and signature.<sup>59</sup> If you agree with the amount and sign this form, you will not be able to file a civil claim in court against the Crown for the loss or damage later on.<sup>60</sup>

If your claim is successful, CSC can pay you the lesser of the amount claimed, the value listed in your property record, the cost of repairing the item, the cost of replacing the item or the maximum amount allowed for the item. Specific information on how CSC will determine the appropriate amount owing is outlined in paragraphs 26-35 of Commissioner's Directive 234 *Claims against the Crown and the Offender Accident Compensation Program*.

### **The Complaint and Grievance Process**

If your claim is denied and you do not feel that the decision was reasonable or justified, you may pursue the matter through the complaint and grievance process.

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58 CD 234, paras 9-10.

59 CD 234, para 38.

60 GL 234-1, para 36.

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The complaint and grievance process is also available if you feel that your property rights have been violated but there was no loss or damage to your property. For example, you may file a complaint if you were not provided 30 days to arrange for your personal property to be sent to you when you arrived in prison, or if CSC does not allow you to have something you should be allowed to have in custody.

For more information on the grievance process, please see our booklet: “Writing an effective grievance”.

## **Prisoners’ Legal Services**

Unfortunately, Prisoners’ Legal Services is not funded to provide legal advice or representation for property issues.

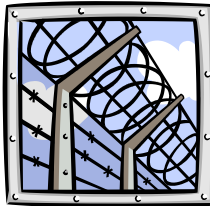
If you are a prisoner in British Columbia, you can contact Prisoners’ Legal Services for advice or assistance with issues that affect your liberty (such as segregation, disciplinary charges or parole hearings) or about health care or human rights issues. For assistance from Prisoners’ Legal Services, you must have a referral from the Legal Services Society. Contact their call centre at

1-888-839-8889. Once you have a referral, you can call Prisoners’ Legal Services directly at 1-866-577-5245.

Prisoners’ Legal Services phones are open Monday to Friday from 9:00 a.m. to 11:00 a.m. and from 1:00 p.m. to 3:00 p.m.



**This publication contains general information only. Each situation is unique. Law and policy can also change. If you have a legal problem, contact Prisoners' Legal Services or a lawyer.**



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