



PRISONERS' LEGAL RIGHTS

in British Columbia provincial prisons

This booklet explains what rights you have as a provincial prisoner in British Columbia, and how to exercise your rights.

Contents

Basic rights for all prisoners	5
Indigenous rights	8
Trans rights	10
Complaints.....	13
Security classification	15
Placement and requests to transfer.....	19
Appeals	20
Identification of staff	21
Physical restraint devices	21
Searches.....	22
Phone and mail.....	24
Urinalysis testing	26
Right to vote	27
Separate confinement.....	27
Voluntary separate confinement	32
“Supported Integration Placement”	33
Disciplinary offences.....	37
Segregation pending disciplinary hearing	38
Disciplinary hearings.....	39
Penalties for breaking a rule.....	41
Applying for a reduction of your penalty	44
Appeal of disciplinary decision or penalty.....	44

Programs..... 45

Access to Indigenous Spirituality..... 47

Health care 51

Transfers..... 52

Remission awards..... 54

Parole applications 55

Getting legal help 58

Basic rights for all prisoners

All prisoners have the right to:

- regular meals;
- at least 2.5 hours per day out of your cell, including daily exercise for at least one hour, outside if possible;
- clothing, a mattress and bedding;
- reading materials¹;
- reasonable access to mail and the telephone;
- postage for all privileged communication (letters to lawyers, the warden and most government officials);
- postage for up to 7 other letters per week;
- personal visits;
- health care;
- wash or shower at least once per day; and
- toiletry items needed for health and cleanliness.²

The warden of the prison must make sure that you are given all of these rights prescribed in the *Correction Act Regulation*.

The only time you do not have these rights is if the warden has a good reason to believe that the right cannot be given because it could endanger you or another person.³

¹ You are allowed to receive books or periodicals sent directly from a recognized retailer but there is a restriction on certain topics. See: Ministry of Public Safety and Solicitor General, *Adult Custody Policy* (updated 2025--08), ss. 10.1.1-10.1.4 [Adult Custody Policy].

² *Correction Act Regulation*, BC Reg. 58/2005, s. 2(1) [CAR].

³ CAR, s. 2(2)(a).

If you are in segregation, you have all of these rights unless it is unreasonable to give them because of the limitations of the segregation area, or for the safe and effective operation of the area.⁴

You have the right to have your concerns addressed. If you bring a concern to a staff member, they are required to try to address your concern if possible.⁵

You also have the right to the following information:

- the *Correction Act*;
- the *Correction Act Regulation*;
- the daily routine of the prison;
- the rules prisoners must follow;
- how to file a complaint with the warden;
- how to file a complaint with the Investigation and Standards Office;
- how to make submissions on separate confinement under section 18;
- how to appeal a disciplinary hearing decision; and
- how to apply for temporary absence or parole.⁶

⁴ *CAR*, s. 2(2)(b).

⁵ *CAR*, s. 4.

⁶ *CAR*, s. 5(1).

If you can't understand this information, staff must try to help you understand it.⁷ You can also call Prisoners' Legal Services for information about your rights. There is information about how to contact Prisoners' Legal Services on the last page of this booklet.

⁷ *CAR*, s. 5(2).



Indigenous rights

Indigenous people are over-represented in British Columbia prisons.⁸ Many of the reasons for this relate to the ongoing effects of colonialism, including:

- family fragmentation due to residential schools and the foster care system;
- intergenerational trauma;⁹
- systemic discrimination and prejudices against Indigenous people; and
- poverty.

Indigenous background factors

When it makes decisions about you, BC Corrections must consider how you might be affected by the following factors because of your Indigenous background:

- low income;
- poverty;
- unemployment;
- lack of opportunities and options;

⁸ Government of British Columbia, *BC Corrections and Indigenous Justice* (accessed: 2022-09-21), online:

<https://www2.gov.bc.ca/gov/content/justice/criminal-justice/corrections/reducing-reoffending/indigenous>.

⁹ Office of the Correctional Investigator, “Backgrounder: Indigenous Inmates: A Critical Situation” (2013-09-16), online: <https://oci-bec.gc.ca/en/content/backgrounder-aboriginal-offenders-critical-situation>.

- lack of formal education;
- substance abuse;
- loneliness;
- community fragmentation; and
- poor social and economic conditions.¹⁰

In this booklet, these are called the “**Indigenous background factors**”.

BC Corrections **must consider options that are culturally appropriate for you and make decisions that respond to your unique circumstances** as an Indigenous person.¹¹

The general information in this booklet applies to everybody. In addition to the general information in each section, look for this symbol throughout this booklet for extra information specific to your rights as an Indigenous person.

¹⁰ Adult Custody Policy, s. 4.1.8; *R v. Gladue*, [1999] 1 SCR 688 at paras. 67-69 [*Gladue*]; *Twins v. Canada (Attorney General)*, 2016 FC 537 at para. 64 [*Twins*]; *Ewert v. Canada*, 2018 SCC 30 at paras. 53-61 [*Ewert*]; *R v. Ipeelee*, 2012 SCC 13 at para. 83 [*Ipeelee*]; *Frontenac Ventures Corporation v Ardoch Algonquin First Nation*, 2008 ONCA 534 [*Frontenac*] at paras. 56-57, leave to appeal refused [2008] SCCA No. 357; *R v Sim*, 2005 CanLII 37586 (ONCA) at para. 16 [*Sim*]; *Re Alexis*, [2003] BCRBD No 1 at para. 80 [*Alexis*].

¹¹ *Gladue* at paras. 67-69; *Ewert* at paras. 57-58; *Twins* at para. 64; *Ipeelee* at paras. 69, 83; *Frontenac* at paras. 56-57; *Sim* at para. 16; *Re Alexis* at para. 80.



Trans rights

“Trans” includes many different identities and expressions. If your gender identity or expression is different from your assigned sex at birth, or you consider yourself to be neither male nor female, both male and female, or two-spirited, the information included with this symbol might be useful for you.

You have a right to live as other prisoners do and to have your needs met without being discriminated against because of your gender identity or expression.¹²

You can choose to self-identify or not to self-identify as trans.¹³

If you identify as transgender during the classification process, prison staff are required to ask you for your chosen name and your preferred gender pronoun, and include this information in CORNET and in your file.¹⁴ They must refer to you in person and in all written documents by your preferred first name and gender pronoun, except in rare cases where your legal name is required for identification purposes.¹⁵

¹² *Human Rights Code*, RSBC 1996, c. 210, s. 8 [*BC Human Rights Code*].

¹³ *Adult Custody Policy*, s. 4.10.1.

¹⁴ *Adult Custody Policy*, s. 4.10.2.

¹⁵ *Adult Custody Policy*, s. 4.10.10.



For help with a legal name change or gender marker change, you can contact the *Trans ID Clinic*, run by QMUNITY, at 604-684-5307 or 1-800-566-1170. They can help with changes on all government documents except for passports. If you cannot get hold of them, you can call Prisoners' Legal Services.

Prison staff are supposed to keep information about your gender identity or expression private and confidential, except where staff need to have this information. Case managers are only supposed to share this information with other correctional institutions when relevant and necessary.¹⁶

If you identify as trans, much of the general information in this booklet applies to you. In addition to the general information, look for this symbol for extra information specific to your rights as a trans person.

Personal effects for trans prisoners

You are allowed to order canteen items that support your gender identity unless there are overriding safety or security concerns about the items.

You can request personal items to express your gender, including underwear consistent with your gender identity. These items should be provided and you should be allowed to keep them unless there are overriding safety or security concerns. If you request an item for health reasons, prison staff are required to consult with the director of mental health services and/or Correctional Health Services.¹⁷

¹⁶ Adult Custody Policy, s. 4.10.5.

¹⁷ Adult Custody Policy, s. 4.10.6.

Cell sharing for trans prisoners

If you are housed according to your birth sex or if you have had gender confirming surgery, you are allowed to have your own cell.¹⁸

You are not allowed to share a cell with a female prisoner if your assigned sex at birth was male and you have not had gender confirming surgery.¹⁹

You are not allowed to share a cell with a male prisoner if your assigned sex at birth was female and you have not had gender confirming surgery.²⁰

An exception to not allowing trans and cisgender prisoners to share a cell may occur if the warden determines the shared cell is sufficiently safe and allows for privacy for both the trans and cisgender prisoners.

Toilet and shower access for trans prisoners

All transgender prisoners must be offered individual and private access to the shower and toilet.²¹

¹⁸ Adult Custody Policy, s. 4.10.8.

¹⁹ Adult Custody Policy, s. 4.10.8.

²⁰ Adult Custody Policy, s. 4.10.8.

²¹ Adult Custody Policy, s. 4.10.9.

Complaints

It is best to try to resolve problems at the lowest level possible. If you have a problem, staff must try to deal with your concerns.²²

Keep detailed notes of what happened, the time and date of events, the names of people involved and the names of any witnesses. Keep a record of all documents related to your complaint.

If you feel that your rights have been violated by staff or you have been treated unfairly, you can make a complaint to the warden. You can submit your complaint to any staff person who must give it to the warden as soon as reasonably possible in the circumstances.²³

Make sure you get a carbon copy of your complaint form that shows you gave it to a staff person on the date you handed it in. If the staff person does not give you a carbon copy, copy the complaint out onto another form and ask the staff person to sign and date your copy of the form. Keep the extra copy of your complaint so you can prove you handed it in on that date.

The warden or their delegate has 7 days to investigate your complaint. They must tell you, in writing, of their decision, as soon as reasonably possible in the circumstances.²⁴

²² *CAR*, s. 4.

²³ *CAR*, s. 37(1).

²⁴ *CAR*, s. 37(2).

If you are not happy with the warden's decision about your complaint, or if you have not received a response to your complaint in a reasonable amount of time, you can make a written complaint to the Investigation and Standards Office. Staff must forward your complaint to the Investigation and Standards Office as soon as reasonably possible in the circumstances.

You can ask the prison to mail your complaint letter to the ISO. You can also reach the ISO by phone at: **(250) 387-5948** and ask for their assistance to record your complaint.

The Investigation and Standards Office must investigate the written complaints of prisoners. The results of the investigation must be reported to the Minister. But the Investigation and Standards Office can refuse to investigate a complaint that is frivolous, vexatious, trivial or not made in good faith.²⁵

The Investigation and Standards Office can make a recommendation to the warden about your complaint. There is no legal requirement that the warden follow the recommendation.

If you are not happy with the recommendation of the Investigation and Standards Office, or if the warden does not follow the recommendation, you can call Prisoners' Legal Services for legal advice.

If your complaint is serious and it has not been resolved fairly by the Investigation and Standards Office, you might have other legal options to pursue your complaint.

You can make a complaint to the BC Ombudsperson if you think you are being or have been treated unfairly by the prison staff or

²⁵ *Correction Act*, ss. 28-28.2.

the Investigation and Standards Office.²⁶ Your communications with the BC Ombudsperson are privileged, which means that prison staff are not allowed to monitor it.²⁷

If your complaint is about discrimination and it is not resolved through BC Corrections, you can make a complaint to the BC Human Rights Tribunal. See PLS' booklet: *Human Rights in British Columbia Provincial Prisons*. Call Prisoners' Legal Services if you would like advice or help with a human rights complaint.

Security classification

Prisoners sentenced to 30 days or more are classified to secure, medium or open custody. A person's classification is decided based on considerations including:

- protecting society, prison staff and prisoners;
- assigning prisoners to the lowest level of security possible;
- giving access to health care, education, work activities, social programs and recreational programs to meet case management goals;
- giving opportunities for self-improvement for prisoners who meet the criteria for special programs; and
- satisfying the intent of the sentence.²⁸

²⁶ For an example, see: BC Ombudsperson, *Witnesses Denied* (2017), online: <<https://www.bcombudsperson.ca/documents/witnesses-denied>>.

²⁷ *CAR*, s. 13(f).

²⁸ Adult Custody Policy, s. 4.2.7.

Prisoners are classified to **secure custody** (the most restrictive setting) based on their danger to the community or prison, their escape risk, behaviour and other factors.²⁹

- Prisoners will be considered a danger to the community or prison if they have a pattern of violent offences, if police information links them directly to violent or destructive behaviour, if there are professional opinions that they are unpredictable and likely to assault, or if they behave violently or aggressively in a way that makes them a risk to other prisoners or to staff.
- Escape risk is based on a prisoner's history of escape or escape attempts, and on whether their attitude and behaviour have improved since the last incident.
- Behaviour is considered a problem if a prisoner intimidates other prisoners, continually violates rules and does not respond well to discipline.³⁰
- There are a number of other factors. See section 4.5.3 of the Adult Custody Policy: *Criteria for Classifying an Inmate to Secure Custody*.

Prisoners can be classified to **open custody** (the least restrictive setting) if they:

- have no pattern of violence;
- have no history of escape in the past 5 years and are considered unlikely to escape;
- have no ongoing immigration issues;
- are cleared medically; and

²⁹ Adult Custody Policy, s. 4.5.3.

³⁰ Adult Custody Policy, 2022.

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- are able to interact well with others with minimal supervision.³¹

Prisoners who are classified as open custody can be considered for day absences to attend educational, vocational, or training programs in the community.³²

Sentenced prisoners might be classified to **medium custody** if they do not need secure custody and do not meet the criteria for open custody. The other criteria are that they have:

- shown a positive change from a previously established pattern of violence;
- no history of escape in the past 3 years;
- no violent offences while on community supervision before being in custody on current offences;
- successful placement at open or medium facilities during a previous period of custody;
- shown an interest or actively participated in case planning; or
- the potential to interact well with others, both individually and in groups, under regular supervision.³³

If you are on **remand**, you will automatically be housed in secure custody. The warden might approve a remanded prisoner's request to move to medium security if, for example, you will be on remand for a long time³⁴ and want to access

³¹ Adult Custody Policy, 2022, s. 4.5.5.

³² Adult Custody Policy, s. 5.2.6.2.

³³ Adult Custody Policy, 2022, s. 4.5.4.2.

³⁴ Adult Custody Policy, s. 4.11.4 indicates that long-term refers to those who will be or have been in custody for more than 30 days.

programs.³⁵ If you have not been sentenced or if you are being held in immigration detention, you must be housed separately from convicted prisoners where possible and must not be assigned to work programs unless you consent.³⁶

Within the prison, you can be classified to **protective custody** when there is substantial evidence that protective custody is warranted.³⁷

A classification officer will interview you before determining your classification. The officer will inform you of the classification decision at the interview's conclusion.³⁸

You have the right to request copies of the information used about you in your classification and a copy of the classification report. Some information can be withheld under privacy law.³⁹

You have the right to the reasons for your classification in writing upon request.⁴⁰



Security classification for indigenous prisoners

When BC Corrections decides on your case management including your security classification, they must consider how you might be affected by the **Indigenous background factors** listed at the beginning of this booklet.⁴¹

³⁵ Adult Custody Policy, 2022, s. 4.5.4.

³⁶ CAR, s. 3.

³⁷ Adult Custody Policy, 2022, ss. 4.3.9, 4.5.10.

³⁸ Adult Custody Policy, s. 4.4.2.

³⁹ *Freedom of Information and Privacy Act*, RSBC 1996, c. 165, s. 4.

⁴⁰ Adult Custody Policy, 4.5.11.

⁴¹ Adult Custody Policy, 4.1.8.

Placement and requests to transfer

You should be placed in a prison as close to your home as possible, based on your security level, bed space, unless any special programs you are part of prevent such placement.⁴²



Prisons in BC are designed for either men or women. When you get to prison, you can ask to go to a prison that fits with your gender identity. If you are already in a prison that does not fit with your gender identity, you can ask for a transfer.

Corrections staff are required to do an individual assessment to determine where to place you.⁴³

The deputy warden at your current prison should meet with you. At this meeting, you can provide information that you want them to consider in the decision. You should talk about why the transfer is important to you, such as how it will make you feel safer or how it will let you access programs and services appropriate for your gender. If there are other issues you are facing because of your gender, you could also talk about how a transfer to a men's or women's prison would help to resolve these issues.

The placement decision is based on factors such as:

- your preference;
- your gender expression;
- your behavior in and out of custody;
- information about you during past stays in custody;

⁴² Adult Custody Policy, s. 4.5.2.

⁴³ Adult Custody Policy, s. 4.10.4.2.

- the impact your transfer would have on the prisoner population and staff;
- safety and security; and
- case management information such as your security classification, risks, needs, and programs.



The deputy warden is required to provide you with their decision and reasons in writing within 30 days of your request to transfer. If the decision will take longer than this, they must give you reasons for the delay and make the decision within 60 business days.⁴⁴

If your transfer is approved, you should be transferred as soon as operationally possible.

Appeals

You have the right to appeal classification and placement decisions to the warden. If you are not happy with the warden's decision on your appeal, you can make a complaint to the Investigation and Standards Office. The Investigation and Standards Office can only make a recommendation about your classification or placement. See the "Complaints" section earlier in this booklet.

You can also ask to be reclassified. You must make your request in writing and give reasons why things have changed since you were first classified. You might also want to explain how the reclassification would meet the intent of your original sentence

⁴⁴ Adult Custody Policy, s. 4.10.4.

management plan. A classifications officer will review your request and your file, and interview you if necessary. They will tell you their decision. You can ask them questions about their decision.⁴⁵

You can also appeal this decision to the warden by submitting a complaint outlined in s. 37 of the *Correction Act Regulation* or to the Investigation and Standards Office if you are not happy with the warden's decision.⁴⁶

Identification of staff

You have the right to know the names of staff working in the prison. Staff must wear name tags.⁴⁷

Physical restraint devices

Physical restraints can be used on you only if they are needed to:

- prevent injury or death;
- prevent property damage;
- prevent escape; or
- maintain your custody and control.⁴⁸

Restraints cannot be used for more than 4 hours unless they are allowed by the warden, or if you are on an escorted absence from the prison. The warden can allow restraints to be used for up to

⁴⁵ Adult Custody Policy, s. 4.5.7.

⁴⁶ Adult Custody Policy, s. 4.5.11.

⁴⁷ *CAR*, s. 6.

⁴⁸ *Correction Act*, SBC 2004, c. 46, s. 9 [*Correction Act*]; for more details see Adult Custody Policy, 2022, s. 1.3, ss. 1.7.10 – 1.7.13.

16 hours if they have a good reason to believe they are needed for safety, and other ways of controlling you haven't worked or are not reasonable.⁴⁹

Restraints cannot be used for longer than 16 hours unless approved by the provincial director of BC Corrections. If this happens, the warden must review your condition every 12 hours.⁵⁰

Call Prisoners' Legal Services if you have been restrained unreasonably.

Searches

All prisoners are searched when they enter prison.⁵¹

Staff are allowed to search prisoners and their cells, personal possessions and clothing to find contraband, even if they do not have an individualized suspicion.⁵²

Only authorized staff are allowed to search a prisoner's cell or property (for example, before a new person moves into the cell, or if they have a good reason to believe that the person has contraband).⁵³

Staff are only allowed to strip search you if:

- you are entering the prison;
- you are entering or returning from segregation;

⁴⁹ *CAR*, s. 9(2) and (3).

⁵⁰ *CAR*, s. 9(4)-(6).

⁵¹ *Corrections Act*, s. 13(1); *CAR*, ss. 10-12; Adult Custody Policy, s. 1.16

⁵² *Corrections Act*, ss. 13(2) and (3); ss. 10-12.

⁵³ *Corrections Act*, s. 13(1); *CAR*, ss. 10-12; Adult Custody Policy, s. 1.16.

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- you are returning from a visit, work or a program in the prison, and you could have accessed and hidden contraband; or
 - staff have a good reason to believe you might have contraband or they have evidence that you were involved in giving or taking contraband from someone else. In this case, the staff must also reasonably believe that a strip search is necessary and get authorization from the warden or their designate. They can only conduct a strip search without waiting for approval from the warden if they have good reason to believe that waiting would put someone in danger or cause evidence to be lost.⁵⁴

Strip searches must be done by a staff member of the same sex as you unless the warden determines that it would cause a delay that would result in danger to human life or safety. Strip searches must be observed by another staff person and done quickly, in as private an area as possible. You should be told the reason for the strip search and how it will be done. Strip searches are limited to “visual inspections”. You should be given clothes or covering immediately after the search. Strip searches must not be done on camera except in circumstances of non-compliance.⁵⁵



Frisk and strip searches for trans prisoners

You can tell staff the gender of the staff member you would prefer to frisk search or strip search you. You can also ask to be searched by both a male and a female officer, and say who you would prefer to search which body parts (this is called a “split search”).

⁵⁴ *CAR*, s. 12.

⁵⁵ *CAR*, s. 11; Adult Custody Policy, ss. 1.16.5-1.16.10.

Prison staff will record your preferences in CORNET, but you can change your preferences at any time. If staff are going to do a strip search, they must confirm your gender preference with you first.

If staff of the preferred gender are not available, the warden, for safety and security reasons, may approve a strip search by staff of the non-preferred gender, which must be recorded in CORNET.⁵⁶

Phone and mail

BC Corrections can record your telephone calls and can intercept your mail at any time, with the exception of privileged communication with your lawyer, the warden, the provincial director, and others specified in the Correction Act Regulation.⁵⁷

Usually, BC Corrections is not allowed to listen to the recordings of your calls and can only keep them for 30 days. But they can keep them for longer if they have a good reason to believe that you are involved in illegal activity, harassing or causing harm to others or participating in an activity that could jeopardize the management, operation or security of the prison. They are not allowed to release or disclose the recording unless they have lawful authority.⁵⁸

BC Corrections can only restrict your communications, listen to your telephone calls or recordings, or read your mail if:

⁵⁶ Adult Custody Policy, s. 4.10.3.

⁵⁷ *Correction Act*, s. 19(2); *CAR*, ss. 13-14; Adult Custody Policy, s. 7.8.2.

⁵⁸ *CAR*, s. 15.

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- They have a good reason to believe you are involved in illegal activity, harassing or causing harm to others or participating in an activity that could jeopardize the management, security or operation of the prison;
 - A court order restricts contact between you and another person; or,
 - Another person has asked that you not contact them.⁵⁹

Only a manager or correctional supervisor authorized by the warden is allowed to listen to your phone calls or recordings of them.⁶⁰

You must be given written notice and the reasons for any restriction of your right to communicate, as soon as practicable.⁶¹ BC Corrections can also monitor your telephone communications for as short a time as necessary in order to maintain and repair the recording system.⁶²

BC Corrections is not allowed to monitor (read or listen to) privileged communication. This includes communications with your legal advocate, lawyer, the person in charge (warden or designate), the Investigation and Standards Office, the Ombudsperson, and members of Parliament or the Legislative Assembly. However, staff may be authorized by the warden or designate to open privileged mail if there are reasonable grounds to check it for contraband.⁶³

When you send mail or make a call, staff can attach the name and address of the prison to your mail or play a message at the

⁵⁹ *Correction Act*, s. 19(3); Adult Custody Policy, s. 7.8.19.

⁶⁰ *CAR*, s. 14(3).

⁶¹ *Correction Act*, s. 19(4).

⁶² *CAR*, s. 14(3)(b).

⁶³ *Correction Act*, s. 19; *CAR*, s. 13; *CAR* s. 14(4).

beginning of your call saying that the call is coming from a correctional centre.⁶⁴

Urinalysis testing

Corrections Branch staff can demand that you submit to urinalysis **only** if:

- they have reason to believe that you have taken an intoxicant into your body; or
- being drug or alcohol free is a condition of a temporary absence, work program, voluntary treatment program or conditional release. In this case, urinalysis can be done regularly or if the staff member has good reason to believe that you have breached the condition.⁶⁵

If you are being asked to submit to urinalysis on the basis of you having taken an intoxicant, the staff member must have the permission of the person in charge before making the demand.⁶⁶ Staff must give you the reason for the demand and tell you what can happen if you refuse to give the sample. Refusing to provide a urine sample on demand will result in a disciplinary charge. Also, if you are required to provide a urine sample as a condition of a temporary absence or parole, refusing to provide the sample could result in your temporary absence or parole being revoked.⁶⁷

The staff member must give you up to 2 hours to give the sample. The staff person taking your sample must be the same

⁶⁴ *Correction Act*, s. 19.1; *CAR*, s. 14.1.

⁶⁵ *Correction Act*, s. 20(1); Adult Custody Policy, s. 1.18.8.

⁶⁶ *CAR*, s. 16(2).

⁶⁷ *Correction Act*, s. 20(1) and (2); *CAR*, ss. 16(3), 21(n); Adult Custody Policy, s. 1.21.7.

gender as you. They must follow the process set out in the *Correction Act Regulation* and *Adult Custody Policy*.⁶⁸

Right to vote

Both remanded and sentenced prisoners have the right to vote in provincial and federal elections.⁶⁹ Remanded prisoners, people in the community on probation or parole, and prisoners serving sentences for non-indictable offences have the right to vote in municipal elections as long as they can meet the residency requirement.⁷⁰ Voting can be done by proxy votes, mobile polls or polls at the prison. You will not be released from prison to vote.⁷¹

Separate confinement

Sections 17 and 18 of the *Correction Act Regulation* deal with separate confinement.

To make an order to separately confine you for administrative reasons, BC Corrections must have a good reason to believe that you:

- are endangering yourself (or you are likely to);
- are endangering another person (or you are likely to);

⁶⁸ *Correction Act*, s. 20(2); *CAR*, s. 16; *Adult Custody Policy*, s. 1.21.

⁶⁹ *Sauve v. Canada (Chief Electoral Officer)*, 2002 SCC 68; *Elections Act*, RSBC 1996, c. 106, ss. 29-30, Part 12; *Adult Custody Policy*, ss. 10.5.1(1), 10.5.1(2).

⁷⁰ *Local Government Act*, RSBC 2015, c. 1, ss. 64(2)(a), 67.

⁷¹ *Canada Elections Act*, SC 2000, c. 9, ss. 244-262; *Adult Custody Policy*, s. 10.5.

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- are jeopardizing the management, operation or security of the prison (or you are likely to);
 - would be at risk of serious harm (or are likely to be) if you are not separately confined;
 - need to be separately confined for a medical reason⁷²; or
 - have contraband hidden in your body.⁷³

You must be given the reasons for your separate confinement, in writing, within 24 hours.⁷⁴

You must be released from separate confinement within 72 hours unless the warden decides to extend the order under section 18 of the *Correction Act Regulation*.⁷⁵

The warden can decide to extend your separate confinement order under section 18 of the *Correction Act Regulation* for 15 days at a time.⁷⁶

To extend the order for another 15 days, the warden must review the circumstances for your separate confinement and believe that the reasons still exist and that the separate confinement should continue.⁷⁷

Within 24 hours of deciding to extend your separate confinement, the warden must give you, in writing:

- the reason for the separate confinement;

⁷² For more details on segregation for medical observation, see Adult Custody Policy, s. 1.23.5; *CAR*, s. 17(1)(a)(v).

⁷³ *CAR*, s. 17(1)(c); Adult Custody Policy, s. 1.24.

⁷⁴ *CAR*, s. 17(4); Adult Custody Policy, ss. 1.24.9(1) and 1.24.10(4).

⁷⁵ *CAR*, ss. 17(2), 18(1); Adult Custody Policy, s. 1.24.7.

⁷⁶ *CAR*, s. 18(1); Adult Custody Policy, s. 1.24.10(3).

⁷⁷ *CAR*, s. 18(1).

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- the period of time you will be in separate confinement; and
 - the reason for the length of time of your separate confinement.⁷⁸

BC Corrections must give you enough information about the reasons you are there to allow you to respond.⁷⁹

After deciding to extend your separate confinement, the warden must give you a “reasonable opportunity” to make submissions about why you should not be in separate confinement or why it should be for less time.⁸⁰

The Corrections Branch does not interpret this legal duty as requiring a meeting with the prisoner before a final decision is made to continue the order. So, if you want to have your side heard, you must put your submissions in writing to the warden. You can call Prisoners’ Legal Services for help.

After you have made your submissions, the warden must consider them within a reasonable period of time and give you written reasons for continuing or changing your order.⁸¹

You have a right to make submissions about your separate confinement at least once every 15 days.⁸²

Every 30 days, a mental health professional reviews the impact that separate confinement is having on you, and the deputy warden reviews the results of the mental health review and the

⁷⁸ *CAR*, s. 18(3)(a); Adult Custody Policy, s. 1.24.7(3).

⁷⁹ Adult Custody Policy, s. 1.24.11(6).

⁸⁰ *CAR*, s. 18(3)(b); Adult Custody Policy, 1.24.11.

⁸¹ *CAR*, s. 18(4) and (5).

⁸² Adult Custody Policy, s. 1.24.11(4).

decision to keep you in separate confinement. The warden can end your separate confinement at any time.⁸³

If the mental health professional says you are okay to stay in separate confinement, call Prisoners' Legal Services for help.

While you are in separate confinement, staff cannot withhold your basic rights (listed in the Basic Rights section earlier in this booklet), unless providing you with these rights would affect the overall operation of the separate confinement unit or pose a safety risk. Staff are not allowed to withdraw your rights, privileges, and access to things as punishment.⁸⁴

International law prohibits the use of solitary confinement for more than 15 days or for any amount of time for prisoners with mental disabilities.⁸⁵ Call Prisoners' Legal Services if you have been in separate confinement for more than 15 days or if you are in separate confinement and suffer from a mental disability.

⁸³ CAR, s. 20; Adult Custody Policy, ss. 1.24.11(8)-(11), 1.24.13.

⁸⁴ CAR, s. 2(2); Adult Custody Policy, s. 1.24.8(1) and (2).

⁸⁵ United Nations Office on Drugs and Crime, *The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, General Assembly resolution 70/175, annex, adopted 17 December 2015.



Before BC Corrections decides to place you in separate confinement, prison staff must consider how **you might be affected by the Indigenous background factors** listed at the beginning of this booklet.⁸⁶ They must also consider culturally appropriate or restorative options that could be used instead of separate confinement.

If your Indigenous background was not considered in the decision to put you in separate confinement, you can write a complaint to the warden. You can also make a written submission to the warden if you get a notice under section 18 of the *Correction Act Regulation* to keep you in longer term separate confinement. Include any of the Indigenous background factors that affect you.

While you are in separate confinement, you have the right to access an Elder or Indigenous cultural liaison and to take part in spiritual activities with them or on your own. You also have a right to access your spiritual items and to access Indigenous programs. Any limits on these rights must be reasonable and based on valid safety concerns. For more information, see the section on “*Access to Indigenous Spirituality*” later in this booklet.

⁸⁶ Adult Custody Policy, s. 4.1.8; *Gladue* at paras. 67-69; *Ewert* at paras. 57-58; *Twins* at para. 64; *Frontenac* at paras. 56-57; *Sim* at para. 16; *Alexis* at para. 80.

Voluntary separate confinement

If you are worried that you are at risk of serious harm, you can ask for an agreement with the warden that you voluntarily be confined separately. You can ask that the agreement be reviewed at any time. The warden (or their designate) is supposed to meet with you at least once every 30 days to determine if your voluntary separate confinement status will continue.⁸⁷



BC Corrections is required to integrate trans prisoners with the prisoner population. But where there are health or safety concerns that cannot be resolved and there is not another

placement that is appropriate, BC Corrections policy allows them to house you in separate confinement.

BC Corrections must make another arrangement for you to get you out of separate confinement as quickly as possible. While you are there, they must give you as many social and programming opportunities as possible. See section 4.10.7 for BC Corrections' policy on the integration of transgender prisoners.

⁸⁷ *CAR*, s. 19; Adult Custody Policy, ss. 1.24.12(5).

“Supported Integration Placement”

BC Corrections has replaced their previous “Enhanced Supervision Placement” with “Supported Integration Placement”, often referred to as SIP. It is similar to segregation because prisoners are often locked in their cells for long periods of time.

You still have rights in SIP under the *Charter of Rights and Freedoms*. The *Charter* requires that you be treated fairly when your liberty rights are at issue.

You have all of the legal rights of other prisoners while you are in SIP.

The Corrections Branch has also set out policy that should be followed if you are put in SIP.

Corrections Branch policy says that prisoners can be put in SIP if they require additional support to integrate to the least restrictive placement possible due to:

- pattern of aggressive, challenging, abusive, violent, predatory, or non-compliant behaviours;
- safety risk to themselves or others;
- physical and/or medical needs;
- safety and or/security concerns;
- a lack of suitable placement options due to peer concerns and/or court orders; or
- any other identified need, risk or behaviour preventing integration into a living unit routine.⁸⁸

⁸⁸ Adult Custody Policy, s. 4.8.2(1).

SIP includes three placement levels and the development of a case plan to address needs, risks and behaviours and set goals to work toward the least restrictive placement possible.⁸⁹

The three placement levels are:

- Level 1: Increased supervision and an opportunity for a minimum of four hours out of your cell each day;
- Level 2: Greater integration with peers, increased opportunity for program participation and a minimum of five hours out of your cell each day; and
- Level 3: Close to integration into the normal routine of a living unit with an opportunity for a minimum of six hours out of your cell each day.⁹⁰

You should be classified to the least restrictive level of SIP necessary to address your needs, risks or behaviours and to ensure the best chance of success in achieving your case plan goals.⁹¹

The daily time out of your cell includes your time for personal hygiene (e.g., showering) and your daily exercise, with at least one hour outside if weather and security permits.⁹²

The institution should not restrict or withhold any of your privileges while on SIP, unless it is for safety and security reasons. SIP is not to be used as a punishment or for disciplinary

⁸⁹ Adult Custody Policy, s. 4.8.2(2).

⁹⁰ Adult Custody Policy, s. 4.8.2(3).

⁹¹ Adult Custody Policy, s. 4.8.3(3).

⁹² Adult Custody Policy, s. 4.8.2(4).

purposes and is not to be used if you are in segregation or under separate confinement.⁹³

Staff must give you written notice of the reason for your placement in SIP and the information that was considered in the placement decision.⁹⁴

Generalized information is not enough. Corrections must give you the particulars of time, place, people involved, and the alleged misbehavior that led to the decision to place you in SIP.⁹⁵

If you are placed on SIP, a case manager will be assigned to you to develop a personalized case plan for you. You are allowed to participate in case planning and you should be given a copy of your case plan. Your case plan is meant to maximize opportunities for you to increase pro-social activities, set goals, and address your personal needs, risks and behaviours.⁹⁶

Each week there should be a review of your SIP placement, your case plan, and your placement level on SIP. The review is done by the classification officer (who makes the decision regarding your SIP placement in consultation with the warden), with consultation from a correctional manager, your case manager, and any other staff involved in case management. You may make submissions at any time regarding your SIP placement, case plan, and placement level which is to be considered as part of the weekly review.⁹⁷

⁹³ Adult Custody Policy, s. 4.8.2(8)-(10).

⁹⁴ Adult Custody Policy, s. 4.8.3(4).

⁹⁵ *Charlie v. BC (Attorney General)*, 2016 BCSC 2292 at paras. 29, 34.

⁹⁶ Adult Custody Policy, s. 4.8.5(1)-(6).

⁹⁷ Adult Custody Policy, s. 4.8.5(7)-(8).

You have the right to challenge the decision to place you in SIP by writing to the warden in accordance with section 37 of the *Correction Regulation Act*.⁹⁸

The warden must investigate your complaint, conduct a file review and provide written reasons for their decision to you within 7 days of receiving your complaint.⁹⁹ If you are not satisfied with the warden's response, you can file a complaint with the Investigation and Standards Office.¹⁰⁰ Call Prisoners' Legal Services if you would like legal advice or help in making your complaint.



Staff must consider how you might be affected by the **Indigenous background factors** listed at the beginning of this booklet before they decide to place you on SIP and when making your case plan.¹⁰¹

If your background as an Indigenous person was not considered when you were placed on SIP or when your case plan was developed, or if you think your placement was not fair, you can make a complaint to the warden. If you are not happy with the warden's response, you can make a complaint to the Investigation and Standards Office.

⁹⁸ *CAR*, s. 37; Adult Custody Policy, s. 4.8.6(1).

⁹⁹ Adult Custody Policy, s. 4.8.6(2).

¹⁰⁰ Adult Custody Policy, s. 4.8.6(3).

¹⁰¹ Adult Custody Policy, 4.1.8.

Disciplinary offences

You can be charged if you are accused of breaking a rule in section 21 of the *Correction Act Regulation*, such as by disobeying a direction of a staff member or the warden, or assaulting or threatening another person.¹⁰²

If you are charged with a disciplinary offence, call Prisoners' Legal Services right away for help. If you are called to a hearing before you have been able to speak with a legal advocate, ask for an adjournment to get legal advice before your hearing starts.¹⁰³ Prisoners' Legal Services can give you advice on how to represent yourself at your hearing, and in some cases might appoint a lawyer to represent you at your hearing.

You have the right not to say anything about the event that led to your charge. Talk to a legal advocate before you say anything to anyone about your charge. If the incident could lead to criminal charges, talk to a criminal lawyer before the disciplinary hearing.¹⁰⁴

You might be able to resolve an issue informally before you are charged.¹⁰⁵ If staff believe you are breaking a rule, they must try to stop you from breaking the rule and give you a chance to stop. Ask staff for the opportunity to informally resolve the issue if it has not been offered to you. If you are accused of breaking a rule, staff must give you a chance to correct it if possible. Staff must inform you of the rule that you broke and what you did to break that rule.¹⁰⁶

¹⁰² *CAR*, s. 21(1) and 22.

¹⁰³ See Adult Custody Policy, s. 1.22.15(2).

¹⁰⁴ Adult Custody Policy, s. 1.22.13.

¹⁰⁵ *CAR*, s. 22(1); Adult Custody Policy, s. 1.22.3.

¹⁰⁶ *CAR*, s. 22(1)(c)-(d).

If the staff member believes that your breach of the rule cannot be resolved informally, they will write a report to the warden about what happened and you might be charged with a disciplinary offence.¹⁰⁷

If you are charged with an offence, you will be given a document called the *Notice of Alleged Breach*, which must include:

- location, date and time of your alleged rule breach;
- the specific alleged breach under section 21 of the *Correction Act Regulation*;
- the circumstances of the breach;
- any immediate action that was taken;
- names of any witnesses; and
- listing and description of any evidence.¹⁰⁸

You must also be informed of the proposed date and time of the disciplinary hearing and, if you are put in segregation until your hearing, the reason why you have been put in segregation.¹⁰⁹ The hearing should take place as soon as practicable and no later than 72 hours from the time of charge approval.¹¹⁰

Segregation pending disciplinary hearing

To put you in segregation until your hearing, the warden must have a good reason to believe that:

- you are likely to endanger yourself or another person if you are not put in segregation;

¹⁰⁷ CAR, s. 22(2)-(3); Adult Custody Policy, s. 1.22.3.

¹⁰⁸ Adult Custody Policy, s. 1.22.4.

¹⁰⁹ CAR, s. 23.

¹¹⁰ CAR, s. 26(1); Adult Custody Policy, s. 1.22.1(3).

-
- you are likely to jeopardize the management, operation or security of the prison if you are not put in segregation; or
 - you must be in segregation so that evidence for your disciplinary hearing will not be lost.¹¹¹

The warden must review your segregation status every 24 hours until your hearing. If they decide that the reasons for your segregation no longer exist, you must be released from segregation.¹¹²

If you are held in segregation pending your disciplinary hearing, you have all of your basic rights outlined in the Basic Rights section at the beginning of this booklet unless the warden decides that certain rights cannot be given in segregation.

Disciplinary hearings

Disciplinary hearings are presided over by a chairperson not directly associated to the prison and who attends the hearing via video link. They are called the independent correctional adjudicator.¹¹³

The independent correctional adjudicator [independent adjudicator] should not be involved in your case before your hearing. They should not know about the events that led to the charge before hearing your case.

The disciplinary hearing coordinator [DHC] is responsible for arranging disciplinary hearings. During the hearing, the DHC is

¹¹¹ *CAR*, s. 24(1).

¹¹² *CAR*, s. 24(2)-(3). Adult Custody Policy, s. 1.22.2.

¹¹³ Adult Custody Policy, s. 1.22.9 and s. 1.22.10; also see *CAR*, s. 25.

an active participant and the main correctional centre representative.¹¹⁴

Your hearing must start within 72 hours of when the charge was approved. If you do not have a first appearance within 72 hours, BC Corrections cannot proceed with the charge. If you think it has been more than 72 hours since the charge was approved, you should raise this issue with the adjudicator at your hearing. If you went to your hearing within 72 hours and it was adjourned, your hearing has started within 72 hours.¹¹⁵

You have the right to be present at your hearing. Your hearing must be adjourned if you are not there unless:

- you refuse or choose not to attend;
- your presence would put someone's safety at risk at the hearing; or
- you are seriously disrupting the hearing.¹¹⁶

Certain circumstances may permit the hearing to be commenced without you present, if:

- you are absent from the correctional centre whether lawfully or unlawfully;
- you refuse or choose not to attend; or
- your behaviour before the hearing is so disruptive that you cannot safely be escorted to the hearing.¹¹⁷

¹¹⁴ Adult Custody Policy, s. 1.22.12.

¹¹⁵ *CAR*, s. 26.

¹¹⁶ *CAR*, s. 26(3).

¹¹⁷ *CAR*, s. 26(2).

Hearings are usually done by video conference. They must be recorded.¹¹⁸

Hearings must be fair. You have the right to know and see the evidence for and against you before the hearing starts.¹¹⁹

At your hearing, you have the right to ask questions of the witnesses who are giving evidence against you. You also have the right to tell your side of what happened, to call witnesses for your side and to say why you should be found not guilty.¹²⁰

You can ask for an adjournment if you need one to properly present your case. For example, you might ask for an adjournment if a witness you want to call is not there, or to talk to a lawyer.¹²¹

The independent adjudicator will evaluate the evidence presented and must determine beyond a reasonable doubt¹²² whether you are guilty or not guilty. The evidence used to find you guilty must be sufficient and reliable.¹²³

Penalties for breaking a rule

If you are found guilty of an offence, or pleaded guilty to an offence, you can be given a penalty. The possible penalties are

¹¹⁸ CAR, s. 26(4); Recording is retained per Adult Custody Policy, s. 1.22.14(7).

¹¹⁹ Adult Custody Policy, s. 1.22.1(5).

¹²⁰ Adult Custody Policy, s. 1.22.14(5).

¹²¹ Adult Custody Policy, s. 1.22.15.

¹²² Adult Custody Policy, s. 1.22.10; The Supreme Court of Canada ruled that the standard of proof of guilt beyond a reasonable doubt applies to prisoner disciplinary proceedings in the *John Howard Society of Saskatchewan v. Saskatchewan (Attorney General)* 2025 SCC 6 decision.

¹²³ Adult Custody Policy, ss. 1.22.5 – 1.22.7(6).

set out in section 27 of the *Correction Act Regulation*. They include:

- A warning.
- Restriction on activities or programs. (Note that visits can only be restricted if your offence was directly related to a visit.)
- Extra duties (up to 12 hours).
- Cell lock up (up to 192 hours).
- Loss of earned remission (up to 60 days).
- Segregation. (Depending on the offence, you can face up to 15 days segregation. If you have more than one charge, you cannot be given more than 15 days in a row. If you were put in segregation under section 24 (segregation pending your disciplinary hearing) when you were charged, that time must be subtracted from your penalty.)¹²⁴

If you plead guilty or are found guilty, you have the right to say why you should be given a lighter penalty before the independent adjudicator decides your penalty. You can also ask that one penalty be given instead of another. For example, if you are close to your release date and you do not want to lose earned remission, you can ask for a penalty that is not loss of earned remission. Think about what would be fair and suggest that to the independent adjudicator.¹²⁵

You can also ask that your penalty be “suspended” for up to 90 days. For example, you could ask that your penalty be suspended on the condition that you do not receive any other charges for

¹²⁴ *CAR*, s. 27(1)-(3); Adult Custody Policy, s. 1.23.4.

¹²⁵ Adult Custody Policy, s. 1.22.17.

that period of time. If you meet the conditions of your suspension, your penalty will not be imposed.¹²⁶

Additionally, the disciplinary hearing coordinator will have an opportunity to present any considerations and specific recommendations for the penalty to the independent adjudicator. Considerations may include:

- your history of disciplinary offences;
- any impacts the breach caused to correctional centre operations, and/or to the health and safety of others;
- your mental health needs, or Indigenous background; or
- any other unique factors related to you or the circumstances.

The independent adjudicator must give you written reasons for the decision and the penalty imposed.¹²⁷



The independent adjudicator must consider how you might be affected by your Indigenous background before deciding on a penalty for your offence, especially one that restricts your liberty (segregation or loss of earned remission). Refer to the list of Indigenous background factors at the beginning of this booklet. They must look for culturally appropriate options that will help you heal.

If you are in segregation, you must be allowed access to spiritual activities and spiritual items unless there are valid safety reasons to deny them.

¹²⁶ CAR, s. 27(4)-(6); Adult Custody Policy, ss. 1.22.20, 1.22.21.

¹²⁷ CAR, s. 28; Adult Custody Policy, s. 1.22.10(4); 1.22.16.

Applying for a reduction of your penalty

You can apply for a reduction in your penalty or a suspension of your penalty after the hearing. Do this by writing a letter to the independent adjudicator who heard your case. Explain your reasons for a reduced or suspended penalty, such as good behaviour since the hearing or other new information.

The independent adjudicator will make the decision, or if they are not available, the person in charge will make the decision. They must make a decision within 5 days of your application and give you the reasons for their decision in writing.¹²⁸

Appeal of disciplinary decision or penalty

If you are found guilty of an offence or if you feel that the penalty was too harsh, you can appeal the decision to the Investigation and Standards Office. Call Prisoners' Legal Services right away if you would like help with your appeal.

You must appeal within 7 days of the decision. Your appeal should be made in writing.¹²⁹

Write a letter to the Investigation and Standards Office (ISO) and explain why your hearing was unfair or why the decision or penalty was wrong. **You can also ask that they suspend your penalty until the appeal is complete.**¹³⁰

¹²⁸ *CAR*, s. 27(5).

¹²⁹ *CAR*, s. 29(1).

¹³⁰ *CAR*, s. 29(3).

Ask staff to fax your letter to the Investigation and Standards Office.

The Investigation and Standards Office will listen to the recording of your hearing and consider your written submissions.

The Investigation and Standards Office can confirm the decision or “rescind” the decision. If the decision is rescinded, your record will be changed to show that you were not found guilty of the offence, or a new hearing will take place with a different decision maker.¹³¹ If the ISO upholds the independent adjudicator’s decision, the only way to reverse the decision is through judicial review.

The Investigation and Standards Office can also change the penalty imposed.¹³²

Programs

The *Correction Act Regulation* requires the warden of each prison to establish programs for prisoners. Programs should be designed to improve the education or training of prisoners and reduce their risk to the community.¹³³

You are required to participate in programs when you are told to, unless:

- you are excused in writing by health care;

¹³¹ *CAR*, s. 29(4).

¹³² *CAR*, s. 29(4)(b).

¹³³ *CAR*, s. 38; Adult Custody Policy Chapter 10 covers several topics, including reading and viewing material, work programs, stipend scales, recreation, voting, religious programs and practices, marriage, and temporary absences for forest firefighting.

-
- the program is religious and you choose not to participate in it;
 - the program is on a religious day of the faith that you follow; or
 - you have not been sentenced to imprisonment and the program is a work program that you have not consented to participate in.¹³⁴

¹³⁴ *CAR*, s. 38(3).



Access to Indigenous Spirituality

BC Corrections must provide religious programs for prisoners.¹³⁵ The *BC Human Rights Code* prohibits discrimination on the basis of religion.¹³⁶ This means that BC Corrections cannot give you fewer rights to Indigenous spirituality than other prisoners have to their religions.

In keeping with human rights law, Indigenous spirituality and its followers must be given the same respect as other faiths and their followers. Access to Indigenous spirituality is a right, not a privilege.

You have the right to practice your Indigenous spirituality in prison. You also have the right to support from an Indigenous cultural liaison in prison.¹³⁷

Indigenous Cultural Liaisons and Elders

The Indigenous cultural liaison or Elder can:

- give you spiritual counselling;
- make programs for Indigenous prisoners; and
- teach you about your Indigenous heritage, including traditional ceremonies, and arts and crafts.

¹³⁵ *CAR*, s. 38(1); Adult Custody Policy, s. 10.6.

¹³⁶ *BC Human Rights Code*, s. 8.

¹³⁷ Adult Custody Policy, ss. 4.1.8 and 4.23.2.



If you would like to meet with an Indigenous cultural liaison or Elder, submit a written request to the Indigenous liaison or Chaplain.

Indigenous cultural liaison or Elder counselling usually takes place during the regular working day or during spiritual gatherings. You can submit a request to see an Indigenous liaison or Elder at any time.

If you do not get an answer to your request or your request is denied, you can make a complaint to the warden.¹³⁸ See the section on complaints earlier in this booklet.

Spiritual items

You may be allowed to possess or use spiritual items (such as a medicine bundle) in your cell, in separate confinement or segregation and during ceremonies, unless the item poses a safety or security threat.¹³⁹

Spiritual items that are allowed include:

- sweetgrass;
- sage;
- ceremonial pipes (only used by recognized pipe carriers);
- ceremonial blankets;
- eagle feathers;

¹³⁸ *CAR*, s. 37.

¹³⁹ Adult Custody Policy, s. 10.6.6.

-
- seashells;
 - medicine bags that hold herbs (they must stay sealed);
 - prayer mats; and
 - prayer beads.¹⁴⁰

Your medicine bundle can be searched, but correctional officers should respect its spiritual significance. They may avoid handling your medicine bundle. You, your visitor or an Elder might be asked to open your bundle during a search.¹⁴¹

If BC Corrections finds contraband in your medicine bundle, they can take it away from you.¹⁴²

You can request access to other spiritual items for ceremonial purposes or for your own use. The warden will consult with the Indigenous cultural liaison, so it might be helpful to talk to them about your request first.¹⁴³

If you are refused access to spiritual objects, to the Elder or Indigenous cultural liaison, or to something else that you request to practice your spirituality, you might be facing discrimination on the basis of your religion. You can make a complaint to the BC Human Rights Tribunal. See PLS' booklet: *Human Rights in British Columbia Provincial Prisons*. Call Prisoners' Legal Services if you would like advice or help with a human rights complaint.

¹⁴⁰ Adult Custody Policy, s. 10.6.6.

¹⁴¹ Adult Custody Policy, s. 1.12.20.

¹⁴² Adult Custody Policy, s. 1.17.4.

¹⁴³ Adult Custody Policy, s. 10.6.6.



Access to Indigenous spirituality in segregation

Prisoners in segregation have the same rights to spirituality as other prisoners, unless there are valid safety reasons that you cannot take part in an activity.¹⁴⁴ This is the case whether you are in supported integration placement or disciplinary segregation.

You have the right to take part in spiritual activities in segregation that you can do on your own or with an Elder or Indigenous cultural liaison. This includes things like smudging or counselling with the Elder or Indigenous liaison.

You might not be able to take part in group activities like sweat lodge ceremonies, healing circles or drum ceremonies in segregation if there are safety concerns.

¹⁴⁴ Adult Custody Policy, s. 10.6.2(2).

Health care

The Provincial Health Services Authority (PHSA) provides medical and mental health services in provincial prisons.¹⁴⁵ You should have equal access to the same quality of services that are available in the community.¹⁴⁶

The services provided by PHSA include the following:

- Assessment and screening for physical and mental health needs.
- Primary medical and nursing care.
- Mental health services.
- Substance use services.
- Selected public health services.
- Urgent dental care, including care necessary to relieve pain or infection and to support your ability to chew food.
- Medication services.
- Lab and x-ray imaging services.
- Urgent care and basic emergency response while waiting for emergency responders.
- Planning for release and transition to health care in the community.¹⁴⁷

¹⁴⁵ Provincial Health Services Authority, Correctional Health Services: Clinical Services Plan (Version 2.0) (2023-09-30) [PHSA Clinical Services Plan].

¹⁴⁶ PHSA Clinical Services Plan at p. 5.

¹⁴⁷ PHSA Clinical Services Plan at pp. 13-14.

Your consent is needed for treatment. You can refuse at any time.¹⁴⁸ Health care information is confidential unless its release is necessary for the safe management of the prisoner and security of staff.

For more detailed information on healthcare in BC Corrections, see PLS' booklet: *Healthcare in Provincial Prisons*. If you have a problem accessing health care, you can call Prisoners' Legal Services for help. Once you have tried to resolve the problem directly with the health care provider in the prison, you have several options:

- You can complain to the Patient Care Quality Office (PCQO) of the PHSA.
- You can complain to the BC Ombudsperson.
- If you have a problem with a specific doctor or other medical professional, you can make a complaint to their medical college. For more information, see PLS' booklet: *Complaints to Medical Colleges*.

Transfers

There are few procedural rights for BC provincial prisoners who are transferred from one prison to another with the same security level. Under the *Correction Act*, prisoners can be transferred without being given the right to make submissions, to have submissions considered or to receive the reasons for the decision.

But you do have the legal right to have your concerns addressed, if possible.¹⁴⁹

¹⁴⁸ PHSA Clinical Services Plan at p. 14.

¹⁴⁹ *CAR*, s. 4.

It is Corrections Branch policy to transfer prisoners to allow for contact with families, and to access programs, resources, legal services and police. Transfers can also be made for medical treatment or assessments, for behavioural management, to move a prisoner to a different level of security, or due to bed space issues.¹⁵⁰

If you are told that you are being transferred and you refuse, you might be charged with a disciplinary offence. If you have a good reason not to be transferred, such as family contact, you can say that you want to have your concerns addressed under section 4 of the *Correction Act Regulation*, and explain your reason for not wanting to be transferred.

The *Canadian Charter of Rights and Freedoms* gives you a right to procedural fairness in your transfer if you are moving from a medium security prison to a secure prison. But there are only two medium security prisons in BC (Ford Mountain Correctional Centre and the Nanaimo Correctional Centre).

You can only be transferred if a health care professional tells the warden that you are medically fit for a transfer.¹⁵¹

If you are being transferred to higher security or you feel the reason for a transfer is not fair, you can call PLS for help.

¹⁵⁰ Adult Custody Policy, ss. 4.9.4-4.9.5.

¹⁵¹ *CAR*, s. 39(2); Adult Custody Policy, s. 4.9.14.

Remission awards

Provincial prisoners can earn remission awards for good behaviour.¹⁵² Remission awards are calculated at the end of each month. When you are released, remission will be calculated for the days left in your sentence.¹⁵³

Remission is credited on the basis of 1 day's earned remission credit for each full 2 days that are served.

How much remission you will be awarded depends on how well you have obeyed the rules and how much you have participated in work, training, school and program activities.¹⁵⁴ Programs do not include religious programs. Remission awards also depend on how well you co-operate with others in these activities.

- If the staff person decides your performance was “good” or “average” for a certain month, you will be credited with 15 days earned remission for that month.
- If the staff person decides your performance was “fair”, you will get 8 - 14 days of earned remission for that month.
- If the staff person decides your performance was “poor” or “unsatisfactory”, you will get 0 - 7 days of earned remission for that month.¹⁵⁵

If you have been charged with a disciplinary offence but the independent correctional adjudicator has not made a decision yet,

¹⁵² *CAR*, ss. 33-34.

¹⁵³ *CAR*, s. 34(1).

¹⁵⁴ *Prison and Reformatories Act*, RSC 1985, P-20, s. 6 [*PRA*]; Adult Custody Policy, s. 3.9.2.

¹⁵⁵ *CAR*, ss. 32, 34(2); Adult Custody Policy, s. 3.9.4.

the charge cannot be considered in deciding your remission award.¹⁵⁶

If you do not get the full 15 days of earned remission in a month, the staff person who decided not to give you the earned remission must give you the reason for their decision in writing.¹⁵⁷

If you disagree with the decision, you can apply to the warden for a review of the decision. You must apply in writing within 7 days of getting the decision. The warden must complete their review within 7 days. The warden can confirm the amount of earned remission, increase the number of days credited or reduce the number of days credited. The warden must give you their reasons in writing as soon as they can.¹⁵⁸

If you are not satisfied with the warden's decision, you can make a complaint to the Investigation and Standards Office who can recommend that the decision be reconsidered.¹⁵⁹

Parole applications

The Parole Board of Canada is responsible for provincial parole applications.¹⁶⁰

Prisoners can be released on day parole when they have served one-sixth of their sentence. You can apply before this. If you are released on day parole, you are required to return to a correctional centre or community based residential facility each night.¹⁶¹

¹⁵⁶ CAR, s. 34(3); Adult Custody Policy, s. 3.9.6.

¹⁵⁷ CAR, s. 35(1).

¹⁵⁸ CAR, s. 35(2)-(4); Adult Custody Policy, s. 3.9.8.

¹⁵⁹ *Correction Act*, s. 29.

¹⁶⁰ *Correction Act*, s. 31.1; *Corrections and Conditional Release Act*, SC 1992, c 20, ss. 107-108 [CCRA]; Adult Custody Policy, s. 6.1.4.

¹⁶¹ Adult Custody Policy, s. 6.3.1.

Prisoners can be released on full parole when they have served one-third of their sentence or seven years, whichever one is less.¹⁶²

The Parole Board of Canada does not have to review parole applications of prisoners with sentences of less than 6 months.¹⁶³ It is not required to review parole applications within the 2 months before the end of a person's sentence. The Parole Board of Canada can take up to 6 months from when parole applications are received to review them.¹⁶⁴

Because of these time frames, and because provincial prisoners can earn 15 days of remission each month, it is often of no benefit to provincial prisoners to apply for parole unless they are serving a sentence of more than one year.

Parole may be granted prior to day or full parole eligibility to a prisoner who:

- is terminally ill;
- is likely to suffer serious damage to their physical or mental health if they are not released;
- would face excessive hardship that was not foreseeable when they were sentenced if they are not released; or
- is subject to an order to be extradited to another country.¹⁶⁵

¹⁶² Adult Custody Policy, s. 6.3.3.

¹⁶³ *CCRA*, s. 123(1)(3.1).

¹⁶⁴ *CCRA*, s. 122(1) and *Corrections and Conditional Release Regulations, SOR/92-620 [CCRR]* at s. 158(2).

¹⁶⁵ *CCRA*, s. 121(1); Adult Custody Policy, s. 6.3.3. Note the exceptions in *CCRA*, s. 121(2).

You should receive a copy of all the information that the Parole Board of Canada will consider at least 15 days before your parole hearing.¹⁶⁶

You continue to earn remission while on day parole.¹⁶⁷ If you are granted day parole, and you are not suspended, you are free on your earned remission date.¹⁶⁸

If you are granted full parole, you do not continue to earn remission.¹⁶⁹ You will serve your full sentence in the community, under conditions.

If your parole is suspended, you can continue to earn remission for the time you spend in prison while you are waiting for your Parole Board hearing.¹⁷⁰

If the Parole Board of Canada decides that you have broken a condition of your parole, it can revoke your parole and return you to prison. If your day or full parole is revoked, you lose the remission you earned while in prison prior to your release and in the community¹⁷¹, but the Parole Board can re-credit it to you.¹⁷²

You can call Prisoners' Legal Services for advice if you are suspended from parole.

¹⁶⁶ *CCRA*, s. 141(1); Adult Custody Policy, s. 6.4.6.

¹⁶⁷ *PRA*, s. 6(1); Adult Custody Policy, s. 3.9.6.

¹⁶⁸ *CCRA*, s. 128(2); *PRA*, s. 6(5); Adult Custody Policy, ss. 3.9.6(5) and 6.3.1(7).

¹⁶⁹ *PRA*, s. 6(1); Adult Custody Policy, s. 3.7.23.

¹⁷⁰ *PRA*, s. 6(10).

¹⁷¹ *PRA*, s. 6(4.1).

¹⁷² *PRA*, s. 6(9).



When the Parole Board is making a decision about whether to release you or what conditions to put on you, they must consider any systemic and background factors that you have faced as an Indigenous person related the criminal justice system.¹⁷³

Specifically, they must consider the Indigenous background factors that are listed at the beginning of this booklet. The Parole Board should consider other alternatives to keeping you in prison, such as halfway houses or community-based programs that could serve to protect the public and help you rehabilitate and reintegrate into the community.¹⁷⁴

Getting legal help

If you are a prisoner in British Columbia, you can contact Prisoners' Legal Services for advice or assistance with issues that affect your liberty, human rights, or healthcare.

Prisoners' Legal Services phones are open Monday to Friday from 9:00 am to 11:00 am and from 1:00 pm to 3:00 pm. Our phone lines are closed on Wednesday afternoons.

If you are in a provincial institution, you can call Prisoners' Legal Services at 604-636-0464.

¹⁷³ Parole Board of Canada, Decision-Making Policy Manual for Board Members, Policy 2.1, para. 9; *Ewert*; *Twins* at paras. 58, 66-67.

¹⁷⁴ *Twins* at para. 57; *Gladue*; *Ipeelee* at para. 69; *Ewert* at paras. 57-59; *Frontenac* at para. 56; *Sim* at para. 16; *Alexis* at para. 80.











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.



Produced by Prisoners' Legal Services
with funding from the Law Foundation of
British Columbia.

A project of the West Coast Prison
Justice Society

January 2026

THE  LAW
FOUNDATION
OF BRITISH COLUMBIA