**Appeals**

The appeals process is an essential safeguard in our system. It provides a means of reviewing decisions in the attempt to ensure that mistakes are not made and that injustices are not done. Sometimes it seems as if appeals are endless and that the guilty use them to postpone their punishment; however, they have proven to be invaluable safeguards and/or remedies.

In recent Canadian history, several high-profile cases have shown the value of the appeals process beyond any doubt. Donald Marshall Jr. was freed after serving 11 years for a murder he did not commit when new evidence was introduced on appeal. David Milgaard and Guy Paul Morin were both freed after DNA matching—a process unavailable at the time of their convictions—proved they could not have committed the crimes for which they had been jailed. Milgaard had served 23 years for murder. Morin was originally convicted of murdering nine-year-old Christine Jessop.

Review the stories to learn more about these cases:

**The Wrongful Conviction of David Milgaard -** <https://www.cbc.ca/archives/topic/the-wrongful-conviction-of-david-milgaard>

**Donald Marshall Jr. -** <https://www.thecanadianencyclopedia.ca/en/article/donald-marshall-jr>

**Guy Paul Morin Case -** <https://www.thecanadianencyclopedia.ca/en/article/guy-paul-morin-case>

As you work through these websites, make notes that identify each appeals court and each type of appeal. Note particularly the reasons for which appeals are allowed and the rulings that are available to appellate courts in each circumstance.

You can familiarize yourself with the Supreme Court of Canada, our highest appeals court, by reading the resource below:

**The Role of the Court -** <https://www.scc-csc.ca/court-cour/role-eng.aspx>

The highest court in New Brunswick is the Court of Appeal. It has a chief justice and five associate judges. A panel of three judges hears most appeals, but some cases are argued before all six judges.

**Sentencing**

You have probably heard complaints that someone "got off too easy." Maybe you have said it yourself. Despite what you may think, the sentences imposed on the guilty are not arbitrary. They are governed by rules that the courts must apply. There are a great many options when imposing sentence and the rules help the courts decide which penalties are appropriate in the circumstances.

Take some time now to explore the resources below and compare different approaches to sentencing and justice. First, examine common penalties imposed by Canadian Courts. Then, turn your attention to alternative practices of "restorative justice" that have been gaining favour in recent years. Note that Correctional Services Canada (CSC) officially "[***supports the advancement of restorative justice as it contributes to CSC's priorities and public safety.***](https://www.csc-scc.gc.ca/restorative-justice/index-eng.shtml)"

[[reading](https://www.justice.gc.ca/eng/cj-jp/victims-victimes/sentencing-peine/imposed-imposees.html)](https://www.justice.gc.ca/eng/cj-jp/victims-victimes/sentencing-peine/imposed-imposees.html" \t "_blank)

**[Department of Justice: How sentences are imposed](https://www.justice.gc.ca/eng/cj-jp/victims-victimes/sentencing-peine/imposed-imposees.html" \t "_blank)**

[[reading](https://cjiwr.com/about-us/what-is-restorative-justice/)](https://cjiwr.com/about-us/what-is-restorative-justice/" \t "_blank)

**[Community Justice Initiatives: Restorative Justice](https://cjiwr.com/about-us/what-is-restorative-justice/" \t "_blank)**

[[reading](https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/04.html)](https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/04.html" \t "_blank)

**[Department of Justice: Alternative Approaches](https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/04.html" \t "_blank)**

As you have seen previously, youth in Canada are treated differently by the justice system. As you examine the Department of Justice's approach to young offenders, what do you think about how youth are treated under the *Youth Criminal Justice Act*?

[[reading](https://www.justice.gc.ca/eng/cj-jp/yj-jj/video/ycja-lsjpa.html)](https://www.justice.gc.ca/eng/cj-jp/yj-jj/video/ycja-lsjpa.html" \t "_blank)

***[Youth Criminal Justice Act](https://www.justice.gc.ca/eng/cj-jp/yj-jj/video/ycja-lsjpa.html" \t "_blank)*[– Principles](https://www.justice.gc.ca/eng/cj-jp/yj-jj/video/ycja-lsjpa.html" \t "_blank)**

# Prisons and Parole

A lot of myths and misconceptions exist about our prisons and the lifestyle of inmates. What are your thoughts on the current situation of inmates? What are your thoughts regarding staff working at a prison? Occasionally, we will hear of riots or perhaps abuses occurring in prison. How would you feel if, through some misfortune, you were incarcerated for several years? Perhaps some day, you may be employed within the correctional services. How would you want to help inmates?

## Federal and Provincial Correctional Systems

The provincial correctional system includes facilities of varying levels of security housing people awaiting trial or serving a sentence of less than two years.

Federal correction facilities are categorized as minimum, medium, and maximum security. Canada's Department of the Solicitor General is the department of the federal government responsible for the federal prison and parole systems. The Department's site has some interesting material on corrections. Start this section by going to the Correctional Service of Canada site. While there, explore the website to get a glimpse of Canada's prison system, including the virtual tour of a correctional facility.

**Correctional Service of Canada** <https://www.csc-scc.gc.ca/>

**Virtual Tour – Correctional Service of Canada -**<https://www.csc-scc.gc.ca/csc-virtual-tour/index-eng.shtml>

**Parole** is the release of an inmate into the community before their full sentence is served, if they have met certain conditions to qualify. Prisoners (except those serving time for first degree murder) are reviewed for parole after they've served one third of their sentence, or seven years, whichever is less.

To clarify and expand your understanding of this topic, read through the sections of this resource, from the National Parole Board site. Use it to expand your study notes on how, when and why parole or other absences are granted.

[**Parole Board of Canada: Contributing to Public Safety** <https://www.canada.ca/content/dam/canada/parole-board/migration/001/093/001-3000_en.pdf>](https://www.canada.ca/content/dam/canada/parole-board/migration/001/093/001-3000_en.pdf)

**Sentencing, Appeals, and Parole**

Law 120 – Assignment

1. You can't appeal just because you don't like the fact that you were found guilty. Describe and give an example of three (3) accepted grounds for appeal of a conviction in criminal cases. Consider Part XXI, # 675 of the [Criminal Code](https://laws-lois.justice.gc.ca/eng/acts/c-46/FullText.html), as well as this [BC Court of Appeal resource](https://www.courtofappealbc.ca/sites/default/files/pdf/conviction-appeal.pdf) while you write this answer. (***3 points***)
2. The Supreme Court of Canada will not grant leave for appeal, or hear all cases. What criteria must be met for the Supreme Court to grant a leave to appeal? Consider the following resources when writing your answer: [Criminal Code Section 691](https://laws-lois.justice.gc.ca/eng/acts/c-46/page-176.html#h-130192), and [Supreme Court of Canada Guide](https://www.scc-csc.ca/unrep-nonrep/app-dem/guide-eng.aspx#q1). (***2 points***)
3. Besides the conviction (guilty or not guilt), what other court decision can be appealed? Consider Part XXI, # 675 of the Criminal Code while you write this answer. (**1 point**)
4. Garth, a 22-year-old member of an infamous motorcycle gang, has just been found guilty in Provincial Court of recruitment of members by a criminal organization. (***10 points***)

a. What is the maximum sentence he could receive?

b. What factors will the judge consider when determining an appropriate sentence? (Include at least 3.)

c. In what type of institution would he most likely serve his sentence?

d. If he wished to appeal his sentence, what court could he seek leave to appeal to? What appellate court would be next after that?

e. Describe two (2) alternative sentencing options and how they might benefit Garth, the victim(s), and society at large.

f. If he receives the maximum sentence, when would he be eligible for parole? g. What factors would the parole board consider at his parole hearing? (Include at least 3.)

h. What conditions would Garth have to abide by if/when he is paroled?

1. Research a high-profile criminal case that took place in New Brunswick and involved an appeal or a retrial. Briefly recount the important details, including: (***4 points***)

• The charge

• The outcome of the first trial (verdict and sentence)

• The reason for appeal or retrial

• The type of appeal or retrial (judge(s)? jury?)

• The outcome of the appeal trial