



Conditional Release

This booklet explains your rights if you are applying for parole or a temporary absence, or if you have been detained or suspended from conditional release.

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PAROLE AND STATUTORY RELEASE

Conditional release allows you to serve some of your sentence in the community, under supervision of a community parole officer (“CPO”). Conditional release is meant to help you live successfully in the community without being involved in crime. The end of your sentence is called your “**warrant expiry date**”.

You can be given the chance to live on conditional release at a parole hearing once you reach your parole eligibility date. The Parole Board of Canada (the “Parole Board”) decides whether or not to grant you parole.

If you have a fixed sentence (not life or indeterminate), you have the right to finish your sentence in the community when you reach your **statutory release date**. You reach your statutory release date when you have completed 2/3 of your sentence.¹ Most people are released automatically one working day before that date, with conditions.² But in some cases, the Correctional Service Canada (“CSC”) can refer you to the Parole Board to decide whether to detain you past your statutory release date (see section on “Detention past Statutory Release”).

Parole eligibility dates

Day parole allows you to live in the community at a halfway house or other approved location. A halfway house is also called a

1 *Corrections and Conditional Release Act*, SC 1992, c. 20, s. 127(3) [CCRA].

2 Correctional Service of Canada, *Commissioner’s Directive 703: Sentence Management* (Ottawa, CSC, 2017-04-10), para. 29(d) [CD 703].

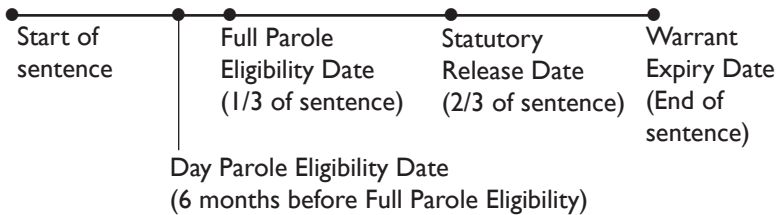
community-based residential facility (“CRF”). You can take part in things like paid or volunteer work and studies, but you need to return to the CRF each night. Day parole is approved for six months at a time.

Most people’s day parole eligibility date is 6 months before their full parole eligibility date.³

If you are supported and prepared, you should apply for day parole at least 6 months before your eligibility date to give your case management team (“CMT”) enough time to prepare your case and for the Parole Board to schedule the hearing.

If you apply and your day parole is refused, you will have to wait another year before applying again. So it is often best to wait until you have your CMT’s support for your application. If you would like to discuss your case, you can phone Prisoners’ Legal Services.

Full parole allows you to live in the community without having to report each night to a CRF, unless that is a condition of your release.



3 CCRA, s. 119(1)(c).

Most people are eligible for full parole at 1/3 of their sentence or after 7 years, whichever is less.⁴ If you are serving a life sentence, your full parole eligibility date could be between 7 to 25 years, depending on your sentence.⁵

If you received multiple sentences, you can talk to your Institutional Parole Officer (“IPO”) or to Prisoners’ Legal Services about when you will be eligible for full parole.⁶

You are considered for full parole automatically, so you do not need to apply.⁷ You will be scheduled automatically for your first full parole review within 6 months of your “full parole eligibility date”.

If you do not know your parole eligibility dates, ask your IPO. They can give you an official document telling you when your sentence started, when it ends, your day and full parole eligibility dates and your statutory release date. You can also ask Sentence Management.

4 CCRA, s. 120(1).

5 CCRA, s. 120(2); *Criminal Code of Canada*, RSC 1985, c C-46, ss. 745, 743.6 [*Criminal Code*].

6 CCRA, ss. 120.1, 120.2, 120.3.

7 CCRA, s. 123(1).

Review of your parole after you have been refused

If the Parole Board decides not to grant you day parole or full parole, or if you waive the parole review, you can apply for another review **1 year** after the Parole Board's last decision.⁸ The Parole Board has 6 months to review your application.⁹

In most cases, if you do not apply for a review, the Parole Board will review you for full parole automatically every **2 years** from your last review for any kind of release (or from when you waived your right to a full parole review).¹⁰

But if you are serving a sentence of at least 2 years for murder or a Schedule I offence, the Parole Board will review your full parole automatically every **5 years** from when your last day or full parole review took place (or was scheduled to take place).¹¹

If you want to also be considered for day parole or temporary absences at your 2 year or 5 year mandatory review for full parole, you must submit an application at least 6 months before the review.¹²

8 CCRA, ss. 122(4), 123(6).

9 CCRA, ss. 122(4), 123(6); *Corrections and Conditional Release Regulations*, SOR/92-620, ss. 157(2), 158(2) [CCRR].

10 CCRA, ss. 123(1), 123(5).

11 CCRA, ss. 123(5.01), 123(8).

12 CCRR, ss. 157(2), 158(2).

If the Parole Board needs more time to get relevant information or make a decision, it can delay your review for up to 2 months.¹³

Cancellation of future parole hearings

The Parole Board can cancel your next review hearing if you refuse to attend a review hearing or waive your right to a review hearing within 15 days of your hearing without good reason more than once.¹⁴

The parole process

CSC must give all relevant information under its control to the Parole Board before your parole hearing.¹⁵ This information (or a summary of it) must be shared with you at least 15 days before your hearing.¹⁶ The Parole Board can only withhold information from you that would put at risk the safety of a person, the security of a prison, or an investigation; or where sharing that information would not be in the public interest.¹⁷

This information includes your *Correctional Plan Updated* and *Assessment for Decision*. Your IPO will ask you to sign a “sharing sheet” saying that you received a copy of the documents given to the Parole Board.

13 CCR, ss. 157(4), 158(4); Parole Board of Canada, *Decision-Making Policy Manual for Board Members*, Third Edition, No. 1 – 2022-10-24. [PBC Manual], c. 11.5, s. 7.

14 CCRA, s. 140.1.

15 CCRA, s. 25(1).

16 CCRA, s. 141(1).

17 CCRA, s. 141(4).

Before signing the sharing sheet, you should make sure that the dates listed are correct and that you are not waiving your right to make representations to the Parole Board.

If you are unsure about what you are signing and your IPO refuses to help clarify, you should make a note under your signature that states you are signing “under duress.”

If you are given new information within 15 days of your hearing, you can ask for a postponement (delay) of your hearing. You should ask for a postponement if you need time to prepare and respond to the new information.¹⁸ See the section on “Asking to delay your hearing” below.

If your IPO does not share the information with you at least 15 days before your hearing, and your hearing goes ahead and you are denied parole, you can appeal the decision to the Parole Board of Canada Appeal Division.¹⁹ See the section on “Parole Board Appeals” at the end of this booklet.

Your right to be at your hearing, and to have an assistant

You have the right to attend your Parole Board hearing and to respond to the information given to the Parole Board. For some of its decisions, the Parole Board does not have to hold a hearing. For a list of when a hearing will take place, see CD 712-3, paragraphs 5-6.

18 *CCRA*, s. 141(3).

19 *CCRA*, s. 147(1). Note that the Parole Board does not lose jurisdiction if this timeline is not met (*Armaly v. Canada (Parole)*, 2001 ABCA 280, leave denied [2002] SCCA No. 134).

You also have the right to have an assistant of your choice at your hearing.²⁰ Your assistant can be a lawyer, advocate, friend, family member or a community support person.

Your assistant is allowed to give you information and advice during the hearing. You can also speak to your assistant in private during the hearing if you want to. Your assistant is allowed to speak directly to the Parole Board, summarizing your case and saying why you should be released on parole.²¹

Tell your IPO if you would like an assistant at your hearing. If your assistant is not available on the day that your hearing is scheduled to take place, you can ask the Parole Board to postpone your hearing until another date.²²

You can call Prisoners' Legal Services for advice or assistance with your parole hearing. You will need to send us your Correctional Plan Updated and Assessment for Decision.

20 *CCRA*, ss. 140(7), 140(8).

21 *PBC Manual*, c 9.3, para 4.

22 *PBC Manual*, c 10.4, para 3.

Asking to postpone your hearing

You can ask to delay your hearing at any time before it begins. This is called a “postponement” and it must be done in writing. There are all kinds of reasons that you might want to postpone your hearing. For example:

- You have not had enough time to look at the information from the Parole Board or to plan what you want to say at your hearing;
- The assistant that you want to help you at the hearing cannot come on the scheduled day;
- A certified interpreter who speaks your language is not available on the scheduled date; or
- You want to complete a program, treatment or assessment before your hearing.

Once you ask to delay your hearing, the Parole Board should reschedule your hearing as soon as possible. However, it can take up to 4 months.²³

Attending your hearing when parole is unlikely

You can attend your hearing even if your CMT is not supportive of your application and you don’t think the Parole Board will grant you parole, so that you can see what the Parole Board expects from you. This might help you prepare for a future hearing.

23 PBC Manual, c 10.4, para 6.

Parole by exception

In rare cases, the Parole Board can grant you parole even before your eligibility dates if it believes you are not a risk to the community, including if:

- You have a terminal illness;
- Your physical or mental health is likely to suffer serious damage if you are made to stay in prison; or
- It would be an extreme hardship to keep you in prison that was not reasonably foreseeable when you were sentenced.²⁴

If you are serving a life sentence as a minimum punishment (if you were convicted of first- or second-degree murder) or an indeterminate sentence, you can only be granted exceptional parole if you have a terminal illness.²⁵

People at your parole hearing

People at your hearing will include:

- 2 Parole Board members who decide whether or not to give you parole;
- The Parole Board Hearing Assistant who helps the Parole Board members hold the hearing;
- A CSC representative (usually your IPO) who tells the Parole Board members the reasons for supporting or not supporting your release on parole; and

24 *CCRA*, s. 121(1).

25 *CCRA*, s. 121(2).

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- You, who will answer the Parole Board members' questions about your level of risk and why you are ready for parole.

Other people who might be at your hearing include:

- Your assistant, who can help you during the hearing and make a statement to the Parole Board;²⁶
- An interpreter, if you need one to fully understand the hearing and the documents;²⁷
- An Elder (see the section on Elder-assisted hearings under “Indigenous People’s Rights” later in this booklet); and
- Observers, who might be victims, relatives and friends (yours or the victims’), other Parole Board or CSC staff (including correctional officers) and others interested in the parole process (such as students or the media).

You will be told if anyone applies to the Parole Board to watch your hearing. If you object to the observer attending your hearing, you will be given the chance to write to the Parole Board and tell them why.²⁸ When it is deciding whether the person can come and watch your hearing, the Parole Board must consider your views. It will let the person come unless it believes they will have a negative impact on the hearing, on people at the hearing, or on the security of the institution.²⁹

26 *CCRA*, ss. 140(7), 140(8).

27 *CCRA*, s. 140(9).

28 *CCRA*, s. 140(4); Correctional Service of Canada, *CD 712-3: Parole Board of Canada Reviews* (Ottawa: CSC, 2017-05-15), para. 16 [CD 712-3].

29 More details at *CCRA*, s. 140(4)-(5.2).

Victims

Victims of your crime are allowed to attend your hearing and to make a statement to the Parole Board members during your hearing. They can also give a statement to the Parole Board even if they do not come to your hearing in person.³⁰

Victims and their family members are allowed to get information about your correctional plan and release decisions and details, and recordings of your parole hearing.³¹

The Parole Board has to consider victims' statements when deciding on your case.³²

The Hearing

Hearings can be in person or by videoconference. In rare cases they can be by phone.³³

If your hearing is in person, a Hearing Officer will bring you, your IPO and your assistant (if you have one) into the room. Your IPO will talk briefly about your case and recommend whether or not you should be released. Then, if there are any victims present, they

30 *CCRA*, s. 140(10)-(12).

31 *CCRA*, s. 140(13), 140.2 142, 144.1.

32 *CCRA*, s. 140(10.1).

33 PBC Manual, c 9.1, para 6.

might give a statement. The Parole Board members will then ask you some questions. They are trying to decide if you will commit another crime if you are released. If you have an assistant, they will have a chance to speak. The Parole Board members will then discuss your case in private to make a decision.³⁴

Ask your IPO if you would like an in-person hearing. The Parole Board might give you an in person hearing if you have a mental disability that would make a video hearing more difficult for you.

Factors considered by the Parole Board

The Parole Board can give you parole if it believes:

- You will not be an “undue risk” to society by reoffending before the end of your sentence; and
- Your parole will help protect society by helping you re-enter society without committing crimes.³⁵

In making its decision, the Parole Board will consider:

- your criminal history;
- the type of offence you committed, your reasons for offending, and your understanding of your offences;
- your history of reoffending on, or being revoked from conditional release;
- your ability to control your behaviour;

34 PBC Manual, c 9.1, para 32.

35 CCRA, s. 102.

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- any progress you have made, including how you did in programs;
 - your behaviour in the institution and in the community;
 - how your behaviour and attitude have changed since being involved in crime;
 - your release plan and strategies for living successfully in the community; and
 - any victim statements.³⁶

The Parole Board can consider things for which you have not been convicted when making its decision.

The Parole Board's Decision

The Parole Board will usually make its decision right after your hearing. If it does not decide right away, you will get the decision in writing within 15 days.³⁷ Both members need to agree on the decision. If they do not agree, they will refer your case to a new panel of Parole Board members to decide.³⁸

If the Parole Board gives you parole, CSC should release you on or after your parole eligibility date. If you have a condition to live in a halfway house, you might have to wait until a bed is available for you.³⁹

36 PBC Manual, c 2 (see this chapter for a more detailed list of factors); *CCRA*, s. 140(10.1).

37 PBC Manual, c 9.1, paras 32-34; *CCRR*, s. 166(2)(b).

38 *CCRR*, s. 154.

39 *CCRA*, s. 124(2).

If the Parole Board does not grant your release, you should try to remain calm. Ask the Parole Board if there is anything you can do to improve your chance for parole at your next review.

If you are refused, you can appeal the decision to the Parole Board of Canada Appeal Division. See the section on Parole Board appeals at the end of this booklet.

Conditions

When you are on parole or statutory release, you will have some standard conditions like staying in Canada, obeying the law, reporting your address and not carrying weapons.⁴⁰

The Parole Board can also add conditions that it thinks are reasonable and needed to protect society or to protect a person, and to help in your rehabilitation.⁴¹

Common conditions include:

- to live in a halfway house;⁴²
- to abstain from all intoxicants (drugs, alcohol, etc);
- not to go to certain places;
- to take programs as directed by your Parole Officer;
- not to contact certain people;
- not to associate with known criminals; and

40 *CCRR*, s. 161(1).

41 *CCRA*, ss. 133(3), 133(3.1), 133(4).

42 *CCRA*, s. 133(4).

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- to tell your Parole Officer if you have certain types of relationships.⁴³

Conditions can last as long as the Parole Board says, but not past your warrant expiry date.⁴⁴

If you are confused about your conditions or don't agree with them, it is a good idea to discuss this with your Parole Officer.

Challenging conditions

You can challenge any conditions if you believe they are not reasonable or not needed to manage your risk factors.⁴⁵

A condition might be unreasonable if it limits your freedom too much. For example:

- A condition that you avoid being within 50 kilometres of someone might be unreasonable if it could just say that you must avoid contact with the person.
- A condition that you report all financial transactions might not be necessary if your index offences did not involve theft or fraud.

A condition might also be unnecessary if it is no longer relevant to your risk factors. For example:

43 *CCRA*, s. 133(3).

44 *CCRA*, s. 133(5).

45 *CCRA*, s. 133(6); *CCRR*, s. 162.

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- A residency condition might be considered no longer necessary after you have found a job, a place to live and other support in the community.

If the Parole Board imposed a condition that was not recommended by your CMT, you can write a letter to the Parole Board, asking it to lift that condition and explaining why it is not needed or reasonable. You should submit your letter within **30 days** of when you got the decision.⁴⁶ Different members of the Parole Board will review your letter within 30 days.⁴⁷ If this is unsuccessful, you can submit an appeal to the Parole Board of Canada Appeal Division.

If you have conditions and you later want to ask the Parole Board to change or remove them, you will need to explain to the Parole Board why they are not reasonable and needed any more.⁴⁸ If you are already in the community when you do this, the Parole Board will consider your behaviour and risk in the community since you were released.⁴⁹ The Parole Board should make a decision within 3 months.⁵⁰

In some cases, you might be able to request permission to travel outside of Canada, or relief from other standard conditions.⁵¹

If you want to challenge a condition, you can either submit an appeal to the Parole Board of Canada's Appeal Division (you have 2 months to do this), or you can wait and challenge the condition in the community by discussing it with your CPO. If the CPO agrees

46 PBC Manual, c 6, para 18.

47 PBC Manual, c 6.1, para 19.

48 PBC Manual, c 6.1, para 23.

49 PBC Manual, c 6.1, paras 24 and 25.

50 PBC Manual, c 6.1, paras 33 and 34.

51 PBC Manual, c 6.1, paras 26-32.

with you that the condition is unreasonable or too restrictive, they can recommend to the Parole Board to lift it. This could take less time than submitting an appeal to the Appeal Division. But, if it doesn't work, it might be too late to submit an appeal of your conditions to the Appeal Division (because of the 2-month time limit to submit an appeal)⁵². To discuss the specifics of your case, you can phone Prisoners' Legal Services.

If the Parole Board is planning to lift or change a condition that it imposed to protect a victim or particular person, the Parole Board will first inform all victims or people who had given a statement to the Parole Board about your conditions, and will need to consider their concerns.⁵³

You can call Prisoners' Legal Services for advice if you would like to challenge a condition.

Urine sample after parole granted

If you have been granted parole by the Parole Board, and have not been released from prison yet, CSC can still demand that you provide a random urine sample or a sample on reasonable grounds.⁵⁴

If you refuse to provide, or test positive, CSC will tell the Parole Board.⁵⁵

52 Note that due to the COVID-19 pandemic, the timeframe for submitting appeals has been temporarily changed to 3 months, but this is subject to change.

53 *CCRA*, s. 133(7).

54 *CCRA*, s. 54.

55 *CCRA*, s. 123.1; Correctional Service of Canada, *CD 712-1: Pre-Release*

If this happens, the Parole Board will cancel your parole if it no longer believes that:

- You will not be an “undue risk” to society by reoffending before the end of your sentence; and
- Your parole will contribute to the protection of society by helping you re-enter society as a law-abiding citizen.⁵⁶

Increase in risk after parole granted

If you have been granted parole by the Parole Board, and do something before you have been released from prison that causes the Parole Board to believe that your release would now be an “undue risk” to society, the Parole Board can cancel your parole.⁵⁷ For example, if you are caught with contraband or you assault someone, the Parole Board can decide this is enough to cancel your parole. If this happens to you, you are entitled to a hearing.

Decision-Making (Ottawa: CSC, 2019-04-15), para. 35 [CD 712-1].

56 *CCRA*, ss. 102, 124(3.1).

57 *CCRA*, s. 135(7).

TEMPORARY ABSENCES AND WORK RELEASES

A temporary absence or work release allows you to leave the prison to do things that you cannot do in the institution.

Would I be out on my own?

For an **escorted temporary absence** (“ETA”), you would be accompanied by a CSC staff member or someone else authorized by the warden or the Parole Board. The type of escort and whether you are restrained depends on factors like your security classification and risk assessment.⁵⁸

For an **unescorted temporary absence** (“UTA”), you would be released on your own without an officer to go with you.

For a **work release**, you would be supervised by a CSC staff member or someone else authorized by the warden.⁵⁹

58 Correctional Service of Canada, *CD 566-6: Security Escorts* (Ottawa: CSC, 2018-06-18) [CD 566-6]; Correctional Service of Canada, *CD 566-: Non-Security Escorts* (Ottawa: CSC, 2017-04-18) [CD 566-5].

59 *CCRA*, s. 18(1); Correctional Service of Canada, *CD 710-7: Work Releases* (Ottawa: CSC, 2021-01-25) [CD 710-7].

Am I eligible?

For an ETA, you can apply at any time, even if you are classified as maximum-security.⁶⁰ If you are detained past your statutory release date, you are only eligible for an ETA for medical or administrative reasons.⁶¹

For a UTA or work release, you are only eligible if you are classified as minimum or medium security.⁶² In most cases, you become eligible after you have been in prison for 6 months or you are halfway to your full parole eligibility date, whichever is later.⁶³ If you are serving a life sentence or indeterminate sentence, you will normally be eligible 3 years before your full parole eligibility date.⁶⁴

You can get a UTA for emergency medical treatment at any time, unless you are serving life minimum or have a removal order against you.⁶⁵

If you are detained past your statutory release date, you are not eligible for a UTA or work release.⁶⁶

60 Criminal Code, s. 746.1(2)(c); *CCRA*, s. 17(1).

61 *CCRA*, s. 130(5); Correctional Service of Canada, *CD 710-3: Temporary Absences* (Ottawa: CSC, 2015-06-01), para. 14 [CD 710-3].

62 *CCRA*, s. 115(3); CD 710-3, para. 11; CD 710-7, para. 11.

63 *CCRA*, s. 115(1).

64 *Criminal Code*, s. 746.1(2); *CCRA*, s. 115(1); See PBC Manual, Annex A; CD 710-3, paras. 8-9.

65 *CCRA*, s. 115; CD 710-3, para. 10.

66 CD 710-3, para. 11; CD 710-7, paras. 10-11.

What can I be absent for?

Work releases can be granted for work or community service.⁶⁷

ETAs and UTAs can be granted for:

- Medical reasons – for a medical exam or treatment that you cannot get in the prison;
- Administrative reasons – to take care of your personal affairs or legal matters;
- Community service – to do volunteer work;
- Family contact – to keep and support your family ties;
- Parental responsibility – to care for your child and take care of their needs such as schooling and health care;
- Personal development for rehabilitative purposes – for treatment, or activities to help you not offend in the future, such as cultural and spiritual ceremonies;
- Compassionate reasons – to attend a funeral of a person you had a close personal relationship to or to visit a person who might die soon.⁶⁸

How is the decision made?

The IPO or Correctional Officer II will review your application, interview you, look at your progress on your Correctional Plan,

67 CD 710-7, para. 12(b).

68 *CCRR*, s. 155; CD 710-3, paras. 15-20.

your risk in the community and any victims' statements, and request a Community Assessment or Community Strategy. They will prepare an Assessment for Decision for the decision-maker.⁶⁹

The decision-maker can be the warden, Commissioner, or Parole Board, depending on your case.⁷⁰

The decision-maker can grant you an ETA, UTA, or work release if they believe:

- you will not be a risk to society by reoffending while you are out;
- there is a good reason for your temporary absence;
- your behaviour is good; and
- there is a structured plan for the time you are away.⁷¹

The decision-maker must give you written reasons for allowing or refusing your application.⁷²

If your UTA is denied, you can apply again at any time. The decision-maker only has to review one application from you every 6 months, unless you make an application for medical reasons.⁷³

The law does not limit how often you can apply for an ETA.

69 CD 710-3, para. 22; CD 710-7, para. 13.

70 See *CCRA*, ss. 17(1), 17.1(1)-(3), 116(2), 107(1)(e); Criminal Code, s. 746.1(2)(c); PBC Manual, c. 3.1; Annex C; CD 710-3, Annex C.

71 *CCRA*, ss. 17(1), 18(2), 116(1).

72 *CCRA*, ss. 17(4), 17.1(6), 18(5).

73 *CCRR*, s. 156(6).

Do I get a parole board hearing?

If your temporary absence (ETA, UTA or work release) is decided by the Parole Board, there is generally no right to a hearing, but you can request one.⁷⁴ There is a hearing in the following cases.

- If you apply for a UTA and you are serving a life sentence for first- or second-degree murder or an indeterminate sentence, you get a hearing with the Parole Board. This will continue until your first UTA or day parole is granted by the Parole Board.⁷⁵ After that, your application can be decided without a hearing.
- If you apply for an ETA for community service, family contact, personal development or parental responsibilities and you are serving a life sentence for first- or second-degree murder, you get a hearing with the Parole Board until your first ETA is granted by the Parole Board.⁷⁶

Are there conditions on me while I am out?

If the temporary absence is granted, the decision-maker can put conditions on you that it thinks are reasonable and needed to protect society or a person and to help you reintegrate into society. The conditions might include things like limits on your use of drugs or alcohol, a rule that you not contact a person or go to a specific area, or that you return to a halfway house each night.⁷⁷

74 *CCRA*, s. 140.

75 *CCRR*, s. 164(1).

76 *CCRR*, s. 164(2).

77 *CCRA*, ss. 17(2), 18(3), 133(3), 133(3.1), 133(4); CD 710-7, paras. 28-29.

There are also regular conditions that apply to every UTA, such as staying in Canada and following the release plan that was authorized.⁷⁸

How long can I be away?

An ETA for a non-medical reason can be for up to 5 days plus travel time (or up to 15 days plus travel time if the warden gets approval from the Commissioner). An ETA for medical reasons can be approved for an unlimited period.⁷⁹

For a UTA, the maximum time that you can be away is as follows:

- For community service or personal development reasons – up to 15 days plus travel time. People classified as minimum security can have up to 4 UTAs each year. People classified as medium security can have up to 3 UTAs each year.⁸⁰ You must be in prison for at least 7 days between each UTA.⁸¹
- To attend a personal development program – up to 60 days plus travel time. This period can be renewed every 60 days to allow you to complete the program. You might be allowed to leave the institution for the entire period, or for a specific number of outings during that period.⁸²
- For medical reasons – an unlimited period.

78 *CCRR*, s. 161(2).

79 *CCRA* s. 17(1).

80 CD 710-3, Annex B.

81 CD 710-3, para 34.

82 CD 710-3, Annex B.

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- For other reasons – up to 48 hours per month plus travel time if you are medium security, and 72 hours plus travel time if you are minimum security.⁸³

The warden can approve a work release for any period of time. But, if the warden wants to approve you for more than 60 days, they have to get approval.⁸⁴

If I am approved, can my absence be cancelled?

The warden can cancel your ETA or work release either before it begins, or while you are away. They must give you written reasons.⁸⁵ An escort can also bring you back to the prison at any time if they believe there are grounds for cancelling the ETA or work release.⁸⁶

Your UTA can be cancelled before or during the UTA if:

- You breached a condition of the UTA;
- The decision-maker thinks it is necessary to cancel your UTA to avoid a breach;
- The reasons that you were given the UTA have changed or don't exist anymore; or
- There is new information that changes the decision to let you go.⁸⁷

83 *CCRA*, s. 116(3)-(9); also see CD 710-3, Annex B.

84 *CCRA*, s. 18(2).

85 *CCRA*, s. 17(3), 17(4), 18(4), 18(5).

86 CD 710-3, para. 51; CD 710-7, para. 32.

87 *CCRA*, s. 116(10).

Even if the Parole Board granted your UTA, the warden can suspend your UTA if there is new information and the warden believes it is necessary to keep you in custody to protect society. If the warden does this, they will refer your case to the Parole Board to decide whether your UTA should be cancelled.⁸⁸

If you have an approved temporary absence and are transferred to another institution, your temporary absence will be reassessed.⁸⁹

HOW TO PREPARE FOR A PAROLE HEARING

The main thing the Parole Board wants to know is whether, if you are released, you will commit another crime before the end of your sentence. All of the information you present and the preparation you do for your hearing should speak to that question.

It is best to start planning for parole early and to try to gain the support of your IPO and CMT. It is helpful if you can show the Parole Board that you have:

- done all of the programs on your correctional plan;
- been on successful temporary or work releases from prison;
- a release plan to a community where you have support, and work or educational plans;

88 *CCRA*, s. 117(3), 117(4).

89 CD 710-3, para. 31; CD 710-7, para. 27.

-
- an understanding of your “crime cycle” and programs or counselling set up in the community to help you avoid getting into trouble;
 - a plan to be involved in hobbies or community activities; and
 - a good recent institutional record.

You will need to show the Parole Board that you have a realistic plan and have insight into the changes you have made to your life that will make your risk manageable in the community. Planning for your release takes a lot of work. Start as early as you can.

Take notes of everything you do to work toward release.

Keep **copies of everything**, such as the letters you write and the responses you get. Even the rejections show that you have been making an effort. Also keep copies of documents about courses you take, programs you complete, work reports, education evaluations, community supports, visits, relationships, projects, group involvement, volunteer work, employment, attending Alcoholics Anonymous/Narcotics Anonymous\ or other groups, volunteering, reconnecting with family, supporting a project, spending time with the Elder, and attending events through chaplaincy or a community group.

Specific steps you can take from Day 1

Here are some specific steps you can take well before your hearing is coming up:

Complete your programs. Keep records.

Do volunteer work. You might want to ask for letters confirming volunteer work you did.

Learn skills at work. Keep notes of all the skills you learn and practice at work. Aim for positive work evaluations and keep copies. If you have a supervisor who you think would provide a reference for you, ask them for a letter or ask them what they would say about you, so that you can include their phone number on job applications and your parole application.

Make contact with a halfway house early in your sentence. One way is to attend information fairs and introduce yourself. It is a good idea to build a relationship with halfway houses early to understand what they expect and to gain their support. At some point you will want to write them a letter and request an application and interview. It can be helpful to send them a copy of your release plan (see information below on how to prepare a release plan). When you meet with them, discuss your goals and ask them for advice on improving your release plan. Try to incorporate their advice into your release plan.

Stay in touch with positive people in the community who are able and willing to support you such as family, religious leaders, Elders, teachers, employers and friends without criminal records. When you are starting to prepare your application, ask them for letters. Their letters should include how they can support

you when you are released (financially, morally, a place to live, a job, counselling, transportation, being a friend, etc.), how they know you, how long they have known you, the strength of your relationship, their insight and understanding of the problems you have had, and how they have seen you grow and change while in prison.

Look for job options in the community. Ask family members if they know of available jobs; write to temporary employment agencies; contact old employers. Be sure to tell them that you are in prison and trying to turn your life around. Keep copies of every letter you write and all the responses you get. Don't be discouraged by rejections – even the rejections help to show that you have been trying to find work. Keep searching even after a rejection. If you have a lead for a job, ask the employer to send you a letter saying that they understand your situation and are willing to support you with a job. If you have an old boss who supports you, even if they cannot give you a job, ask them for a support letter.

Upgrade your education. Work on your education in prison if possible.

Look for educational options if this is relevant to your goals. Ask for help to find schools in the area you will be released, and write to the schools to ask about the programs they offer. Tell them you are interested and ask for information about orientation sessions. Save these letters.

Stay in touch with community support groups throughout your sentence. Take advantage of their experience and advice. You might want to ask them to give you support letters when you are preparing your application.

Plan for how you will spend your free time in the community.

Some examples include: volunteer work (John Howard Society, LINC, soup kitchens, etc.), joining a gym, joining community sports teams, jogging, hobbies, family outings (museums, art centres, sports events), walking the dog, art, joining a club, etc. Write to any organizations that run these activities and tell them you are interested. Ask them about membership, dues, meeting times, location, etc. Save copies of the letters you write and any responses you get.

Plan for how you will manage your medical or mental health care issues. If you have health issues, look into the resources that you need in the area where you hope to live. Find out which clinics or hospitals are able to serve your particular need and how you will get there.

Spend some time reflecting on your own and with others to gain insight. It is important to understand the factors that have led you to commit crimes in the past or to slide back into crime, and to have a well thought out plan to deal with those factors. You should consider finding someone to talk to about your factors and to develop a strategy. It might be a good idea to role play running into an old friend who is still involved in crime, and how you would handle that situation.

If there are mistakes in previous CSC documents and reports, submit a file correction request as quickly as possible. Keep records of your request and the response. You can ask your IPO to put a letter on file explaining why the information in the document is incorrect and what you understand to be correct. Even if CSC does not agree to the correction you request, they must attach a note stating the correction you requested. For more information, see PLS' booklet: "Correcting your CSC File".

Preparing for the hearing

It can be helpful to write to the Parole Board to show that you have thought about how you will succeed in the community. You can also submit extra documents to support your case. If you write a letter, you can ask to have someone else you trust (such as a Chaplain or Elder) read it over before you submit it. Remember that anything you submit in writing remains on your file. The Parole Board will consider your letter and compare it to what you say at your hearing.

When you get the Assessment for Decision from your IPO, be sure to read it carefully to make sure it is correct. Make sure that when it refers to another document, it does not change what the other document said. If there are any mistakes in any of your documents, request a file correction. See PLS' booklet: "Correcting your CSC File".

In the months before your hearing, ask your IPO to get Community Assessments ("CA"s) for all the halfway houses you want to go to and all the people you want to see in the community.⁹⁰ Make sure you ask for them early in case there are any problems or delays. Sometimes your IPO will only do CAs for the halfway houses they think will take you. It is best to contact the places you want to go to and ask whether you meet their eligibility criteria. Ask for a letter confirming their answer, so that you can provide this to your IPO, or the Parole Board if necessary.

90 See CD 712-1; Correctional Service of Canada, *CD 705-1: Preliminary Assessment and Post-Sentence Community Assessment* (Ottawa: CSC, 2017-12-18).

Release Plan

Prepare a release plan for the Parole Board. Your release plan should include:

What you are applying for: day parole, full parole, ETA or UTA.

The reason you are applying: Your reason for applying might be to reintegrate into the community with support, to attend a halfway house interview, to go to a job interview, for family contact, for community support, to visit an organization, for counselling, for personal development or to do some community service, depending on what type of release you are applying for.

Where you are going: Include the address where you will be living, and the full names and phone numbers of people you will be living with. If you will live in a halfway house, give the name, address, phone number, name and title of the contact person, and types of support that they will have for you. If you want to go to a treatment centre, find out if you need a referral. If you do, ask for a referral from health care at the institution.

People in the community who support you: Include their names, phone numbers, addresses, roles, and their expectations of you. Also include any letters from them.

Income plan: Explain whether you plan to apply for social assistance or to get a job. Include all the steps and efforts you made to try to find employment. If you already have a job set up, include a letter from the employer and list the job title, organization, address, employer name, phone number, your job responsibilities and what you feel you bring to the job.

Education goals: Include any education you plan to do. Include information on what schools in the area offer these programs. Show that you will be accepted at the school and say how much it costs. Include any financial support you have or scholarships that are available. Include any letters that you have sent to the schools and any responses you got.

Community groups: If you write to a group to ask about membership and details of meetings in the community, save your letters and their responses.

Recreation activities: List positive social activities that you will take part in. Include any letters from organizations, health clubs or gyms.

Medical issues: Consider whether your medical concerns play a part in your release strategies. If they are relevant, list them, and how you plan to address them in the community, such as by arranging mental health treatment and therapy. List the clinics, hospitals or other health care facilities in the area, and how you will get there.

Relapse prevention plan: Include your understanding and insight into the factors that have contributed to your offending in the past, your motivators and detailed strategies to deal with these problems so that you will not offend in the future. Include any letters from friends or support people who have witnessed your growth or change while in prison. Ask them to write what they know about your understanding of what has gone wrong in the past and your motivation and ability to manage these problems in the future.

Conclusion: Finally, write a short conclusion that is positive about yourself. Share why you think this is a good opportunity for you, and summarize your accomplishments, personal growth in prison,

how the growth took place and what has changed. Say how you will make sure to remain a law-abiding member of the community. Refer to the support you have in the community, and your plans and goals for your future.

When completing these sections, it is a good idea to include back-up plans in case something doesn't work out, like housing or work.

Supporting Information and Documentation

Give the Parole Board any information and documents that support your release plan, including:

Security Levels: Ask your IPO for your current offender security level (“OSL”) referral decision sheet. Be prepared to address any concerns the Parole Board might have about your institutional adjustment, escape risk or risk to public safety.

Appeals and outstanding criminal charges: List any charges or appeals that are still ongoing. Include their status, and give an explanation for the appeals or charges. Include relevant documents.

Investigations and Security Concerns: If there are Institutional Preventive Security Officer (“IPSO”) reports, address them as best you can.

Correctional plan: Say what you have done to follow your correctional plan, including the programs you have finished and when you will finish the others. If you have been seeing a counsellor, ask them for a letter about the progress you have made. Ask for all the psychiatric or psychological assessments you have had, list the recommendations they made, and say how you have addressed those recommendations. If you have requested

programs, but have not been able to access them for any reason (availability, eligibility, security classification, etc.), keep copies of your requests and the responses you got to show the Parole Board that you tried to do these programs.

Cycle of offenses: Talk about your understanding of your offending and why it happened. This requires sincere reflection on your part. It is important to understand how your actions have hurt or affected others. It is also important not to blame others.

Hobbies and free time: Give details of how you spend your free time and how you plan to continue to do positive recreational activities.

Volunteer work: List any volunteer work you did while in prison, and include any letters about this.

Group participation: List the groups and organizations you were involved with in prison, and the groups you want to continue with when you return to the community. Include any letters from these organizations.

Education: List your grade level and what you did in prison to upgrade your education.

Skills and qualifications: Include any licenses, certifications, qualifications, and skills you have.

Employment in prison: List the job titles, years employed, shop name and institution. List your responsibilities in these jobs and what you accomplished. Include any positive work evaluations or references.

Past employment in the community: Include job titles, years, company names, cities, contact names, phone numbers, and addresses for each job. You might want to describe your responsibilities and accomplishments. Include any letters of support from past bosses.

At your Parole Board hearing, be respectful and polite. The Parole Board members will ask you hard questions. Try not to be defensive. Take responsibility for what you can and don't blame other people for your actions. Explain your understanding of why you committed your offences and how you will not fall into the same patterns.

SUSPENSION

Your CPO can suspend your parole or statutory release and return you to custody if they believe you have **breached one of your release conditions**.⁹¹

Your CPO can also suspend your conditional release if they believe it is **needed and reasonable to prevent a breach or to protect society**.⁹² This means that you do not have to do something wrong – your CPO only has to have reason to think you might breach a condition or re-offend. For example, your CPO might suspend your conditional release if he or she thinks you have a “deteriorating attitude” or that you are “in your crime cycle.”

91 *CCRA*, s. 135(1)(a); Correctional Service of Canada, *CD 718: Designation of Persons with Authority for Suspension* (Ottawa: CSC, 2016-06-20) [CD 718]; Correctional Service of Canada, *CD 715-2: Post-Release Decision Process* (Ottawa: CSC, 2019-04-15), paras. 17-30 [CD 715-2].

92 *CCRA*, s. 135(1)(a).

If your conditional release is suspended, you will be arrested and returned to custody.⁹³

Once you are back in custody, your CPO has **30 days** to either:

- Release you back to the community (“cancel your suspensions”); or
- Refer your case to the Parole Board (for a “post-suspension review”).⁹⁴

Cancelled suspension and “temporary accommodation”

If your parole officer cancels your suspension in the first 30 days, you are released back into the community.

If you have been taking a program that does not end within those 30 days, or if a bed is not available at a halfway house until the 30 days are up, you might be asked to request “temporary accommodation” (to stay in the prison) until the program is completed or a bed is available.⁹⁵

The advantage to agreeing to “temporary accommodation” is that you are likely to be released when the conditions are right. The disadvantage is that you remain in custody.

93 *CCRA*, s. 135(1)(b) and (c).

94 *CCRA*, s. 135(3)(b).

95 *CCRA*, s. 94; see CD 712-1, paras. 67-70.

If you do not agree to temporary accommodation, your CPO might send you to another halfway house until a bed opens up at the halfway house you are going to. But if you do not agree to temporary accommodation and no halfway house is available, you face a risk that your CPO will refer your case to the Parole Board and you will remain in custody at least until your post-suspension review takes place. This could delay your release by months.

If your CPO offers you a bed in another halfway house while you are waiting, be aware that you might lose your priority status for the halfway house you are supposed to be going to.

Direct revocation, termination, or cancellation by the Parole Board

After you are suspended, your CPO can cancel the suspension and release you. But if the Parole Board disagrees, they will issue a warrant for your arrest and return you to custody.⁹⁶ This is called a “direct revocation”.

Even if you were not suspended, the Parole Board can cancel, terminate or revoke your parole or statutory release if it gets new information about you or if it believes that your continued freedom would constitute an undue risk to society.⁹⁷

96 *CCRA*, s. 135(7).

97 *CCRA*, ss. 124(3), 135(7). “Cancellation” happens if you have not yet been released, and “termination” or “revocation” happens if you have already been released. For the definitions, see *CCRA*, ss. 124(3), 135(5), 135(6.3), 135(7).

If you have a direct revocation, or the Parole Board terminates or cancels your parole or statutory release, the Parole Board must review your case within 90 days of being told of your return to federal custody (or of cancelling your parole).⁹⁸

Automatic suspension

If you are on conditional release and you get a **new sentence** of time in custody, your conditional release is **automatically suspended**.⁹⁹ Your CPO cannot cancel your suspension and release you. Instead, they must refer you to the Parole Board within 30 days for a post-suspension review.¹⁰⁰

Post-suspension review

If your CPO refers you to the Parole Board for a post-suspension review, you will have a hearing at the Parole Board unless you waive your right to it, or refuse to attend.¹⁰¹

CSC must share your file with you before the Parole Board makes a decision. Once you have your file, the Parole Board cannot review your file for at least 15 days, unless you waive this right.¹⁰²

98 *CCRA*, ss. 124(3), 135(7); *CCRR*, s. 163(1)(2) and (4).

99 *CCRA*, s. 135(1.1)-(2).

100 *CCRA*, s. 135(3.1).

101 PBC Manual, c. 9.1, para 2.

102 *CCRA*, s. 141(1) and (3).

You might want to waive this right if you want the Parole Board to review your suspension sooner. You can make submissions to the Parole Board during this time.

If you do not waive the 15 day time limit and you think you will need more than 15 days to make your submissions, contact the Parole Board and tell them that you are going to make submissions, but you need more than 15 days.

The Parole Board reviews your case using the same criteria as for parole. The Parole Board considers whether you present an undue risk to society by re-offending.¹⁰³

In most cases, the Parole Board's decision should be based on your behaviour during your release in the community.¹⁰⁴ The Parole Board can decide that your risk is unmanageable even if you have not committed a crime during your release.¹⁰⁵ Often, the Parole Board will look at all aspects of your history, not just the incident that occurred during your release in the community when deciding to release you or to revoke your parole.

If your CPO refers your case to the Parole Board, the Parole Board has 90 days to review your case.¹⁰⁶ The 90 days start from the date the Parole Board gets the referral from your CPO, which is usually the date that your Assessment for Decision is locked.¹⁰⁷

103 *CCRA*, s. 135(5)-(7).

104 *R v. Turner*, [1993] OJ No. 4346, at para. 14.

105 *Franchi v. Canada (Attorney General)*, 2011 FCA 136 at para. 45.

106 *CCRA*, s. 135(5); *CCRR*, s. 163(3).

107 *CCRR*, s. 163(3).

The Parole Board cannot put off or “adjourn” your review beyond the 90 days, unless you ask for your review to be delayed.¹⁰⁸ If you are not ready for the hearing but you do not agree to a delay, the Parole Board will make a decision. It might be better to agree to a delay so you have a better chance of convincing the Parole Board to release you back to the community.

If your CPO refers your case to the Parole Board, you cannot be released on statutory release until the Parole Board makes a decision. But if you are still waiting for the Parole Board hearing or decision when you reach your warrant expiry date, you will be released.

If you have new charges and have not been granted bail, you will not get a post-suspension hearing until:

- the charges are resolved;
- bail is granted;
- you are returned to a penitentiary; or
- you request the PBC to schedule a post-suspension hearing, before the charges are resolved or bail is granted.

A post-suspension hearing will be scheduled before your new statutory release date (which is 2/3 of the time between the date of your suspension and your warrant expiry date).

If you have questions about when your post-suspension review should be scheduled, call Prisoners’ Legal Services.

108 *CCRA*, s. 135(5); *CCRR*, s. 163(3).

The Parole Board's decision

Normally, the decision is made at the hearing, but sometimes you will need to wait for the decision in writing. If you have to wait for the decision in writing, the Parole Board must send you their decision within 15 days of the hearing.¹⁰⁹

If the Parole Board believes your risk is manageable in the community, it will cancel your suspension and you will be returned to the community, usually within a few days.

If the Parole Board cancels your suspension, it can also:

- give you a warning;
- change or add conditions to your release; or
- order that your release be delayed for up to 30 days. It can only do this if you were suspended for breaching a condition and you have been suspended for breaching a condition before.¹¹⁰

If your conditions are too limiting or unnecessary, or the Parole Board imposed conditions that were not recommended by CSC, see the section above on “Challenging conditions”.

If the Parole Board believes your risk to society is not manageable, it will either terminate or revoke your release and you will stay in prison.¹¹¹

109 PBC Manual, c. 9.1, para 32 and 33.

110 CCRA, s. 135(6).

111 CCRA, s. 135(4)(5) and (7).

New Statutory Release Date

If the Parole Board revokes your release, your statutory release date is recalculated. It becomes 2/3 of what was left on your sentence when you were suspended. After your release is suspended, you only get credit for time you are in custody.¹¹² This includes any time spent in provincial custody.¹¹³

Your next Parole Board review (if your parole is revoked)

You can apply for day or full parole at any time after your parole is revoked (as long as you are not within 6 months of your statutory release date).¹¹⁴ The Parole Board does not have to review your application until 1 year after you are revoked,¹¹⁵ but it can choose to review your application earlier if your IPO has done all of the casework and supports your release.¹¹⁶

If you picked up any new sentences before you were revoked, your parole eligibility dates will be recalculated.¹¹⁷

112 CCRA, ss. 127(5), 138(6).

113 *John Howard Society of Canada v Her Majesty the Queen*, 2021 ONSC 380.

114 CCRA, ss. 122(4), 123(6), 138(5); CCRR, s. 157(1).

115 CCRA, s. 138(5).

116 PBC Manual, c. 4.1, para 24.

117 CCRA, s. 138(4).

Your next Parole Board review (if your parole is terminated or cancelled)

In most cases, if your parole or statutory release was terminated or cancelled, the Parole Board will automatically review you for full parole every 2 years afterwards.¹¹⁸

But if you are serving a sentence of at least 2 years for murder or any offence under Schedule 1 of the CCRA, the Parole Board will automatically review you for full parole within 4 years after the date your parole was terminated or cancelled. After this review, the Parole Board must review your case every 5 years.¹¹⁹

If you have made progress since your last review, you should not be discouraged from applying for parole sooner than the mandatory review. You **can submit an application 1 year after** your parole or statutory release was terminated or cancelled.¹²⁰

118 CCRA, s. 123(5.1).

119 CCRA, s. 123(5.2).

120 CCRA, ss. 122(4), 123(6).

DETENTION PAST STATUTORY RELEASE DATE

If you are serving a finite sentence (not life or indeterminate), you have a right to be released after serving 2/3 of your sentence.¹²¹ This is called statutory release. Normally, you are released automatically at this time. Sometimes, the Parole Board will impose a condition that you live in a halfway house or psychiatric facility.¹²²

You can only be kept in prison past your statutory release date if you are “detained”.

Detention referral

CSC can refer your case to the Parole Board to detain you past your statutory release date in the following cases:

- You are serving a sentence for a Schedule I offence that caused death or serious harm to somebody, and CSC believes you are likely to commit an offence causing death or serious harm during your statutory release.¹²³
- You are serving a sentence for a Schedule I offence that was a sexual offence against a child, and CSC believes you are likely to commit an offence causing death or serious harm during your statutory release.

121 *CCRA*, s. 127.

122 *CCRA*, s. 133(4.1); PBC Manual, c. 5.1, s. 7.

123 For the factors that the Board considers to determine whether serious harm was caused, see PBC Manual, c. 5.1, para 22.

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- You are serving a sentence for a Schedule I offence that was a sexual offence involving a child, and CSC believes you are likely to commit a sexual offence involving a child during your statutory release.
 - You are serving a sentence for an offence set out in Schedule II, and CSC believes you are likely to commit a serious drug offence during your statutory release.¹²⁴

This is called a detention referral.

If CSC plans to make a detention referral in your case, it must make the referral at least 6 months before your statutory release date.¹²⁵

About a year before your statutory release date, CSC does a Detention Pre-Screening Review to determine whether they will make a detention referral to the Parole Board.¹²⁶

Commissioner's referral

In some cases, CSC can still refer you for detention even if you are not serving a sentence for a Schedule I or II offence, or even if you are within 6 months of your statutory release date. To do so, the referral for detention must come from the National Commissioner of CSC.¹²⁷ This is called a Commissioner's referral.

124 *CCRA* s, 129(2) and (9).

125 *CCRA* s, 129(2); Correctional Service of Canada, *CD 712-2: Detention* (Ottawa: CSC, 2015-04-23), para. 45 [CD 712-2].

126 *CD 712-2* at paras. 12-15, Annex B, Annex D.

127 *CCRA*, s. 129(3).

A Commissioner's referral made within 6 months of your statutory release date must be based on new information, unless your sentence was recalculated and your statutory release date changed.¹²⁸

Notice of detention referral

The Parole Board will inform you that you have been referred for detention.

If you are referred to the Parole Board more than 6 months before your statutory release date, the Parole Board has to tell you of this at least 5 months before your statutory release date. If you are referred to the Parole Board later than that, the Parole Board has to tell you of this as soon as it can.¹²⁹

Once your detention review has been scheduled, the Parole Board has to tell you the date as soon as it can.¹³⁰

If you are referred to the Parole Board at least 4 months before your statutory release date, the Parole Board has to hold your detention review at least 3 months before your statutory release date. If you are referred to the Parole Board from 1 month to 4 months before your statutory release date, the Parole Board has to hold your detention review within 1 month of the referral.¹³¹

128 *CCRA*, s. 129(3)(a) and (b); see also *Teneycke v. Canada (Attorney General)*, 2004 FC 397 at para. 12

129 *CCRR*, s. 160(1)(a).

130 *CCRR*, s. 160(1)(b).

131 *CCRR*, s. 160(2).

Detention until hearing

If you are referred for detention, the Parole Board must usually hold your detention review hearing before your statutory release date. If it hasn't had your hearing before your statutory release date, you cannot be released until the hearing has happened and the Parole Board has made a decision.¹³²

If a Commissioner's referral is made to the Parole Board less than 4 weeks before your statutory release, the Parole Board should hold your detention hearing before your statutory release date if possible. If it is not possible, the Parole Board should do an interim review of your case before your statutory release date to decide if there is enough information to keep you in detention until a full review.¹³³ If it decides that there is enough information, the Parole Board will keep you in detention and do a full review of your case within 4 weeks of when it was referred to them.¹³⁴

If the referral is made less than 3 days before your statutory release date, the Parole Board must hold an interim hearing within 3 days to determine whether they need to hold you, and then do your full review within 4 weeks.¹³⁵

132 *CCRA*, ss. 129(3.1), 130(2); CD 712-2, para. 22.

133 PBC Manual, c. 5.1, para 8-12.

134 *CCRA*, s. 129(5) and (7).

135 *CCRA*, s. 129(5) and (7).

Detention hearing factors

At a detention hearing, the Parole Board must consider all relevant factors when deciding if you are likely to commit a serious drug offence, a sexual offence involving a child, or an offence causing death or serious harm to another person. These factors include:

- a pattern of persistent violent behaviour, sexual behaviour involving children or involvement in drug-related crime;
- a physical or mental disorder that makes it likely that you will commit such an offence;
- a plan to commit such an offence before the end of your sentence;
- whether you will have supervision programs to protect the public until the end of your sentence; and
- if relevant, your sexual preferences, indicating that you are likely to commit a sexual offence involving a child.¹³⁶

The Parole Board's decision

If the Parole Board does not agree with CSC that you are likely to commit one of these offences while on statutory release, you will be released on your statutory release date.

If the Parole Board agrees with CSC, you will be detained past your statutory release date.¹³⁷

136 *CCRA*, s. 132. For information that the Board takes into account regarding sexual preferences, see PBC Manual, c. 5.1, para. 19.

137 *CCRA*, s. 130(3).

If you are detained past your statutory release date, you can only be released for a medical or administrative escorted temporary absence (ETA), after a successful detention review (see below), or on your warrant expiry date.¹³⁸

In some cases, the Parole Board can release you on a “one-chance” statutory release. This means that if your release is later revoked (taken away), you cannot be released again on statutory release and you will remain in custody until your warrant expiry date (the end of your sentence).¹³⁹

You can appeal the Parole Board’s decision to detain you or to impose a “one-chance” statutory release condition to the Parole Board Appeal Division.¹⁴⁰

Detention reviews (if you are detained past statutory release)

In most cases, the Parole Board must review your detention every year.¹⁴¹ If the Parole Board decides there is enough new information to change the detention order, it can release you.¹⁴²

138 *CCRA*, s. 130(5); CD 712-2 at para. 28.

139 *CCRA*, s. 130(4); PBC Manual, c. 5.1, para 25. For factors that the Board considers for whether to order one-chance statutory release, see PBC Manual, c. 5.1, para 26.

140 *CCRA*, s. 147(1); *CCRR*, s. 168.

141 *CCRA*, ss. 131(1).

142 *CCRA*, s. 131(2) and (3).

But if you are detained and you are serving a sentence for a Schedule I offence that caused the death or serious harm of a person, the Parole Board is only required to review your detention every 2 years.¹⁴³

Conditions

If the Parole Board decides not to detain you, it can release you with conditions. The conditions must be reasonable and needed to protect society and to help you reintegrate into society, or to protect a specific person.¹⁴⁴

In some cases, the Parole Board can also make it a condition of your statutory release that you live in a halfway house or in a psychiatric facility (a residency condition).¹⁴⁵ If the Parole Board releases you with a residency condition, it must review your case every 1 or 2 years, as in the section above, to see if the residency condition can be removed.¹⁴⁶

You can also challenge any conditions that you feel are not reasonable or necessary to manage your risk factors. See the section on “Challenging conditions” earlier in this booklet.

143 *CCRA*, s. 131(1.1).

144 *CCRA*, s. 133(3) and (3.1).

145 *CCRA*, s. 133(4.1); for information that the Board takes into account regarding residency conditions, see PBC Manual, c. 5.1, para 35.

146 PBC Manual, c. 5.1, para 35.

INDIGENOUS PEOPLE'S RIGHTS

This section explains the rights you have as an Indigenous person in prison if you are applying for parole or a temporary absence, detained past your statutory release date, or are suspended from conditional release. It is intended to be read along with the rest of this booklet. The other sections in this booklet contain key information on how parole and other types of release work.

Introduction

Indigenous people in Canada are imprisoned at higher rates than non-Indigenous people, now representing 32% of people in federal custody, while accounting for 5% of the population in Canada.¹⁴⁷

Indigenous people tend to spend more time in prison and less time supervised in the community than non-Indigenous people.¹⁴⁸ Indigenous people are more likely to be classified as maximum-security, more likely to have force used against them by correctional officers and are less likely to be granted conditional release.¹⁴⁹

Indigenous people are also more likely to have their parole revoked.¹⁵⁰

147 Office of the Correctional Investigator, *Annual Report 2019-2020* (Ottawa: OCI, 2020) [OCI Annual Report 2019-2020] at p. 20.

148 Mann, Michelle. *Good Intentions, Disappointing Results: A Progress Report on Federal Aboriginal Corrections*, 2009 at para. 20 [Mann, 2009].

149 OCI Annual Report 2019-2020 at p. 20.

150 Office of the Correctional Investigator, *Annual Report 2021-2022* (Ottawa: OCI, 2022) at p. 97.

CSC’s legal duty to be responsive to the needs of Indigenous people

CSC and the Parole Board must respect cultural differences and be responsive to your special needs as an Indigenous person.¹⁵¹

When making decisions related to Indigenous people, CSC must take into consideration:

- systemic and background factors affecting Indigenous peoples of Canada;
- systemic and background factors that have contributed to the overrepresentation of Indigenous persons in the criminal justice system and that may have contributed to the person’s involvement in the criminal legal system; and
- the Indigenous culture and identity of the prisoner, including their family and adoption history.¹⁵²

CSC is not allowed to consider these factors in decisions assessing the risk of an Indigenous person, unless it could decrease the level of risk.¹⁵³

CSC has to take all reasonable steps to ensure the information it has about you is accurate, up to date, and complete. This means that, when making decisions about you, it cannot use psychological tests and risk assessments that are not proven to be accurate for Indigenous people.¹⁵⁴

151 CCRA, s. 4(g); *Ewert v. Canada*, 2018 SCC 30 at para. 54 [*Ewert*].

152 CCRA, s. 79.1(1).

153 CCRA, s. 79.1(2).

154 *Ewert* at para. 67 and 90.

When CSC makes recommendations to the Parole Board about your release, it must consider your Indigenous Social History.¹⁵⁵ This includes things that have affected the lives of many Indigenous people, such as:

- effects of the residential school system;
- sixties scoop into the adoption system;
- effects of the dislocation and dispossession of Inuit people;
- family or community history of suicide;
- family or community history of substance abuse;
- family or community history of victimization;
- family or community fragmentation;
- level or lack of formal education;
- level of connectivity with family or community;
- experience in the child welfare system;
- experience with poverty; and
- loss of or struggle with cultural or spiritual identity.¹⁵⁶

155 CD 712-1, Annex E.

156 CD 712-1, Annex A.

The parole officer making recommendations to the Parole Board about you should explain how your Indigenous Social History has impacted your criminal history and your behaviour in prison or in the community. CSC should show how any recommendation it makes about your release or conditions is appropriate for you as an Indigenous person.¹⁵⁷

The Parole Board’s duty to consider Indigenous Social History and alternatives to imprisonment

The Parole Board has a duty to consider how you are affected because of your Indigenous heritage when making decisions about you, to try to reduce the number of Indigenous people in prison.¹⁵⁸

The law recognizes Indigenous Peoples’ history of colonization, including dislocation, residential schools, forced adoption (the “sixties scoop”) and loss of cultural and spiritual identity. The law recognizes that Indigenous people and communities can be affected by these factors because of this history of colonization.¹⁵⁹

The Parole Board must consider your Indigenous Social History when deciding on your freedom.¹⁶⁰ These factors would be included in your Gladue Report, if you have one. If you don’t have a Gladue Report or your report needs to be updated, you can call the First Nations Justice Council at 1-866-786-0081 to ask about this.

157 *CCRA*, s. 4(g); CD 712-1, Annex E; *Ewert* at paras. 53-61; *Canadian Human Rights Act*, RSC 1985, c H-6, ss. 2 and 3.

158 *Ewert*; *Twins v. Canada (Attorney General)*, 2016 FC 537 [*Twins*].

159 *R v. Gladue*, [1999] 1 S.C.R. 688 at paras. 67-68 [*Gladue*].

160 *Twins* at paras. 58, 66-67.

If you have a Gladue Report, you can submit it to the Parole Board for any decision they are making about you.

When making these decisions, the Parole Board should consider the disadvantages and discrimination that you have faced as an Indigenous person and consider the alternatives to more prison time, such as halfway houses or community-based programs which could protect the public and help you rehabilitate and reintegrate into the community.¹⁶¹

Conditions

When deciding whether to impose conditions on your release, the Parole Board must consider your needs and circumstances as an Indigenous person.¹⁶²

161 *Twins* at para. 57; *Gladue*; *R v. Ipeelee*, 2012 SCC 13 at para. 69; *Ewert* at paras. 57-59; *Frontenac Ventures Corporation v Ardoch Algonquin First Nation*, 2008 ONCA 534 at para. 56; *R v Sim*, 2005 CanLII 37586 (ONCA) at para. 16; *Re Alexis*, [2003] BCRBD No 1 at para. 80; PBC Manual, c. 2.1, para 8.

162 PBC Manual, c. 6.1, para 10.

Elder-assisted hearings

At an Elder-assisted hearing, the Parole Board Elder will attend and give the Parole Board information about your Indigenous culture, and traditions. The Elder might ask you questions about your traditions and spirituality, your progress toward healing and your community support. The Elder might be able to speak with you in your Indigenous language. The Elder is not involved in making the Parole Board's decision but might give information to the members during deliberations.¹⁶³

If you would like an Elder-assisted hearing, you can make a written request through your IPO.¹⁶⁴ You should apply at least 28 days before your hearing.¹⁶⁵

Elder-assisted hearings are usually held in a circle. You can request that the Elder say a prayer and provide a ceremony such as a smudge for the people at the hearing.¹⁶⁶

Community-assisted hearings

If you are planning to be released to an Indigenous community under section 84 of the *Corrections and Conditional Release Act*, you can request to have your parole hearing in the Indigenous community. A community-assisted hearing allows the Indigenous

163 PBC Manual, c. 9.1.1, paras 5-10.

164 CD 712-3, s. 8.

165 Parole Board of Canada, *Elder-Assisted and Community-Assisted Hearings* (2021-06-14). Online: <https://www.canada.ca/en/parole-board/corporate/publications-and-forms/elder-assisted-and-community-assisted-hearings.html#c00>.

166 PBC Manual, c. 9.1.1, para 6.

Indigenous Community Development Officer*

The Indigenous Community Development Officer can help you find support for your release in an Indigenous community and can help you make your release plan. This person acts as a bridge between CSC and the community.

Indigenous Liaison Officer*

The institutional Indigenous Liaison Officer is responsible for documenting Elder reviews in your CSC paperwork. This person is part of your CMT and can help you with cultural and spiritual needs.

Indigenous Community Liaison Officer*

The Indigenous Community Liaison Officer can help connect you with Indigenous community resources, contacts in the community, ceremonies and events to help you reintegrate.

* Commissioner's Directive 702: Indigenous Offenders (2013-11- 12), ("CD 702"), paras. 9, 12-13; GL 712-1-1: CCRA, Definitions section.

community to participate in your hearing, and usually follow the format of an Elder-assisted hearing.¹⁶⁷

Release to an Indigenous community (section 84 agreements)

If you would like to be released on parole to an Indigenous community, talk to your IPO. CSC must give the community's Indigenous governing body¹⁶⁸ notice of your parole application and a chance to make a plan for your release and integration into the community.¹⁶⁹ This is called a "section 84 agreement".

You can apply to be released to an Indigenous community on any kind of conditional release, including:

- temporary absences (escorted or unescorted);
- work release;
- day parole;
- full parole;
- statutory release; or
- long-term supervision.¹⁷⁰

167 PBC Manual, Annex A.

168 An Indigenous governing body is defined under *CCRA* s. 79 as a council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act*, 1982.

169 *CCRA*, s. 84.

170 *CSC, Path Home: Release Planning Kit – Section 84 of the Corrections and Conditional Release Act (2014-03-31); CCRA*, ss. 84 and 84.1.

It is a good idea to ask to go on temporary absences or work releases to your Indigenous community before you are released to live in the community, to help develop your release plan.¹⁷¹

If you are applying for day parole, you might be able to arrange residency within an Indigenous community without going through the section 84 agreement process.¹⁷² You can talk about this option with your IPO.

It is best to start working with your IPO on a release plan to an Indigenous community as soon as you can. If you start early, you might be able to have this goal reflected in your Correctional Plan.

Step 1: Talk to your IPO

Tell your IPO as early as possible that you want to be released to an Indigenous community.¹⁷³

Step 2: Identify the Indigenous community

You might want to be released to your own reserve, to a halfway house, or to a Friendship Centre in the town or city where you have family and support. If you do not already have contacts in an Indigenous community where you want to live, you can ask your IPO, Indigenous Liaison Officer, the Elder or the Indigenous

171 See *CCRR*, s. 155(f).

172 *CCRA*, s. 99(1); Note: definition of “day parole” includes “or other location”).

173 You can initiate the process or change your mind about pursuing a section 84 release at any time during your sentence: (Correctional Service of Canada, Guideline 712-1-1: *CCRA and Sections 84 and 84.1 Release Planning Process* (Ottawa: CSC, 2018-08-07), Annex E, para 3(e) [GL 712-1-1].

Community Development Officer to help you connect with a community.

Step 3: Meet with the Indigenous Community Development Officer

Meet with the Indigenous Community Development Officer. This person helps you with your application. If there is no Indigenous Community Development Officer assigned to your community, you can work with your IPO to apply.

Step 4: Write a letter to the Indigenous community

Write a letter to the Indigenous community where you want to live. There is a sample letter in Guidelines 712-1-1 “CCRA Sections 84 and 84.1 Release Planning Process”, Annex B.

Ask your IPO or the Indigenous Community Development Officer for the name of the contact person for the community where you want to live. If there is no contact person, you can address your letter to the Chief and Council of the First Nation or to the director of the organization.

In your letter, introduce yourself. Say where you want to live and ask for help with your release plan.

You will be asked to sign a “Consent for Disclosure of Personal Information” form so that CSC can give the community information about you.

Give the letter and consent form to the Indigenous Liaison Officer. They will forward it to your IPO.

Your CMT will review your letter and form and it will be sent to the community.

To continue, the Indigenous community must agree to take part in your release plan. If the community does not agree, you can apply to another community or apply again after you have made more progress in your correctional plan.

Step 5: Write a follow-up letter

If the Indigenous community responds positively to your letter, you might want to write a follow-up letter to begin to make a release plan with them. Or, if you already know who the contact person in the community is, you could send your personal contact details to them and begin to communicate directly.

In your follow-up with the Indigenous community, you might want to include details like:

- which prison you are in and where it is;
- the nature of your criminal history;
- activities you took part in in prison;
- activities you took part in before prison;
- any support you have in the community; and
- reasons you want to go to the Indigenous community.¹⁷⁴

174 GL 712-1-1, para. 7(g).

Let your IPO or the Indigenous Liaison Officer know when you have followed up with the community. Your IPO might need to review the follow-up letter and send it for you.

Step 6: In person meetings

You might want to ask for a temporary absence to the Indigenous community to meet with the community contact person and to work on your release plan with the community.¹⁶⁵ There is a section on temporary absences earlier in this booklet.

Otherwise, you could ask a representative from the community to visit you in prison or to communicate with you by phone.

Step 7: Prepare a release plan

Your release plan should address these matters:

- community programs and services available to help you with your needs (such as AA meetings or counselling services);
- work or social assistance;
- a place to live;
- community support people;
- any need for health care or mental health services;
- ways to deal with any concerns of any victims in the community;
- how the community will be involved in monitoring your

Indigenous halfway houses (CRFs) and programs

Indigenous CRFs

- Naa-na-himyis Brothers Healing Lodge (operated by Circle of Eagles Lodge Society), Vancouver
- Anderson Lodge (for women, operated by Circle of Eagles Lodge Society), Vancouver
- Seven Sacred Fires Society, Surrey
- Aghelh Nebun, Prince George
- Tsow-Tun Le Lum Aboriginal Society, Nanaimo

Community-based Indigenous programs

- British Columbia Society for Male Survivors of Sexual Abuse, Vancouver (childhood trauma)
- Vancouver Aboriginal Friendship Centre (social, employment and housing services)
- Kla-how-eya Aboriginal Centre, Surrey (social and employment services)

You can call PLS for help finding Indigenous programs and services in the community.

release plan and your behaviour; and

- any safety issues for you or your victim(s).¹⁷⁵

See the section on release planning earlier in this booklet.

Step 8: Parole Board hearing

The last step is presenting your release plan to the Parole Board at your hearing. You might want to have someone from the Indigenous community at the hearing to support you as your assistant or as an observer.

Sometimes the Parole Board will have your hearing in the Indigenous community. This is called a **community-assisted hearing**. Talk to your IPO if this interests you.¹⁷⁶

Your release

If the Parole Board grants you release to an Indigenous community, both CSC and your community are responsible for your supervision in the community. You will still need to report to a CPO.

You must follow your release conditions to avoid being suspended and returned to prison. Ask your CPO if you are unsure about your release conditions.

175 GL 712-1-1, Annex E, para 12(g).

176 PBC Manual, c. 9.1.1.

FOREIGN NATIONALS

If you have a **removal order** against you and you were sentenced on or after June 28, 2002, you are not eligible for day parole or an unaccompanied temporary absence (UTA) until you reach your full parole eligibility date.¹⁷⁷ (If you have a life sentence, your parole eligibility is determined by the *Criminal Code*.) Before this, you can apply for an ETA but it will be difficult to get one.

If you are released on a UTA, parole, or statutory release, and you have a **removal order** or **extradition order** against you, you will not be released into the community. Rather, you will be handed over to the Canada Border Services Agency, detained, and might be removed from Canada.¹⁷⁸ If you cannot be removed from Canada, you will get detention reviews at the Immigration Division. If they release you, you will be subject to the conditions of the Immigration Division *and* the conditions of the Parole Board.

If you wish to be released in order to leave Canada, you can apply for parole for **voluntary departure**. You should give to the Parole Board:

- An official document from the country you are going to stating that they are willing to let you back into the country. You might also want to get a letter from the local police there saying that they are aware of your plan to return. You could also include a criminal record check for that country.

177 CCRA, s. 128(4); also see CD 712-1, paras. 54-56.

178 *Immigration and Refugee Protection Act*, SC 2001, c. 27, s. 50(b); CCRA, ss. 121(1)(d), 128(3); PBC Manual, c. 8.4, para 10.

-
- A release plan for the country you are going to – this could include information on if and how you will be supervised. You could also get letters about any support you will have, and to confirm that you will have work and a place to live. You might want to look for community resources that are available to you in that country and give that information to the Parole Board.¹⁷⁹

If you are serving a life sentence or indeterminate sentence, the Parole Board might refuse to release you unless there will be significant, legally enforceable supervision once you have left Canada. You might need to apply to transfer your sentence to your home country under the International Transfer of Offenders Act. Even if your application is not successful, this might be helpful for you when you apply for parole for voluntary removal. If you are serving a life sentence or indeterminate sentence and have a removal order against you, you can contact Legal Aid BC and ask for a lawyer referral.

179 PBC Manual, c. 8.4, para 16.

LONG-TERM SUPERVISION ORDERS

A court can order you to be subject to a long-term supervision order (“LTSO”) for up to 10 years if it believes that you are at a substantial risk of reoffending (if it declares you a “dangerous offender” or “long-term offender”).¹⁸⁰ If you are subject to an LTSO, you will first serve your sentence in prison for the crime you committed, and then your LTSO will start on your warrant expiry date.

While you are serving your prison sentence, you are eligible for parole in the normal way. If you are serving an indeterminate sentence, you will be eligible after 7 years. Otherwise, you will be eligible for full parole after one-third of your sentence.¹⁸¹

Once your sentence is complete (both the prison time and parole), you will be supervised in the community under your LTSO for up to 10 years.

If you breach a condition of your LTSO and are suspended, you will be returned to prison. **You can be charged with a criminal offence and sentenced for up to 10 years for breaching your LTSO.**¹⁸² If you are given a new sentence while out on your LTSO, your LTSO period will pause while you are serving the new sentence, and the clock of your LTSO will start to run again when you have finished serving that sentence.¹⁸³

180 *Criminal Code*, ss. 753(4), 753.1(5), 753.1(3), 759(3)(a)(i); also see British Columbia Prosecution Service, *Information Sheet: Dangerous Offenders and Long-term Offenders* (Victoria: Prosecution Service, 2017).

181 *Criminal Code*, s. 761(1).

182 *Criminal Code*, s. 753.4.

183 Correctional Service of Canada, *CD 719: Long-Term Supervision Orders* (Ottawa: CSC, 2016-06-01), paras. 36-38 [CD 719]; *Criminal Code*, ss. 753.2 and

Conditions on LTSOs

When you have completed your sentence and you are supervised in the community under your LTSO, you will be subject to some standard conditions.¹⁸⁴

The Parole Board can also put special conditions on your LTSO that it believes are reasonable and necessary to protect society and help you to reintegrate into society, or to protect someone.¹⁸⁵

You can apply to the Parole Board to remove or vary any conditions that are not reasonable or necessary.¹⁸⁶

If you disagree with a decision of the Parole Board about your LTSO, you cannot appeal the decision to the Parole Board Appeal Division – you have to go to court within 30 days and ask for judicial review of the decision.¹⁸⁷

If you are given a residency condition on your LTSO, it expires after 365 days unless the Parole Board decides to renew it.¹⁸⁸

753.4.

184 *CCRR*, s. 161(1); *CCRA*, s. 134.1(1); CD 719, para. 11.

185 *CCRA*, ss. 134.1(2) and (2.1), CD 719, paras. 13-14.

186 *CCRA*, s. 134.1(4) and (5).

187 *McMurray v. National Parole Board*, 2004 FC 462 at para. 112.

188 PBC Manual, c. 8.2, para 7; CD 719, para. 16.

Suspension of LTSO

You can be suspended and returned to custody while on your LTSO if your parole officer believes you have breached one of your release conditions.¹⁸⁹

You can also be suspended if your parole officer believes it is reasonable and needed to prevent a breach or to protect society.¹⁹⁰

If you are suspended, you can be committed to a halfway house, a mental health facility or a prison for a period of up to 90 days.¹⁹¹

Your parole officer must review your case within 30 days of bringing you back in and either cancel the suspension or refer your case to the Parole Board.¹⁹²

If your case is referred to the Parole Board, the Parole Board must review your case within 90 days from the time you were returned to a halfway house, mental health facility or prison. It is the Parole Board's policy to review cases within 60 days of your return to custody.¹⁹³

The Parole Board can either cancel your suspension or recommend that you be criminally charged with a breach.

If the Parole Board believes that you will not commit another offence during your LTSO, it will cancel your suspension and

189 *CCRA*, s. 135.1(1).

190 *CCRA*, s. 135.1(1).

191 *CCRA*, s. 135.1(1) and (2).

192 *CCRA*, s. 135.1(5).

193 PBC Manual, c. 8.2, para 19.

release you back into the community.¹⁹⁴ If it is going to release you, the Parole Board can also:

- give you a warning;
- change or add conditions to your LTSO; or
- order that your release be delayed so you can take part in programming (but you must still be released within 90 days of when you were returned to custody).¹⁹⁵

On the other hand, the Parole Board can recommend that you be charged with breaching your LTSO. This is a criminal offence and can lead to a 10-year prison sentence.¹⁹⁶ It will do this if it believes that you breached the conditions of your LTSO and that, even with the supervision available to you in the community, you will commit another offence during your LTSO.¹⁹⁷ The police or Crown can also lay a charge directly, without a recommendation from the Parole Board.¹⁹⁸

If you are charged, then you will likely be transferred to a provincial remand centre to wait for a bail hearing.¹⁹⁹

194 A list of information that the Board assesses in making this decision is included in the PBC Manual, c. 8.2, para 9.

195 *CCRA*, s. 135.1(2), (6), and (8).

196 CD 719, paras. 4, 62-63.

197 *CCRA*, s. 135.1(6) and (7).

198 CD 719, paras. 55-61.

199 CD 719, paras. 53-54, 58.

Reducing or ending the LTSO

If your Parole Officer believes that you are not likely to reoffend, they can recommend to the Parole Board to reduce or end your LTSO.²⁰⁰ Or, you can apply to the court. You would need to prove that you are no longer likely to re-offend.²⁰¹

DANGEROUS OFFENDER DESIGNATION

If you have been convicted of serious offences and a court considers you likely to re-offend, you might be designated a dangerous offender. If you have been designated a dangerous offender, you will usually have to serve a prison sentence of indeterminate length.

This means that you will not have a statutory release date.²⁰² You will be eligible for full parole after serving 7 years and for day parole after serving 4 years. Your parole will be reviewed at least every 2 years after that (unless your indeterminate sentence started before 1977, in which case your parole must be reviewed every year).²⁰³ The Parole Board decides whether, and under what conditions, you will be released. Even if you get parole, you will be monitored for the rest of your life unless the dangerous offender designation is lifted.

200 CD 719, paras. 64-65.

201 CD 719, para. 66.

202 *CCRA*, s. 127.

203 *Criminal Code*, s. 761(2).

FAINT HOPE CLAUSE

If you were sentenced for a murder committed before December 2, 2011 and given life without eligibility for parole for more than 15 years, you can apply for a review of that parole ineligibility period after 15 years.²⁰⁴

If you were sentenced for a murder committed on or after December 2, 2011, you are not eligible to apply for parole before the parole eligibility date given to you when you were sentenced.

PAROLE BOARD APPEALS

You can appeal a Parole Board decision to the Parole Board of Canada **Appeal Division**. If you think something unfair happened at your Parole Board hearing or there might be a legal problem with the decision, you can call Prisoners' Legal Services to talk about your case.

You have **2 months** from the date of the Parole Board decision to appeal.²⁰⁵ If you submit your appeal more than 2 months after the decision, you need to explain why you could not submit it before and why it is important that your appeal is considered even though you were late.²⁰⁶

204 *Criminal Code*, s. 745.6; see Correctional Service of Canada, *CD 710-5: Judicial Review of Parole Ineligibility* (Ottawa: CSC, 2016-06-01).

205 *CCRR*, s. 168; Note this has been temporarily changed to 3 months from the date of the decision due to the COVID-19 pandemic but is subject to change.

206 PBC Manual, c. 11.1, para 4.

Your appeal can only succeed if the Appeal Division finds that the Parole Board made a mistake related to a “ground” of appeal.

The 5 grounds of appeal are that the Parole Board:

- **Failed to observe a principle of fundamental justice:** The hearing process was not fair. Some examples of this are where: the Parole Board was biased against you, the Parole Board unfairly refused to delay your hearing when you needed time to prepare or get an interpreter or assistant, the Parole Board did not let you respond fully to the information at the hearing, the Parole Board held part of the hearing without you and did not have a good reason for doing so, or the Parole Board did not give you full reasons to explain its decision.
- **Made an error of Law:** The Parole Board did not follow the law or misinterpreted the law.
- **Breached or failed to apply a policy:** The Parole Board did not follow a Parole Board policy.
- **Based its decision on erroneous or incomplete information:** The Parole Board made errors about the information, or relevant information was missing or not considered in the decision.
- **Acted without jurisdiction or beyond its jurisdiction, or failed to exercise its jurisdiction:** The Parole Board made a totally unreasonable decision or a decision it did not have authority to make.²⁰⁷

207 CCRA, s. 147(1).

If something happened at your hearing or in the decision that you think was unfair or in error, call Prisoners' Legal Services as soon as you can to discuss a possible appeal.

An appeal usually takes 3 to 4 months.

If the Appeal Division agrees with you that there was a problem with the decision, they might make their own decision on your risk and order your release, or they might order that a new panel of Parole Board members do a new review of your case.²⁰⁸ If they order a new review of your case, the new review should take into account any new information, and should be finished within 2 months.²⁰⁹

GETTING LEGAL HELP

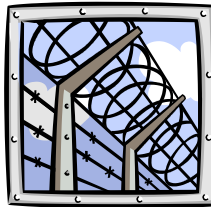
You can call Prisoners' Legal Services at 1-866-577-5245 for advice or assistance with parole, detention and suspension issues.

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., other than Wednesday afternoons.

208 *CCRA*, s. 147(4) and (5); PBC Manual, c. 11.1, para 10-11.

209 PBC Manual, c. 11.1, paras 18-19.

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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