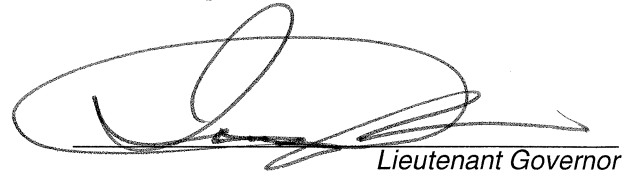


ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No.

161 , Approved and Ordered FEB 24 2005



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective April 18, 2005,

- (a) the Correctional Centre Rules and Regulations, B.C. Reg. 284/78, is repealed,
- (b) sections 1 to 35, 37 to 39, 42 and 43 (c) of the *Correction Act*, S.B.C. 2004, c. 46, are brought into force, and
- (c) the attached Correction Act Regulation is made.



Minister of Public Safety and Solicitor General



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Correction Act*, S.B.C. 2004, c. 46, ss. 33 and 44

Other (specify): OIC 1843/78

# CORRECTION ACT REGULATION

## *Contents*

### **PART 1 – DEFINITIONS**

- 1 Definitions

### **PART 2 – POWERS AND DUTIES OF PERSONS EMPLOYED IN CORRECTIONAL CENTRES**

- 2 Inmate privileges
- 3 Inmates who are not sentenced
- 4 Inmate concerns
- 5 Information to be provided to inmate
- 6 Identification of staff member
- 7 Travel warrant on discharge

### **PART 3 – CUSTODY OF INMATES**

#### **Division 1 – Security Measures**

- 8 Identification of inmate
- 9 Use of physical restraint devices
- 10 Searches
- 11 Strip searches – general
- 12 Strip searches under certain circumstances
- 13 Privileged communication
- 14 Inmate communication
- 15 Retention of inmate communication
- 16 Urinalysis demand
- 17 Separate confinement – short term
- 18 Separate confinement – longer term
- 19 Voluntary separate confinement
- 20 Termination of separate confinement by person in charge

#### **Division 2 – Discipline**

- 21 Rules governing conduct of inmates
- 22 Breach of rule
- 23 Notice of alleged breach
- 24 Segregation pending disciplinary hearing
- 25 Disciplinary hearing
- 26 Conduct of hearing
- 27 Penalties for breach of rule
- 28 Written reasons for decision
- 29 Review of decision

#### **Division 3 – Visitors**

- 30 Visitors – personal
- 31 Visitors – official

#### **Division 4 – Performance Appraisal and Earned Remission**

- 32 Performance appraisal
- 33 Remission awards assessor
- 34 Calculation of remission award
- 35 Review of remission awards assessor decision

#### **Division 5 – Property**

- 36 Forfeiture of unclaimed property

**Division 6 – Inmate Complaints**

37 Complaint to person in charge

**Division 7 – Programs and Services for Inmates**

38 Programs for inmates

39 Medical services

**PART 1 – DEFINITIONS**

**Definitions**

1 In this regulation:

“**Act**” means the *Correction Act*;

“**assistant deputy minister**” means the assistant deputy minister of the Corrections Branch of the government;

“**health care professional**” means any one of the following persons employed by or working under a contract with the minister:

(a) a medical practitioner;

(b) a dentist;

(c) a registered psychologist;

(d) a nurse;

(e) a person who is a member of a group of health care technicians that is approved by the assistant deputy minister for the purposes of sections 38 or 39;

(f) a mental health screener;

“**intoxicant**” means a substance that, if taken into the body, has the potential to impair or alter judgment, behaviour or the capacity to recognize reality or to meet the ordinary demands of life, but does not include caffeine, nicotine or any authorized medication used in accordance with the directions given by a staff member or health care professional;

“**Ombudsman**” means the Ombudsman appointed under the *Ombudsman Act* or a person to whom the Ombudsman has delegated any of his or her powers or duties under section 30 of the *Ombudsman Act*;

“**person in charge**” means the person in charge of a correctional centre;

“**provincial director**” means the director of correctional centres for British Columbia;

“**segregation unit**” means an area designated by the person in charge to segregate inmates.

**PART 2 – POWERS AND DUTIES OF PERSONS  
EMPLOYED IN CORRECTIONAL CENTRES**

**Inmate privileges**

- 2 (1) Subject to subsection (2), the person in charge must ensure that an inmate is given
- (a) regular meals of the type ordinarily served to inmates,

- (b) a daily exercise period of at least one hour, in the open air if weather and security considerations allow,
  - (c) clothing, a mattress and bedding,
  - (d) access to reading materials,
  - (e) reasonable access to mail and to the telephone,
  - (f) postage for
    - (i) all privileged communication made by mail, and
    - (ii) up to 7 letters a week for other communication made by an inmate by mail,
  - (g) access to personal visits,
  - (h) access to health care,
  - (i) access to personal washing or shower facilities at least once a day, and
  - (j) access to toilet articles that are necessary for the inmate's health and cleanliness.
- (2) Subsection (1) does not apply if
- (a) the person in charge believes on reasonable grounds that one or more of the privileges referred to in subsection (1) cannot be given to the inmate because it may endanger the inmate or another person, or
  - (b) the inmate is confined separately from other inmates under section 17, 18 or 19 or confined in a cell in the segregation unit under section 24 or 27 (1) (d) and one or more of the privileges cannot reasonably be given to the inmate, having regard to the limitations of the area in which the inmate is confined and the necessity for the safe and effective operation of that area.
- (3) The person in charge may pay an inmate for work done in a work program.

**Inmates who are not sentenced**

- 3** The person in charge must ensure that an inmate who is not sentenced to imprisonment as a result of a conviction for an offence under the *Criminal Code* or another federal enactment or an offence under a provincial enactment, or who is detained under the *Immigration Act* (Canada) or the *Immigration and Refugee and Protection Act* (Canada),
- (a) is, where circumstances allow, housed separately from inmates who are sentenced to imprisonment as a result of a conviction for an offence under the *Criminal Code* or another federal enactment or an offence under a provincial enactment, and
  - (b) gives his or her consent before being assigned to a work program.

**Inmate concerns**

- 4** A staff member must, if circumstances allow, make reasonable attempts to address a concern raised by an inmate.

**Information to be provided to inmate**

- 5** (1) The person in charge must give an inmate reasonable access to the following:
- (a) the Act;

- (b) this regulation;
  - (c) information about the daily routine of the correctional centre;
  - (d) information about
    - (i) the rules governing conduct of inmates and breaches of the rules,
    - (ii) how to file a complaint with the person in charge and the director and how to ask for a review of a disciplinary hearing decision, and
    - (iii) how to apply for temporary absence and parole.
- (2) The person in charge must make reasonable efforts to ensure that an inmate who is unable to adequately understand the material referred to in subsection (1) receives assistance to understand the material.

**Identification of staff member**

- 6 A staff member must wear a name tag that identifies the staff member.

**Travel warrant on discharge**

- 7 On discharge of an inmate, the person in charge must provide a travel warrant to enable the inmate to return to the place in the province where the inmate was convicted or to another place in the province that the person in charge considers reasonable in the circumstances.

**PART 3 – CUSTODY OF INMATES**

**Division 1 – Security Measures**

**Identification of inmate**

- 8 (1) In this section, “**personal identification device**” includes a wrist band and magnetic access card.
- (2) On admission to a correctional centre, and at any other time on the direction of a staff member, an inmate must
- (a) submit to an identification process that may include a photograph, a digital or video image, or another form of identification approved by the assistant deputy minister, and
  - (b) provide the following information about himself or herself as follows:
    - (i) name;
    - (ii) date and place of birth;
    - (iii) height and weight;
    - (iv) distinguishing marks, including birthmarks, scars and tattoos;
    - (v) correctional service number.
- (3) An inmate must retain and wear a personal identification device as directed by the person in charge and produce it when directed to do so by a staff member.

### Use of physical restraint devices

- 9
- (1) An authorized person may use a type of physical restraint device that is approved by the provincial director if circumstances require use of the physical restraint device in order to
    - (a) prevent injury or death to a person,
    - (b) prevent property damage,
    - (c) prevent an inmate from escaping, or
    - (d) to maintain custody and control of an inmate.
  - (2) A physical restraint device must not be used to restrain an inmate for more than 4 continuous hours unless
    - (a) authorized by the person in charge under subsection (3), or
    - (b) the inmate is on an escorted absence from the correctional centre.
  - (3) The person in charge may authorize the use of a physical restraint device to restrain an inmate for more than 4 continuous hours but, unless subsection (4) applies, for no more than 16 continuous hours, if
    - (a) the person in charge believes on reasonable grounds that the use of the physical restraint device is necessary for the safety of the inmate or for the safety of another person, and
    - (b) other means of control of the inmate have been exhausted or are not reasonable in the circumstances.
  - (4) The person in charge may authorize the use of a physical restraint device to restrain an inmate for more than 16 continuous hours with approval from the provincial director.
  - (5) A person in charge who authorizes the use of a physical restraint device under subsection (4) must review the condition of the inmate with the provincial director every 12 hours following the approval of the provincial director while the physical restraint device is being used.
  - (6) The provincial director may at any time revoke his or her approval under subsection (4).

### Searches

- 10
- (1) In this section:
    - “**frisk search**” means a hand search or a search by use of a hand-held screening device, conducted by an authorized person,
      - (a) of a clothed person, from head to foot, down the front and rear of the body, around the legs, and inside clothing folds, pockets and footwear, and
      - (b) of any personal possessions, including clothing, that the person may be carrying or wearing;
    - “**screening search**” means a search by an authorized person of a clothed person and any personal possessions, including clothing, that the person may be carrying or wearing, that is conducted visually or with the use of a screening device, including a drug detection dog, ion spectrometry device, CO<sub>2</sub> detector, walk-

through or hand-held metal detector or other screening device that is approved by the person in charge.

- (2) A search conducted in accordance with section 13 (1) to (3), 14 (1) or (4) (a), or 15 (1) (a) or (3) (a) of the Act may be conducted by a frisk search or a screening search.

#### **Strip searches – general**

- 11 (1) In the Act and in this section and section 12, “**strip search**” means a visual inspection by an authorized person of a nude person that includes
  - (a) a visual inspection of the following:
    - (i) the person undressing completely;
    - (ii) the open mouth, hands or arms of the person;
    - (iii) the soles of the feet and the insides of the ears of the person;
    - (iv) the person running his or her fingers through his or her hair;
    - (v) the person bending over, and
  - (b) the person otherwise enabling the authorized person to perform the visual inspection.
- (2) If the circumstances allow, an authorized person must, before conducting a strip search,
  - (a) inform the person to be strip searched of the reasons for the strip search, and
  - (b) explain how a strip search is conducted.
- (3) A strip search that is conducted by an authorized person must be
  - (a) observed by one other authorized person,
  - (b) carried out in as private an area as the circumstances allow, and
  - (c) carried out as quickly as the circumstances allow.
- (4) The authorized person referred to in subsection (3) (a) must be the same gender as the person who is the subject of a strip search unless the person in charge believes on reasonable grounds that the delay that would be necessary in order to comply with this requirement would result in danger to human life or safety.

#### **Strip searches under certain circumstances**

- 12 (1) This section does not apply if a strip search is conducted in the following circumstances:
  - (a) on admission, entry, transfer or return of an inmate to the correctional centre;
  - (b) on entry to or return from a cell in the segregation unit by an inmate;
  - (c) on return of an inmate from a visit, work or program area in the correctional centre if the inmate could have had access to an item that is contraband and that may be hidden on or in the inmate’s body.
- (2) In order for an authorized person to conduct a strip search in circumstances other than those listed in subsection (1), the authorized person must

- (a) believe on reasonable grounds that the inmate may be in possession of contraband or evidence relating to an offence under section 17 of the Act,
  - (b) believe on reasonable grounds that a strip search is necessary in the circumstances, and
  - (c) obtain the authorization of the person in charge, unless the authorized person believes on reasonable grounds that the delay that would be necessary in order to comply with this requirement would result in danger to human life or safety or in loss or destruction of evidence.
- (3) The person in charge must, before giving the authorization referred to in subsection (2) (c), be satisfied that a strip search is necessary in the circumstances.
- (4) An authorized person who conducts a strip search under this section must complete a written report of the strip search and submit the report to the person in charge as soon as practicable.

**Privileged communication**

**13** Communication between an inmate and the following is a privileged communication:

- (a) the assistant deputy minister;
- (b) the provincial director;
- (c) the person in charge;
- (d) the director;
- (e) a member of Parliament or of the Legislative Assembly;
- (f) the Ombudsman;
- (g) if the inmate is detained or subject to a warrant for arrest and detention under the *Immigration Act* (Canada), an immigration officer as defined in that Act, or, if the inmate is detained or subject to a warrant for arrest and detention under the *Immigration and Refugee Protection Act* (Canada), a person designated as an officer under that Act;
- (h) the inmate's lawyer, or a lawyer from a jurisdiction other than British Columbia who is able to satisfy the person in charge that he or she is qualified to practise law in that jurisdiction and is a lawyer representing the inmate in respect of a legal matter in that jurisdiction.

**Inmate communication**

- 14** (1) In the Act and this section, “**monitor**” means to
- (a) listen to an inmate communication that is made by electronic means or to an inmate communication that was made by electronic means and recorded, or
  - (b) read inmate communication delivered to the correctional centre or sent from within the correctional centre.
- (2) Inmate communication by telephone or other electronic means may be recorded.
- (3) Inmate communication by electronic means may be monitored by an authorized person if the authorized person has reasonable grounds to believe that
- (a) the inmate is



- (i) involved in illegal activities,
  - (ii) harassing or causing harm to others, or
  - (iii) participating in an activity that may jeopardize the management, operation or security of the correctional centre, or
- (b) the monitoring is necessary to maintain or repair the recording system and the monitoring is performed only for the length of time and to the extent that is necessary to effect the maintenance or repair.
- (4) Inmate communication by mail may be intercepted and examined by an authorized person to determine if the mail contains contraband.
- (5) Inmate communication by mail may be monitored or recorded by an authorized person if the authorized person has reasonable grounds to believe that the inmate is
- (a) involved in illegal activities,
  - (b) harassing or causing harm to others, or
  - (c) participating in an activity that may jeopardize the management, operation or security of the correctional centre.

**Retention of inmate communication**

- 15** (1) A recording of an inmate communication made under section 14 (2) or (5) may be retained for a period not longer than 30 days, unless there are reasonable grounds to believe that the inmate is
- (a) involved in illegal activities,
  - (b) harassing or causing harm to others, or
  - (c) participating in an activity that may jeopardize the management, operation or security of the correctional centre.
- (2) A recording of an inmate communication under section 14 (2) or (5) must not, without lawful authority, be released or disclosed by a person employed in or about a correctional centre.

**Urinalysis demand**

- 16** (1) If an authorized person demands that an inmate submit to urinalysis, the authorized person must ensure that the following procedures are followed in taking the urine sample:
- (a) the authorized person must be the same gender as the inmate;
  - (b) the inmate must wash his or her hands before providing a sample;
  - (c) the authorized person must provide the inmate with a container for the sample and must be present as the inmate provides the sample;
  - (d) the authorized person must give the inmate up to 2 hours from the time of a demand to provide a sample;
  - (e) the authorized person must ensure that the inmate is kept separate from other people except the authorized person, and is not left alone during the period referred to in paragraph (d);

- (f) once the sample has been provided, the authorized person must, in the presence of the inmate,
    - (i) seal the container,
    - (ii) affix a label to the container identifying the sample in a manner that does not disclose the identity of the inmate to the laboratory, and
    - (iii) certify on the label that the container contains the sample provided by the inmate;
  - (g) the authorized person must keep a written record that indicates the number on the container that corresponds to the name of the inmate.
- (2) If the demand to submit to urinalysis is made under section 20 (1) (a) of the Act, the authorized person must obtain the authorization of the person in charge before making the demand.
  - (3) If an inmate fails to provide a urine sample and the requirements of subsection (1) have otherwise been met, the inmate is considered to have failed to comply with the demand to submit to urinalysis.

**Separate confinement – short term**

- 17 (1) The person in charge may order that an inmate be confined separately from other inmates if
  - (a) the person in charge believes on reasonable grounds that the inmate
    - (i) is endangering himself or herself or is likely to endanger himself or herself,
    - (ii) is endangering another person or is likely to endanger another person,
    - (iii) is jeopardizing the management, operation or security of the correctional centre or is likely to jeopardize the management, operation or security of the correctional centre,
    - (iv) would be at risk of serious harm or is likely to be at risk of serious harm if not confined separately,
    - (v) must be confined separately for a medical reason, or
    - (vi) suffers from a mental illness,
  - (b) the person in charge has requested an examination of the mental condition of the inmate for the purposes of the *Mental Health Act*, or
  - (c) the person in charge has reasonable grounds to believe that the inmate has contraband hidden in the inmate's body.
- (2) Subject to subsection (3) and section 18 (1), the person in charge must release an inmate who is confined separately under subsection (1) from separate confinement within 72 hours of the commencement of the confinement.
- (3) The person in charge must release an inmate from separate confinement if
  - (a) the person in charge has requested an examination of the mental condition of an inmate for the purposes of the *Mental Health Act*, and
  - (b) within 5 days of the commencement of the separate confinement, the person in charge has not authorized the transfer of the inmate or caused the inmate to be transported to a Provincial mental health facility.

- (4) The person in charge must, within 24 hours of making an order under subsection (1) to confine an inmate separately from other inmates, give the inmate the reason for the confinement under subsection (1) in writing.

#### **Separate confinement – longer term**

- 18** (1) If an inmate is ordered to be confined separately under section 17 (1) (a), the person in charge may decide to extend the order for one or more periods of not longer than 15 days each, provided that the person in charge
  - (a) reviews the circumstances of the separate confinement before
    - (i) the inmate must be released under section 17 (2) or (3), or
    - (ii) the expiry of an extension made under this subsection,
  - (b) determines that the circumstances that justified the order under section 17 (1) (a) still exist, and
  - (c) determines that the separate confinement should continue.
- (2) An extension under subsection (1) begins on the day after the person in charge makes the decision to extend.
- (3) The person in charge must, within 24 hours of making a decision to extend an order to confine an inmate separately from other inmates,
  - (a) give the inmate, in writing,
    - (i) the reason for the confinement under subsection (1),
    - (ii) the period of time during which the inmate will be in separate confinement, and
    - (iii) the reason for the length of time of separate confinement, and
  - (b) give the inmate a reasonable opportunity to make submissions about why the separate confinement should not continue or why the separate confinement should be for a shorter period of time.
- (4) After considering the submissions made by the inmate under subsection (3) (b), the person in charge may, within a reasonable period of time,
  - (a) confirm his or her decision,
  - (b) vary his or her decision, or
  - (c) rescind his or her decision.
- (5) If the person in charge confirms, varies or rescinds his or her decision under subsection (4), the person in charge must notify the inmate and give written reasons to the inmate.

#### **Voluntary separate confinement**

- 19** (1) If the person in charge and an inmate agree that the inmate would be at risk of serious harm or is likely to be at risk of serious harm if not confined separately, the person in charge and the inmate may agree that the inmate be confined separately from other inmates.
- (2) The person in charge must confirm the agreement under subsection (1) to the inmate in writing.

- (3) If the person in charge and an inmate are in agreement in accordance with subsection (1), the inmate may be confined separately from other inmates and may at any time request in writing that the person in charge review the separate confinement.

#### **Termination of separate confinement by person in charge**

- 20** Despite anything in section 17 [*separate confinement – short term*], 18 [*separate confinement – longer term*] or 19 [*voluntary separate confinement*], the person in charge may at any time terminate the separate confinement of an inmate.

### **Division 2 – Discipline**

#### **Rules governing conduct of inmates**

- 21** (1) An inmate must not
- (a) disobey a direction of a staff member or of the person in charge,
  - (b) enter an area of the correctional centre in which an inmate is not authorized to be without the permission of a staff member,
  - (c) enter a cell or living unit that is not assigned to the inmate without permission of a staff member,
  - (d) willfully or recklessly damage or destroy property that is not property of the inmate,
  - (e) steal or possess stolen property,
  - (f) possess property that is not property of the inmate, without permission of the owner of the property,
  - (g) unless unreasonably provoked by that person, behave in an insulting or abusive manner toward a person,
  - (h) behave in manner toward a person that shows hatred or contempt for the person based on the person's race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age,
  - (i) engage in an indecent act,
  - (j) engage in horseplay or roughhousing,
  - (k) physically fight with another person,
  - (l) take an intoxicant into his or her body,
  - (m) tattoo or pierce his or her body,
  - (n) fail to comply with a demand to submit to urinalysis,
  - (o) obstruct a staff member in the execution of his or her duties,
  - (p) provide a false or misleading statement to a staff member,
  - (q) offer, give or accept a bribe,
  - (r) gamble,
  - (s) give to or accept from another inmate money or other property without permission,

- (t) refuse to attend work or a program or leave work or a program without permission or a reasonable excuse,
  - (u) conceal his or her face,
  - (v) use a tobacco product without permission,
  - (w) assault or threaten another person,
  - (x) be unlawfully at large or escape custody,
  - (y) attempt to obtain, or possess contraband,
  - (z) give or sell contraband to another inmate,
  - (z.1) create or participate in a disturbance, or
  - (z.2) engage in an activity that jeopardizes or is likely to jeopardize
    - (i) the safety of a person, or
    - (ii) the management, operation or security of the correctional centre.
- (2) An inmate must not assist or attempt to assist another inmate to do anything referred to in subsection (1).
- (3) An inmate who breaches a rule referred to in subsection (1) or (2) may be disciplined for the breach in accordance with this Division.

**Breach of rule**

- 22** (1) If a staff member believes on reasonable grounds that an inmate has breached or is breaching a rule referred to in section 21 (1) or (2), the staff member must, if the circumstances allow,
- (a) stop the breach from occurring, or
  - (b) give the inmate an opportunity to stop the breach from occurring or give the inmate an opportunity to correct the breach if the person aggrieved by the breach consents,
- and inform the inmate
- (c) of the rule under section 21 (1) or (2) that was breached, and
  - (d) what the breach consists of.
- (2) If, in the opinion of the staff member referred to in subsection (1), the breach has not been or cannot be satisfactorily resolved by the actions described in that subsection, the staff member must, as soon as practicable, file a written report with the person in charge, setting out
- (a) the rule that is alleged to have been breached,
  - (b) the circumstances surrounding the alleged breach, and
  - (c) the action taken, if any, under subsection (1) (b).
- (3) On receipt of the report referred to in subsection (2), the person in charge must determine whether to order that a disciplinary hearing be convened.

**Notice of alleged breach**

- 23** The person in charge must, as soon as practicable, give written notice to an inmate who is the subject of a determination under section 22 (3) to convene a disciplinary hearing, setting out the

- (a) rule the inmate is alleged to have breached,
- (b) circumstances surrounding the alleged breach,
- (c) proposed date and time of the hearing, and
- (d) reason under section 24 (1) for any order made under that section.

#### **Segregation pending disciplinary hearing**

- 24** (1) The person in charge may order that an inmate be confined in a cell in the segregation unit pending the conclusion of a disciplinary hearing if the person in charge believes on reasonable grounds that
- (a) the inmate is likely to endanger himself or herself or another person if housed in a cell outside of the segregation unit,
  - (b) the inmate is likely to jeopardize the management, operation or security of the correctional centre if housed in a cell outside of the segregation unit, or
  - (c) it is necessary to preserve evidence for the disciplinary hearing.
- (2) An order made under subsection (1) must be reviewed by the person in charge within 24 hours of being made and at least every 24 hours until the inmate is released from confinement.
- (3) If, on a review under subsection (2), the person in charge determines that the circumstances referred to in subsection (1) no longer exist, the person in charge must release the inmate from confinement in a cell in the segregation unit.

#### **Disciplinary hearing**

- 25** (1) Subject to subsection (2), a disciplinary hearing must be presided over by
- (a) a staff member appointed by the person in charge, or
  - (b) a person appointed by the assistant deputy minister.
- (2) The staff member who filed the allegation, witnessed the alleged breach of a rule referred to in section 21 (1) or (2) or who was otherwise involved in circumstances leading to the filing of the report referred to in section 22 (2) must not be appointed to preside over the disciplinary hearing.
- (3) A person appointed under subsection (1) (b) who is not an employee under the *Public Service Act* may be paid the amount set by Treasury Board Directive 3/04 for a Tribunal Group 1 member.

#### **Conduct of hearing**

- 26** (1) A disciplinary hearing must be commenced as soon as practicable and no later than 72 hours from the time of the order to convene a disciplinary hearing under section 22 (3).
- (2) A disciplinary hearing may be commenced under subsection (1) without the inmate present
- (a) if the inmate is absent from the correctional centre because the inmate
    - (i) is in court,
    - (ii) is absent for a medical reason,

- (iii) is authorized or required by an enactment of Canada or the Province to be somewhere else,
    - (iv) has escaped from custody, or
    - (v) is unlawfully at large,
  - (b) the inmate refuses or chooses not to attend the hearing, or
  - (c) if, in the opinion of the person in charge, acting reasonably, the inmate's behaviour prior to the hearing is so disruptive that the inmate cannot safely be escorted to the hearing.
- (3) A disciplinary hearing must be adjourned if the inmate is not present, unless
  - (a) the inmate refuses or chooses not to attend the hearing, or
  - (b) if, in the opinion of the person presiding over the hearing, acting reasonably,
    - (i) the presence of the inmate at the hearing would jeopardize the safety of a person at the hearing, or
    - (ii) the inmate is causing serious disruption to the hearing.
- (4) A disciplinary hearing must be recorded.

**Penalties for breach of rule**

- 27** (1) If an inmate is found to have breached a rule referred to in section 21 (1) or (2) [*rules governing conduct of inmates*], the person presiding over the disciplinary hearing may impose one or more of the following penalties:
- (a) a warning or reprimand;
  - (b) a temporary or permanent restriction on activities or programs, other than a visit program, unless the breach is directly related to a visit program;
  - (c) intermittent confinement in a cell, other than a cell in the segregation unit, for a period not longer than 192 hours;
  - (d) subject to subsections (2) and (3), confinement in a cell in the segregation unit for a period not longer than 30 days;
  - (e) assignment of extra duties for a period not longer than 12 hours;
  - (f) forfeiture of earned remission, credited to the date of the breach, of not more than 60 days.
- (2) A penalty under subsection (1) (d) for the breach of a rule or for assisting or attempting to assist a breach of a rule
- (a) referred to in section 21 (1) (a) to (v) must not exceed 15 days, and
  - (b) referred to in section 21 (1) (w) to (z.2) must not exceed 30 days.
- (3) If an inmate is ordered to be confined in a cell in the segregation unit under subsection (1) (d),
- (a) while the inmate is confined to a cell in the segregation unit under subsection (1) (d) for one or more previous breaches, the order must specify whether the penalties are to be served concurrently or consecutively and if the penalties are to be served consecutively, the total period of segregation imposed must not exceed 45 days, or

- (b) while the inmate is confined to a cell in the segregation unit under section 24, the number of days served by the inmate in the cell in the segregation unit under section 24 must be subtracted from the number of days the inmate is ordered to be confined in a cell in the segregation unit under subsection (1) (d).
- (4) On application or on his or her own motion, the person presiding over a disciplinary hearing may reduce or suspend all or part of a penalty imposed under subsection (1), with or without conditions, for a period not longer than 90 days.
- (5) If an inmate applies to the person who presided over a disciplinary hearing for a reduction or suspension of the penalty imposed, the person who presided over the disciplinary hearing or, if that person is not available, the person in charge must make a decision within 14 days of the receipt of the application and advise the inmate of the decision, the reasons and any conditions in writing.
- (6) If an inmate does not comply with a condition imposed under subsection (4) or (5),
  - (a) the person in charge may order that a disciplinary hearing about the failure to comply with the condition be convened, and
  - (b) if the person presiding over the disciplinary hearing referred to in paragraph (a) determines at the conclusion of the hearing that the inmate did not comply with a condition, the person presiding over the hearing must reimpose the previously reduced or suspended penalty.

#### **Written reasons for decision**

- 28** As soon as practicable after conclusion of the hearing, a person who presides over a disciplinary hearing must provide written reasons to the inmate for the decision and the penalty imposed.

#### **Review of decision**

- 29** (1) An inmate may, within 7 days of a decision being made under section 27, request in writing that the director review the decision and the penalty imposed.
- (2) On receipt of a request for a review under subsection (1), the person in charge must immediately provide the director with a record of the disciplinary hearing and information used in the hearing.
- (3) The director may suspend a penalty imposed under section 27 pending completion of the review.
- (4) The director may
- (a) confirm the decision made and the penalty imposed under section 27,
  - (b) confirm the decision made and substitute another penalty under section 27, or
  - (c) rescind the decision made and the penalty imposed under section 27, and
    - (i) direct that the person in charge change the inmate's record to reflect the rescission, or
    - (ii) direct that a new disciplinary hearing be convened and presided over by a person appointed by the assistant deputy minister.



- (5) If a new disciplinary hearing is directed to be convened under subsection (4) (c) (ii),
- (a) the assistant deputy minister must, as soon as practicable, appoint a person, who has had no previous involvement with the allegation against the inmate, to rehear the allegation,
  - (b) the person appointed under paragraph (a) must rehear the allegation as soon as practicable, and
  - (c) sections 26, [*conduct of hearing*], 27 [*penalties for breach of rules*] and 28 [*written reasons for decision*] apply to the new disciplinary hearing.

### **Division 3 – Visitors**

#### **Visitors – personal**

- 30** (1) A visitor must not enter a correctional centre unless authorized by the person in charge.
- (2) If, in the opinion of the person in charge, acting reasonably, it is necessary for the management, operation or security of the correctional centre, the person in charge may do one or more of the following:
- (a) order the removal of a visitor from the correctional centre or from a part of the correctional centre;
  - (b) prohibit or restrict a person from visiting with an inmate;
  - (c) order that a visit with an inmate be supervised;
  - (d) place restrictions on or make allowances for the nature, timing, frequency, length or location of a visit with an inmate.
- (3) If, in the opinion of a staff member, acting reasonably, the conduct of a visitor or of an inmate who is being visited is jeopardizing the management, operation or security of the correctional centre, the staff member
- (a) may terminate the visit by the visitor with the inmate and must report the termination of the visit to the person in charge, and
  - (b) may order the removal of a visitor from the correctional centre or from a part of the correctional centre.

#### **Visitors – official**

- 31** (1) Subject to subsections (3) and (4), the following may, while on official business, visit an inmate at any reasonable time:
- (a) the assistant deputy minister;
  - (b) the provincial director;
  - (c) a peace officer on duty;
  - (d) the inmate's lawyer in respect of
    - (i) a charge against the inmate under the *Criminal Code* or another federal enactment or under a provincial enactment,
    - (ii) a matter for which the inmate is detained or subject to detention under the *Immigration Act* (Canada) or the *Immigration and Refugee Protection Act* (Canada), or

- (iii) a breach of a rule governing the conduct of inmates;
  - (e) a lawyer from a jurisdiction other than British Columbia who is able to satisfy the person in charge that he or she is qualified to practise law and is a lawyer representing the inmate in respect of a criminal charge against the inmate;
  - (f) a member of Parliament or of the Legislative Assembly;
  - (g) the Ombudsman.
- (2) A person in charge must ensure that a visit by a visitor referred to in subsection (1) can be held in private.
  - (3) Section 30 does not apply to a visitor referred to in subsection (1) except as follows:
    - (a) section 30 (2) (a) and (c) applies to a visitor referred to in subsection (1);
    - (b) section 30 (2) (d) applies to a visitor referred to in subsection (1) (c), (d), (e) and (f).
  - (4) The person in charge may authorize the refusal, suspension or termination of a visit by a visitor referred to in subsection (1), but only if the person in charge believes on reasonable grounds that
    - (a) the visit is jeopardizing or would jeopardize the management, operation or security of the correctional centre or the safety of a person, and
    - (b) in the case of a visitor referred to in subsection (1) (c), (d), (e) or (f), restrictions on the nature, timing, length and location of the visit would not be adequate to address the risk referred to in paragraph (a).

#### **Division 4 – Performance Appraisal and Earned Remission**

##### **Performance appraisal**

- 32**
- (1) A staff member must appraise the performance of each sentenced inmate.
  - (2) An appraisal must include the evaluation of the inmate's
    - (a) compliance with the rules governing the conduct of inmates, and
    - (b) level of participation in programs established under section 38 [*programs for inmates*] that are not religious programs.

##### **Remission awards assessor**

- 33**
- (1) The person in charge must appoint one or more staff members to be remission awards assessors for the correctional centre.
  - (2) A remission awards assessor or panel of remission awards assessors must determine the amount of earned remission to be credited to each inmate and must, in relation to each inmate,
    - (a) review the running record and appraisals of an inmate's performance since his or her last earned remission credit, and
    - (b) determine the number of days of earned remission to be credited to the inmate in accordance with this Division.

### **Calculation of remission award**

- 34** (1) A remission award assessor or panel of remission awards assessors must credit earned remission
- (a) for each inmate, within 5 days of the end of the previous month, or
  - (b) for an inmate about to be discharged, at the time of discharge for the days served since his or her last earned remission credit,
- whichever is applicable.
- (2) An earned remission credit for a portion of month must
- (a) be made on the basis of one day's earned remission credit for each full two days that are served,
  - (b) be based on an assessment of the matters referred to in section 32 (2) (a) and (b), and
  - (c) result in a monthly earned remission credit as follows:
    - (i) good performance, 15 days;
    - (ii) fair performance, 8 to 14 days;
    - (iii) poor performance, 0 to 7 days.
- (3) A disciplinary hearing that is ordered to be convened under section 22 (3) but is not yet concluded must not be considered in evaluating an inmate's compliance with the rules governing the conduct of inmates.

### **Review of remission awards assessor decision**

- 35** (1) If full earned remission is not credited, the remission awards assessor must notify the inmate and the person in charge and give the reason in writing.
- (2) An inmate who is not satisfied with his or her earned remission credit may, within 7 days of receipt of notification of the credit, apply in writing to the person in charge for a review of the decision of the remission awards assessor or panel of remission awards assessors.
- (3) Within 7 days of receiving the inmate's request for a review, the person in charge must review the assessor's or panel's decision and
- (a) confirm the earned remission credit,
  - (b) increase the number of earned remission days credited, or
  - (c) reduce the number of earned remission days credited.
- (4) The person in charge must notify the inmate and the remission awards assessor of his or her decision under subsection (3) as soon as practicable and give the reason in writing.

## **Division 5 – Property**

### **Forfeiture of unclaimed property**

- 36** Unclaimed property abandoned by an inmate at a correctional centre on his or her release, transfer or escape from the correctional centre and not claimed by the inmate within 3 months from the date of the release, transfer or escape is forfeited to the government.

## **Division 6 – Inmate Complaints**

### **Complaint to person in charge**

- 37**
- (1) An inmate may make a written complaint to a staff member who must forward it, as soon as practicable, to the person in charge.
  - (2) The person in charge must, within 7 days of the receipt of the complaint, investigate the complaint and advise the inmate, in writing, of the results of the investigation as soon as practicable.
  - (3) The person in charge must keep a record of
    - (a) written complaints,
    - (b) the manner in which the complaints are resolved, and
    - (c) the written advice given to an inmate under subsection (2) as a result of the investigation of a complaint.

## **Division 7 – Programs and Services for Inmates**

### **Programs for inmates**

- 38**
- (1) The person in charge must establish programs for inmates, including religious and recreation programs.
  - (2) As far as practicable, the person in charge must establish programs designed to assist inmates to
    - (a) improve their education or training, and
    - (b) reduce the risk they present to the community.
  - (3) An inmate must participate in programs as directed by the person in charge unless
    - (a) the inmate is excused in writing by a health care professional,
    - (b) the program is a religious program and the inmate does not choose to participate in it,
    - (c) the program conflicts with a recognized day of religious observance of the religious faith that the inmate practices, or
    - (d) the program is a work program and the inmate has not given his or her consent under section 3 (b).

### **Medical services**

- 39**
- (1) After admission to a correctional centre, an inmate must be examined by a health care professional who must prepare a written report on the inmate's
    - (a) state of health, and
    - (b) suitability for work, training and recreation programs.
  - (2) If a health care professional determines that an inmate is not medically fit for transfer to another correctional centre, the inmate must not be transferred.
  - (3) If a health care professional is of the opinion that, at the time of an inmate's release from custody, the inmate suffers from an acute or dangerous illness, the person in charge must be reasonably satisfied that a treatment plan is in place in the community.