

# Conditional Release

for Aboriginal Prisoners



**This booklet explains the rights you have as an Aboriginal prisoner if you are applying for parole, detained or suspended from conditional release.**

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# Introduction

Aboriginal people in Canada are imprisoned at higher rates than non-Aboriginal Canadians. Aboriginal people represent 22% of federal prisoners, but make up only about 4% of the Canadian adult population.<sup>1</sup>

Aboriginal prisoners tend to spend more time in prison than non-Aboriginal prisoners do.<sup>2</sup> Twice as many Aboriginal prisoners are detained until their warrant expiry dates than non-Aboriginal prisoners (6% versus 3%).<sup>3</sup> Aboriginal prisoners are also more likely to have their parole suspended.<sup>4</sup>

In 2009-10, the Parole Board of Canada granted parole to only 23.7% of Aboriginal prisoners, while 43.4% of non-Aboriginal prisoners were granted parole.<sup>5</sup>

## **The Parole Board's duty to consider Aboriginal heritage**

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

The law recognizes First Nations' history of colonization, including dislocation, residential schools, forced adoption (the "sixties scoop"), and loss of cultural and spiritual identity. The law recognizes that Aboriginal people and communities may be affected by the following factors because of this history of colonization:

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

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- lack of formal education;
  - substance abuse;
  - loneliness;
  - community fragmentation; and
  - poor social and economic conditions.<sup>6</sup>

These systemic factors are called the “*Gladue*” factors, after a Supreme Court of Canada decision.<sup>7</sup>

Your Aboriginal heritage must be considered when you are sentenced, and whenever someone makes a decision that could result in your imprisonment.<sup>8</sup> This includes decisions by the Parole Board on whether or not to detain you past your statutory release date and whether or not to suspend your conditional release.

When making these decisions, the Parole Board should consider the alternatives to more prison time, such as halfway houses or community-based programs, which could serve to protect the public and help you rehabilitate and reintegrate into the community.<sup>9</sup>

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# Conditional release

Conditional release allows you to serve some of your sentence in the community, under supervision by a community parole officer (CPO). Conditional release is meant to help you live successfully in the community without being involved in crime, before the end of your sentence. 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. If you have a fixed sentence (not life), you have the right to finish your sentence in the community when you reach your **statutory release date**, unless you are detained.

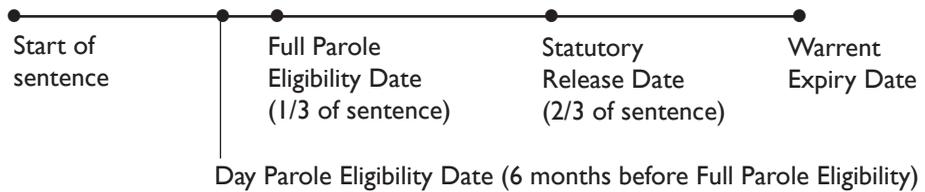
The Parole Board of Canada decides whether or not to grant you parole.

## Parole eligibility dates

**Day parole** allows you to live in the community at a halfway house. Most prisoners’ day parole eligibility date is 6 months before their full parole eligibility date.<sup>10</sup>

You should apply for day parole at least 6 months before your eligibility date to give your case management team enough time to prepare your case.

**Full parole** allows you to live in the community without having to report each night to a halfway house, unless that is a condition of your parole. Most prisoners are eligible for full parole at 1/3 of their sentences or 7 years, whichever is less.<sup>11</sup>



You are considered for full parole automatically. You do not have to apply.

Prisoners serving fixed sentences reach their statutory release dates after serving  $2/3$  of their sentences.<sup>12</sup>

If you do not know your parole eligibility dates, ask your institutional parole officer (IPO). He or she can give you an official Correctional Service of Canada (CSC) document telling you when your sentence started, when it ends, your day and full parole eligibility dates and your statutory release date.

## Parole reviews

After you reach your full parole eligibility date, the Parole Board must review you for full parole every two years from your last review for any kind of release (or from when you waived your right to a full parole review).<sup>13</sup>

If you want to be considered for any other kind of release at your 2 year review, you must submit an application at least 6 months before the review.<sup>14</sup>

If you want to be considered for any kind of release before your 2 year review, you can submit an application one year after the date of the Parole Board's last review. The Parole Board has 6 months to review your application.<sup>15</sup>

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## **The parole process**

CSC must provide all relevant information to the Parole Board before your parole hearing.<sup>16</sup> This information must be shared with you at least 15 days before your hearing.<sup>17</sup> This information includes your Correctional Plan Progress Report and Assessment for Decision. Your parole officer will ask you to sign a “sharing sheet” saying that you got a copy of the documents given to the Parole Board.

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

If CSC gives you new information within 15 days of your hearing, you can ask for an adjournment (delay) of your hearing. You should ask for an adjournment if you need time to respond to the new information. Once you ask for an adjournment, the Parole Board will have up to 2 months to hold your hearing.

You have the right to attend your Parole Board hearing and to respond to the information given to the Parole Board. You also have a right to have an assistant of your choice at your hearing.<sup>18</sup> Your assistant can be a lawyer, advocate, friend, family member or a community support person. Tell your IPO if you would like an assistant at your hearing.

## **Preparing for your parole hearing**

The Parole Board will grant you parole only if it believes you are not a risk to the community. It is best to start planning for parole early and to try to gain the support of your IPO and case management team. You should be able to show the Parole Board that you have:

- done all of the programs on your correctional plan;
- been on successful temporary absences or work releases from prison;

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- a release plan to a community where you have supporters, and work or education plans;
  - an understanding of your “crime cycles” and programs or counselling set up in the community to help you avoid getting into trouble; and
  - a plan to be involved in hobbies or community activities.

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 you successful in the community.

### **Elder-assisted hearings**

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If you would like an Elder or Cultural Advisor to assist at your Parole Board hearing, you can make a written request through your Institutional Parole Officer. You can also ask to have an Elder you know from the community attend your hearing.

At an Elder-assisted hearing, an Elder will attend and give the Parole Board information about Aboriginal culture, experiences and traditions. The Elder might ask you questions about your traditions and spirituality, your progress toward healing and your community support. The Elder might offer you guidance, and can advise the Parole Board about cultural and spiritual concerns when it comes to its decision.

Elder-assisted hearings are usually held in a circle. At the beginning of the hearing, The Elder may say a prayer and provide a ceremony such as a smudge for the people at the hearing.<sup>19</sup>

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## People at your parole hearing

People at your hearing will include:

- **2 Parole Board members** who decide whether or not to give you parole after your hearing;
- **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
- **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 if you do not understand the Parole Board members' questions during the hearing, and can make a statement to the Parole Board near the end of your hearing summarizing your case and saying why you should be released on parole;
- **a Parole Board of Canada Elder or Aboriginal Cultural Advisor** who can offer you guidance and advise the Parole Board on cultural and spiritual matters; and
- **observers** who might be victims, relatives and friends (yours or the victims'), other Parole Board or CSC staff, others interested in the parole process (such as students or the media). You will be told if anyone applies to the Parole Board to attend your hearing.<sup>20</sup>

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## **Victims**

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Victims of your crime can be allowed to attend your hearing and to make a statement to the Parole Board members during your hearing. Victims can also give a statement to the Parole Board to be presented at your hearing without being at your hearing in person.<sup>21</sup>

## **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 contribute to the protection of society by helping you re-enter society as a law-abiding citizen.<sup>22</sup>

In making its decision, the Parole Board will consider:

- your criminal history;
- your history of reoffending on, or being revoked from, conditional release;
- your ability to control your behaviour;
- how you did in programs;
- your behaviour in the institution and in the community;
- how your behaviour and attitude has changed since being involved in crime; and
- your release plan and strategies for living successfully in the community.<sup>23</sup>

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## **The Parole Board's decision**

The Parole Board will usually make its decision on whether or not to give you parole right after your hearing.

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.<sup>24</sup>

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

You can appeal a Parole Board decision not to allow you conditional release to the Parole Board of Canada Appeal Division. See the section on Parole Board appeals at the end of this booklet.

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## Release to an Aboriginal community (section 84 agreements)

If you would like to be released on parole to an Aboriginal community, talk to your IPO. CSC must give the community notice of your parole application and a chance to make a plan for your release and integration into the community.<sup>25</sup> This is called a “section 84 agreement”.

An Aboriginal community is defined as:

- a First Nation;
- a Tribal Council or Band; or
- a community organization or other group with Aboriginal leadership (such as an Aboriginal halfway house, treatment centre or Friendship Centre).<sup>26</sup>

You can apply to be released to an Aboriginal 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.<sup>27</sup>

It is a good idea to ask to go on temporary absences or work releases to Aboriginal communities before you are released to live in the community, to help develop your release plan.<sup>28</sup>

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If you are applying for day parole, you might be able to arrange residency within an Aboriginal community without going through the section 84 agreement process.<sup>29</sup> You can talk about this option with your IPO.

## **Section 84 process**

It is best to start working with your IPO on a release plan to an Aboriginal 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 that you want to be released to an Aboriginal community.

### **Aboriginal Community Development Officer**

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The regional Aboriginal Community Development Officer can help you find support for your release in an Aboriginal community and can help you make your release plan. This person acts as a bridge between CSC and the Aboriginal community.<sup>30</sup>

### **Aboriginal Liaison Officer**

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The institutional Aboriginal Liaison Officer acts as a link between you and the Aboriginal community. This person is part of your Case Management Team and can help you with cultural and spiritual needs.<sup>31</sup>

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## **Aboriginal Community Liaison Officer**

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The Aboriginal Community Liaison Officer can help connect you with Aboriginal community resources, ceremonies and events.<sup>32</sup>

### **Step 2: Choose an Aboriginal community**

Find an Aboriginal community that you would like to be released to. 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 Aboriginal community where you want to live, you can ask your IPO, Aboriginal Liaison Officer, the Regional Elder or the Aboriginal Community Development Officer.

### **Step 3: Meet with the Aboriginal Community Development Officer**

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

### **Step 4: Write a letter to the Aboriginal community**

Write a letter to the Aboriginal community where you want to live. There is a sample letter in Commissioner's Directive 712-1 "Pre-Release Decision Making", Annex C.

Ask your IPO or the Aboriginal 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

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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.

Your Case Management Team sends your letter and form to the Aboriginal Community Development Officer if there is one, or directly to the Aboriginal community.

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

### **Step 5: Temporary absence**

You might want to ask for a temporary absence to the Aboriginal community to meet with the community contact person and work on your release plan with the community.

### **Step 6: Prepare a release plan**

The next step is making a release plan with the Aboriginal community. 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;

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- 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 release plan and your behaviour; and
  - any safety issues for you or your victim(s).<sup>33</sup>

### **Step 7: 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 Aboriginal community be there to support you as your assistant or as an observer.

Sometimes the Parole Board will have your hearing in the Aboriginal community. Talk to your IPO if you would like to have your hearing in the community.

### **Your release**

If the Board grants your release to an Aboriginal community, both CSC and your Aboriginal 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.

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# Suspension

Your CPO can suspend your conditional release and return you to custody if he or she believes you breached one of your release conditions.<sup>34</sup>

Your CPO can also suspend your conditional release if he or she believes it is needed and reasonable to prevent a breach or to protect society.<sup>35</sup>

This means that you do not have to do something wrong – your CPO only has to have a reason to think you might breach a condition or re-offend.

For example, your CPO could suspend your conditional release if he or she thinks you have a “deteriorating attitude” or that you are “in your crime cycle”.

If your conditional release is suspended, your CPO will issue a Canada-wide warrant for your arrest and return to custody.<sup>36</sup>

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

- refer your case to the Parole Board for a post-suspension review; or
- cancel the suspension and release you back into the community.<sup>37</sup>

## Referral and review time lines

If your CPO refers your case to the Parole Board, you cannot be released on statutory release until the Parole Board makes a decision, unless you reach your warrant expiry date. Your statutory release date is not in effect until the Parole Board makes a decision.

The Parole Board has 90 days to review your case.<sup>38</sup> The 90 days starts

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from the date the Parole Board receives the referral from your CPO or from the date you are returned to federal custody, whichever is later.<sup>39</sup>

The Parole Board cannot put off or “adjourn” your review beyond the 90 days, unless you ask for your review to be delayed.<sup>40</sup>

## **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” until the program is completed or a bed is available.<sup>41</sup>

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.

The risk you face if you do not agree to temporary accommodation is 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 means that accepting a temporary accommodation could delay your release by days or weeks; refusing temporary accommodation and getting referred to the Parole Board could delay your release by months.

## **Direct revocation**

Sometimes the Parole Board disagrees with a CPO’s decision to cancel a suspension and will decide to issue a warrant for your arrest and return to custody.<sup>42</sup> This is called a direct revocation.

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If you have a direct revocation, the Parole Board must review your case within 90 days of the date you return to federal custody.<sup>43</sup>

## **Automatic suspension**

If you are on conditional release and you get a new sentence of time in custody, your conditional release is automatically suspended. Your CPO cannot cancel your suspension; it must be referred to the Parole Board for a decision.<sup>44</sup>

## **Post-suspension review**

Your review will be based on your file. 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. You can make submissions to the Parole Board during this time. If 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.

You do not have a right for an in-person hearing, but you can request one. It is up to the Parole Board to decide to give you a hearing.

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”.<sup>45</sup>

In most cases, the Parole Board’s decision should be based on your behaviour during your release in the community.<sup>46</sup> The Parole Board can decide that your risk is unmanageable even if you have not committed a crime during your release.<sup>47</sup>

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## The Parole Board's decision

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

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

- give you a warning;
- change or add conditions to your release; and
- order that your release be delayed for up to 30 days (if you were suspended for breaching a condition in the past).<sup>48</sup>

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

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. You do not get credit for any time you are not in custody after your release has been suspended.<sup>49</sup>

## Your next Parole Board review

If the Parole Board revokes your release, it must review your release within 2 years (unless there are less than 4 months until your statutory release date).<sup>50</sup>

If you want a parole hearing sooner, you can submit an application for day parole 1 year after you were revoked. The Parole Board is not required to review your parole within 1 year after you are revoked.<sup>51</sup>

The Parole Board can accept and review parole applications at any time.<sup>52</sup> But it will usually only do this if your Parole Officer has done all of the casework and supports your release.

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# Detention

If you are serving a definite sentence (not life), you have a right to be released after serving 2/3 of your sentence.<sup>53</sup> This is called statutory release. But in some cases, you can be detained past your statutory release date.

## Detention referral

If you are serving a sentence for either a schedule I or II offence, CSC can refer your case to the Parole Board if it believes you are likely during your statutory release to commit:

- an offence causing death or serious harm;
- a sexual offence involving a child; or
- a serious drug offence.

This is called a detention referral.<sup>54</sup>

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.<sup>55</sup>

## Commissioner's referral

In some cases, CSC can still refer you for detention even if you do not have 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.<sup>56</sup> This is called a Commissioner's referral.

A Commissioner's referral made within 6 months of your statutory release date must be based on new information (or your sentence was recalculated and your statutory release date changed).<sup>57</sup>

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## **Detention until hearing**

If you are referred for detention, the Parole Board usually must hold your detention hearing before your statutory release date. But once a referral to the Parole Board is made, you cannot be released until the Parole Board holds a detention hearing and makes its decision, even if it is past your statutory release date.<sup>58</sup>

If a Commissioner's Referral is made to the Parole Board within the 30 days before your statutory release date, the Parole Board has 4 weeks from the date of the referral to hold your detention hearing.<sup>59</sup>

## **Detention hearing factors**

At a detention hearing, the Parole Board must consider all relevant factors when deciding if you should be detained. These factors include:

- a pattern of persistent violent behaviour;
- 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; and
- whether you will have supervision programs to protect the public until the end of your sentence.<sup>60</sup>

## **The Parole Board's decision**

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

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If the Parole Board agrees with the detention referral or Commissioner’s Referral (that you meet the criteria for detention), it will order your detention.<sup>61</sup>

If you are detained, you cannot be released for any reason except for a medical escorted temporary absence (ETA).<sup>62</sup>

If your index offence includes either a schedule I or II offence, the Parole Board can also release you on a “one-chance” statutory release. “One-chance” statutory release means that if your release is later revoked (taken away), you cannot be released again on statutory release.<sup>63</sup>

You can appeal the Parole Board’s decision to detain you or to impose a “one-chance” statutory release condition.<sup>64</sup>

## **Annual detention reviews**

If you are detained, the Parole Board must review your detention every year.<sup>65</sup> If the Parole Board decides there is enough new information to change your detention order, it can release you.<sup>66</sup>

If the Parole Board decides to release you after an annual detention review, you will be released on a “one-chance” statutory release. This means that if your release is later revoked, you will not be released again on statutory release and must stay detained until your warrant expiry date.

## **Special conditions**

If the Parole Board decides not to detain you, it can decide to release you with special conditions. The Parole Board must show that any special conditions are reasonable and needed to protect society and to help with your reintegration into society.<sup>67</sup>

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Common special conditions include:

- to abstain from all intoxicants;
- not to attend certain places;
- to take programs as directed by your Parole Officer;
- not to have contact with certain people;
- not to associate with known criminals; and
- to inform your Parole Officer of certain types of relationships.

The Parole Board might also make it a condition that you live in a halfway house or in a psychiatric facility.<sup>68</sup>

Conditions can last as long as the Parole Board says, but not past your warrant expiry date.<sup>69</sup>

## **Challenging conditions**

You can challenge any special conditions if you believe they are not reasonable or not necessary to manage your risk factors.<sup>70</sup>

A special condition might be unreasonable if it is too restrictive. 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 special condition that you report all financial transactions might not be necessary if your index offences did not involve theft or fraud. A special condition might also be unnecessary if it is no longer relevant to your risk factors. For example, 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.

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

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## Parole Board appeals

You can appeal a Parole Board decision to the Parole Board of Canada Appeal Division. You have 2 months from the time of the decision to appeal. The Appeal Division will allow an appeal only if it finds the Parole Board made a mistake related to a “ground” of appeal. The Appeal Decision will not allow an appeal just because you think the decision was wrong.

The 5 grounds of appeal are:

1. “Failed to observe a principle of fundamental justice” – the hearing process was not fair.
2. “Error of Law” – the Parole Board did not follow the law or misinterpreted the law.
3. “Breached or failed to apply a policy” – the Parole Board did not follow a policy.
4. “Based its decision on erroneous or incomplete information” – the Parole Board made errors about the information or relevant information was missing.
5. “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 the authority to make, or did not make a decision it does have authority to make.<sup>71</sup>

You can call Prisoners’ Legal Services for advice on appealing your Parole Board decision.

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# Aboriginal halfway houses and programs

## Aboriginal halfway houses

- Circle of Eagles Lodge Society, Vancouver
- Cwenengital Aboriginal Society, Surrey
- Kenneth Creek Aboriginal Camp, Prince George
- Tsow-Tun Le Lum Aboriginal Society, Nanaimo

## Community-based Aboriginal programs

- British Columbia Society for Male Survivors of Sexual Abuse, Vancouver (childhood trauma)
- Hey-Wey-Noqu Healing Circle, Vancouver (addictions and co-dependency)
- Vancouver Aboriginal Friendship Centre (social, employment and housing services)
- United Native Nations Ventures Program, North Vancouver (peer mentoring, employment counseling and career planning)
- Kla-how-eya Aboriginal Centre, Surrey (social and employment services)

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## Getting legal help

You can call Prisoners' Legal Services for advice or assistance with detention and suspension issues.

For assistance from Prisoners' Legal Services, you must have a referral from the Legal Services Society. Contact their call centre at 1-888-839-8889. Once you have a referral, you can call Prisoners' Legal Services directly at 1-866-577-5245.

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

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## Endnotes

- 1 Annual Report of the Office of the Correctional Investigator (2012-2013).
- 2 Mann, Michelle. *Good Intentions, Disappointing Results: A Progress Report on Federal Aboriginal Corrections, 2009*. Aboriginal people make up 13.6% of people on conditional release. (Based on 2007-08 statistics.)
- 3 Mann, 2009.
- 4 Mann, 2009.
- 5 Annual Report of the Office of the Correctional Investigator (2010-2011).
- 6 *R. v. Gladue*, [1999] 1 S.C.R. 688 at ¶¶ 67-68.
- 7 *R. v. Gladue* is the name of a Supreme Court of Canada decision that says judges must consider systemic factors when sentencing Aboriginal people.
- 8 *Frontenac Ventures Corporation v. Ardoch Algonquin First Nation*, 2008 ONCA 534, at ¶¶ 56; *R. v. Sim*, 2005 CanLII 37586 (ON C.A.), at ¶¶ 16-17; *Re Alexis*, [2003] B.C.R.B.D. No. 1, at ¶¶ 80.
- 9 *Gladue*; *Sim*; *Re: Alexis*.
- 10 *Corrections and Conditional Release Act*, S.C. 1992, c. 20 (“CCRA”), s. 119(1)(c).
- 11 CCRA, s. 120(1).
- 12 CCRA, s. 127(3).
- 13 CCRA, s.123(5).
- 14 *Corrections and Conditional Release Regulations*, SOR/92-620 (“CCRR”), s. 157(2) and s. 158(2).
- 15 CCRA, s. 122(4), s. 123(6), s. 157(2) and s. 158(2).
- 16 CCRA, s. 25(1).
- 17 CCRA, s. 141(1).
- 18 CCRA, s.140(7) and (8).
- 19 Parole Board of Canada Policy Manual, Volume 1 No. 29, 2013-10-04, Chapter 9.2.1 “Hearings for Aboriginal Offenders”.
- 20 CCRA, s. 140(4); Commissioner’s Directive 712-3, “Parole Board of Canada Reviews”, 2012-12-01, ¶¶21.

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- 21 CCRA, s. 140(10) and (11).
  - 22 CCRA, s. 102.
  - 23 Parole Board of Canada Policy Manual, Chapter 2.1, “Assessment for Pre-Release - Conditional Release Decisions”.
  - 24 CCRA s. 124(2).
  - 25 CCRA, s. 84.
  - 26 CCRA, s. 79.
  - 27 Correctional Service of Canada Pacific Region “Section 84 Reference Manual”, Pacific Region Community Corrections (2009) at page 5; CCRA, s. 84 and s. 84.1.
  - 28 CCRR, s. 155(f).
  - 29 CCRA, s. 99(1). This section was amended by Bill C-10 to allow residency for day parole at an “other location”.
  - 30 Commissioner’s Directive 702, “Aboriginal Offenders”, 2013-11-12, (“CD 702”), ¶13.
  - 31 CD 702, ¶ 9.
  - 32 CD 702, ¶ 13.
  - 33 Commissioner’s Directive 712-1, 712-1-1 Guidelines, “CCRA Section 84: Application Process”, 2010-08-19, ¶ 62.
  - 34 CCRA, s. 135(1)(a).
  - 35 CCRA, s. 135(1)(a).
  - 36 CCRA, s. 135(1)(b) and (c).
  - 37 CCRA, s. 135(3)(b); 135.1(5); 140.
  - 38 CCRA, s. 135(5); CCRR, s. 163(3).
  - 39 CCRR, s. 163(3).
  - 40 CCRA, s. 135(5); *Chiu v. Canada (National Parole Board)*, [2007] B.C.J. No. 577.
  - 41 CCRA, s. 94.
  - 42 CCRA, s. 135(7).
  - 43 CCRR, s. 163(4).
  - 44 CCRA, s. 135.

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- 45 CCRA, s. 135(5)(a).
  - 46 *R. v. Turner*, [1993] O.J. No. 4346, at ¶ 14.
  - 47 *Franchi v. Canada (Attorney General)*, [2011] F.C.J. No. 962, at ¶ 45.
  - 48 CCRA, s. 135(6).
  - 49 CCRA, s. 127(5).
  - 50 CCRA, s. 123(5)(c).
  - 51 CCRA, s. 138(5).
  - 52 CCRA, s. 107, s. 122(4) and s. 123(6).
  - 53 CCRA, s. 127; *Plante v. Canada (Attorney General)*, [2007] F.C.J. No. 73, at ¶ 6.
  - 54 CCRA, s. 129(2).
  - 55 CCRA, s. 129(2).
  - 56 CCRA, s. 129(3).
  - 57 CCRA, s. 129(3)(a). See also *Teneycke v. Canada (Attorney General)* 2004 FC 397, at ¶ 12.
  - 58 CCRA, s. 129(3.1), 130(2).
  - 59 CCRA, s. 129(5) and (7).
  - 60 CCRA, s. 132.
  - 61 CCRA, s. 130(3); Parole Board of Canada Policy Manual, Chapter 6 “Detention”, at ¶ 17.
  - 62 Commissioner’s Directive 712-2, “Detention”, 2012-06-13, (“CD 712-2”), ¶ 32(a).
  - 63 CCRA s. 130(4); Parole Board of Canada Policy Manual, Chapter 6 “Detention”, at ¶ 19.
  - 64 CCRA, s. 147(1); CCRR, s. 168; CD 712-2, ¶ 47.
  - 65 CCRA, s. 131 (1).
  - 66 CCRA, s. 131 (2) and (3).
  - 67 CCRA, s. 133(3).
  - 68 CCRA, s. 133(4.1).
  - 69 CCRA, s. 133(5).
  - 70 CCRA, s. 133(6); CCRR, s. 162.
  - 71 CCRA, s. 147(1).
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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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