

# A GUIDE FOR CANADIANS DETAINED ABROAD

CONSULAR SERVICES



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A guide for Canadians detained abroad

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## INTRODUCTION

Thousands of Canadians are imprisoned in more than 85 countries around the world.

If you are a Canadian who is detained or imprisoned in another country, this booklet will help you, your family and friends to understand the help provided to Canadians imprisoned abroad through Global Affairs Canada's Consular Services in Ottawa and through **Canadian government offices abroad**. These services are governed by the Canadian Consular Services Charter and an international treaty, the Vienna Convention on Consular Relations. For more information on the Vienna Convention, contact Consular Services or read the **Consular Services Delivery Framework**.

Canadian consular officials have a lot of experience dealing with the types of problems you may face. They understand how difficult the situation can be for everyone and are there to help you, your family and friends. Stay in touch with them and keep them informed about your situation.

## INFORMATION FOR PRISONERS

If you are a Canadian who is detained or imprisoned in another country, you may be at a disadvantage because you may not be familiar with the local judicial system, culture and language. Prison conditions there are probably more severe than in Canada. You might be far away from your family and friends, and they may have to carry a heavy financial and emotional burden as they try to support you.

If you are a dual citizen of Canada and of the country where you are imprisoned, the authorities there could consider you to be a citizen of that country and refuse to give you access to Canadian consular services. Canadian consular officials will continue to try to help you but may be limited in what they can do or may not be able to help you at all.

You may find that being arrested and imprisoned in a foreign country causes emotional stress and practical problems. Global Affairs Canada and consular officials at offices abroad can help you, but there are limits to what they can do for you.

## WHO TO CONTACT

When you are detained or arrested in another country, you may want the arresting authorities to notify Canadian consular officials. If so, clearly ask them to contact the nearest Canadian government office abroad or Global Affairs Canada's **Emergency Watch and Response Centre** in Ottawa. Under the Vienna Convention on Consular Relations, **the arresting authorities must inform you of your right to contact a consular representative. They do not have to inform a Canadian government office that you have been detained or arrested unless you ask them to.**

If you choose to talk to Canadian consular officials, any information you give them will remain confidential under the provisions of the *Privacy Act*. You have the right, for example, to decide who will be notified of your situation and, if you wish to identify who may act as your designated contact person. No one – your family, friends or anyone else – will have access to information you have shared with Canadian consular officials without your consent. You may also limit the information

that will be shared with your designated contact person.

**However, under the *Privacy Act*, your personal information may be released in certain circumstances:**

- when this would clearly benefit you
- when the public interest clearly outweighs any invasion of your privacy
- to a Canadian investigative body
- as the result of a Canadian court order

### THE ROLE OF THE GOVERNMENT OF CANADA

**If you break the laws of another country, you are subject to the judicial system of that country. Being a foreigner or not knowing the local laws is not an excuse.**

Global Affairs Canada will discuss your justified and serious complaints about ill-treatment or discrimination with the local authorities. **It cannot, however, ask for special treatment for you, try to spare you from the due process of local law or overrule the decisions of local authorities.** Just as a foreign government cannot interfere in Canada's judicial process, **the Government of Canada cannot interfere in the judicial affairs of another country.**

The Royal Canadian Mounted Police and other police agencies have their own international contacts and may know of your circumstances through those sources.

## HOW GLOBAL AFFAIRS CANADA CAN HELP

Canadian consular officers offer a range of services that vary from case to case and from country to country. They will discuss the most appropriate services for your case with you or with your designated contact person.

At your request, consular officials **can**:

- notify your family or friends of your situation and let them know if and how they can help
- provide an up-to-date and accurate list of local lawyers and legal translation service providers
- approach family, friends or a local legal aid society if you cannot afford to pay legal fees
- provide you and your family with general information on the local legal and prison systems, approximate times for court action, typical sentences for the alleged offence and bail provisions
- help you communicate with your lawyer and family or friends when

local conditions make direct communication impossible

- ask the appropriate authorities for immediate and regular access to you
- advocate to ensure that you are treated the same as local citizens detained for similar offences
- advocate to ensure that your basic needs are met
- obtain information about the status of your case and encourage authorities to process your case without too much delay
- raise medical or dental issues with local authorities, if you have tried and failed to have these issues addressed
- transmit concerns through official channels to local officials and prison representatives about any treatment that could affect your health and well-being
- arrange for the purchase (at your expense and if permitted) of food supplements, essential clothing and other basic items not available through the prison system
- deliver messages and letters and provide reading material approved by the authorities if regular email, telephone or postal services are not available or functioning

- contact relatives or friends on your behalf, with your permission, and ask them to send you funds
- give you information from Correctional Service Canada on transfer of offenders options that may allow you to serve your sentence in a Canadian prison and give you the documents to apply for a transfer if you are eligible

Canadian consular officials **cannot**:

- get you out of prison
- post bail or pay your fines or legal fees
- try to obtain special treatment for you or exempt you from the due process of local law
- provide legal advice, interpret local laws or interfere in legal matters in the country where you are detained or imprisoned
- select or recommend a specific lawyer
- get involved in matters between you and your lawyer
- investigate a crime or death or intervene in a local police investigation
- forward or deliver parcels entering or leaving the country or clear them through customs
- get around rules on what can and cannot be brought into

or taken out of a prison

- make travel or accommodation arrangements for your family or friends

## HIRING AND WORKING WITH A LAWYER

Choosing a lawyer in the country where you are detained or arrested can be critically important and should be done carefully. You could start by contacting a consular official at the Canadian government office in that country to request a list of local lawyers.

Be cautious about hiring lawyers who approach you in jail or who are recommended by another prisoner or a prison official. Be wary of lawyers who promise to have you released quickly if you pay them a large sum of money, particularly if they imply that the money is to pay bribes. You may not be released quickly, and you may lose your money. Bribery is illegal in most countries, and you could be prosecuted under Canadian law.

First-class lawyers in any country charge high fees. If you cannot raise enough money to hire a lawyer, consular officials can tell you whether state-sponsored legal aid is

available in the country where you are detained or imprisoned. Public defenders are usually very busy and unable to devote a lot of time to individual cases. Depending on the country, they often have limited English or French language skills.

When communicating with your lawyer, find out how they plan to represent you. Ask specific questions about the legal process and the legal activities that will be conducted on your behalf. Ask the lawyer to keep you advised of the legal process and the progress of your case, and request copies of all letters and documents prepared on your behalf.

Share your lawyer's full name and address with family and friends, and provide them with the details of your contract. This will ensure that they know about your legal arrangements in case they are asked to pay additional fees without your knowledge.

## THE ROLE OF THE GOVERNMENT OF CANADA

Consular officials can give you a list of lawyers who may have expertise in your particular type of case and who may have represented Canadians in the past, but **they cannot recommend specific lawyers. You may prefer to hire a lawyer who is not on the list. This decision is up to you.** You should consider whether a lawyer is:

- experienced in your type of case
- well regarded in the local legal community
- able to speak your language
- willing to agree on a contract specifying a fee structure and detailed objectives for the duration of the case, including appeal procedures

Consular officials can help you or a designated contact person to communicate with your lawyer. They can give you information based on their experience but cannot make decisions for you or give you legal advice. All decisions affecting your case must be made by you or your lawyer.

## PRISON CONDITIONS

### GENERAL GUIDANCE

When you arrive at the detention centre, find out about its regulations and what services are available to you. Then make sure you follow the rules.

Be aware that your telephone conversations, mail and visits, including those with consular officials, may be monitored.

### RAISING YOUR CONCERNS

If you are in detention and have a request or a concern, follow proper procedures and raise the issue through the appropriate channels at the facility first. If the issue is not resolved, ask consular officials to follow up on your behalf.

### BASIC NEEDS

The local standards for basic nutrition, medical and dental care may be much worse than what you would expect in a Canadian detention centre. However, you should have access to clean drinking water and should be provided with food regularly. You should also have access to basic medical and dental care, although it may be limited. Make sure you understand how these basic needs are met by the detention centre.

## HEALTH AND MEDICAL NEEDS

If you have a medical emergency, health condition or specific medical needs, make sure you tell the prison authorities as soon as possible and find out which medical services are available on-site. Some detention centres may offer only basic medical services, so ask how your medical condition can be treated. You may have to pay for certain medication or for medical follow-ups and treatments. Some medication may not be available at the detention centre or even locally. Contact consular officials if your health and medical needs require specific follow-up.

### FINANCIAL NEEDS

Some detention centres allow detainees to buy additional food, calling cards or other essential items within the facility. Ask the prison authorities if this is possible and what the rules are. You might need to set up an account at the detention centre to buy items. Ask how funds can be deposited in the account. If you need help to have funds deposited, contact consular officials to discuss your options.

## SPECIAL PROGRAMS

In some countries, special programs, such as work programs, are available in prisons. Foreign prisoners may not be allowed to participate due to the type of crime they committed or because they will not be reintegrated into that country when they are released. Consular officials cannot convince prison officials to give a Canadian prisoner access to specific programs.

## TRANSFER OF OFFENDERS GENERAL GUIDANCE

Canada has agreements, also known as treaties, governing the transfer of offenders with over 118 countries, states and dependencies. These agreements allow Canadians convicted of offences in other countries to serve their sentences in Canadian prisons, where they can more easily prepare for life after they are released. A transfer only takes place with the consent of the offender, the approval of the sentencing country and the approval of Canada. Correctional Service Canada, an agency of Public Safety Canada, administers the International Transfer of Offenders Program through Global Affairs

Canada and its offices abroad. Transfer decisions are made at the discretion of the Minister of Public Safety and Emergency Preparedness.

**The country in which you have been convicted and sentenced is responsible for informing you if it has a transfer agreement with Canada. Only you, or your representative, may request a transfer to a Canadian correctional facility by contacting the nearest Canadian government office**

**abroad.** Correctional Service Canada will write to you to confirm your intention and ask you to complete the proper transfer application forms. **You can submit an application for transfer after you have been convicted and sentenced and the judgment is final.** This means that there are no further appeals or forms of review of your sentence, whether any of your sentence remains to be served in Canada or not. Sentences including probation and parole can be considered for transfer under the *International Transfer of Offenders Act*.

**Speak to Canadian consular officials on transfer options that may be available to you if you are detained in a country with a**

**transfer of offender agreement. They will provide you with the Correctional Service Canada documents that you need to apply for a transfer. If your application is approved by both the host country and Canada, you will be transferred to Canada, where you will complete your sentence subject to Canadian laws and regulations.**

In some countries, individual states or provinces determine whether or not to participate in an agreement signed by their national government. If you are imprisoned under the legislation of a state or province, you may not be eligible to apply for a transfer even if there is a transfer of offenders agreement in place with that country.

If Canada does not have a transfer of offenders agreement with the country where you are imprisoned, the Minister of Foreign Affairs may, with the consent of the Minister of Public Safety and Emergency Preparedness, enter into an administrative arrangement with this country for your transfer in accordance with the *International Transfer of Offenders Act*.

The transfer of offenders process can take a long time, especially in countries where there is no agreement, and there is no guarantee that the transfer will be approved by either or both sides.

## TRANSFER OF PRISONERS WHO ARE NOT CRIMINALLY RESPONSIBLE ON ACCOUNT OF MENTAL DISORDER OR UNFIT TO STAND TRIAL

If you have been judged unfit to stand trial, or not criminally responsible on account of a mental disorder, the Minister of Foreign Affairs may, if the Minister of Public Safety and Emergency Preparedness and the relevant provincial or territorial authority agree, enter into an administrative arrangement with the foreign country to transfer you to Canada.

For more information on transfer of offenders agreements, consult the **Consular Services Delivery Framework** or contact **Correctional Service Canada**. An information booklet on the transfer of offenders to Canada is available from Correctional Service Canada.

The Government of Canada does not object to an offender cancelling a transfer request in progress, but the governments of some sentencing countries may not reverse the process at a certain stage. You should carefully consider the transfer request policies of the country where you were sentenced before you submit an application.

## WHEN YOU ARE RELEASED PROBATION

Not every country has a parole system. In certain countries, foreigners can face challenges when they apply for probation. While, in theory, foreigners may be eligible for parole where the legal systems allow it, in practice Canadians imprisoned abroad may find it difficult to demonstrate that they meet all the requirements.

## RETURNING TO CANADA

In many countries, Canadians who have completed a criminal sentence are likely to be deported. They may also be prevented from returning to the country where they were imprisoned, particularly if they are not a citizen there.

As a Canadian citizen, you will not be denied re-entry to Canada when your

criminal sentence abroad is finished. It can be challenging to reintegrate to life in Canada after a prolonged absence, especially when you have been incarcerated abroad and may not have valid identification or social supports. There are organizations in Canada that can help you and your family prepare for your return to Canada.

## PASSPORT

If you will be deported, Canadian consular officials will work with local immigration authorities to ensure that you have the right documents to return to Canada. Canadians in detention abroad are otherwise ineligible to hold a Canadian passport under the Canadian Passport Order.

## CRIMINAL RECORD IN CANADA

A foreign conviction does not necessarily mean that you will have a Canadian criminal record. However, if you were convicted abroad and returned to Canada through an international transfer of offender treaty or an administrative arrangement under the *International Transfer of Offenders Act*, the foreign conviction will be kept on your record by the Canadian Police Information Centre.

## OBLIGATIONS FOR INTERNATIONALLY CONVICTED SEX OFFENDERS

Under Canada's *Criminal Code*, if you have been convicted, or found not criminally responsible due to a mental disorder, of a sex offence in another country, and that country has released you, you must provide your name, date of birth, gender, address in Canada and the facts of your conviction or not criminally responsible verdict to your local police services within seven days of your return to Canada. This is so the attorney general of the province or minister of justice of the territory can decide whether you should be included in the *National Sex Offender Registry* to comply with the *Sex Offender Information Registration Act*. If you do not report, you may face criminal prosecution. Further information on the National Sex Offender Registry is available from **Public Safety Canada** or the **Royal Canadian Mounted Police**.

## SEEKING CLEMENCY IN DEATH PENALTY CASES

The Government of Canada opposes the use of the death penalty in all cases, everywhere, and will undertake clemency intervention and offer consular assistance to all Canadians charged or convicted of a crime punishable by death. If you believe that this may apply to your case, speak to a consular official, who will review options with you and your lawyer and determine how to undertake a clemency intervention.

## INFORMATION FOR FAMILIES AND FRIENDS OF PRISONERS ABROAD

### WHO TO CONTACT

If you are a family member or a friend of a Canadian detained or imprisoned abroad, and you are in Canada, you should contact Global Affairs Canada's Consular Services in Ottawa. You will be assigned a case management officer. If you are in another country, you can contact the nearest Canadian government office abroad.

## HOW GLOBAL AFFAIRS CANADA CAN HELP

A consular official can provide you with general information about the country, its justice system and its prison conditions. You will be given details of the detention or arrest and told how to make contact with your loved one only if they clearly consent to the release of this information.

The arrested or detained person can decide who will be their designated contact person, with whom their information will be shared, and may choose not to disclose any information to anyone. Depending on the circumstances, it may take some time for the consular officials to obtain their consent. See our **Consular Services Privacy Notice Statement** for more information.

Try to keep in touch with your loved one through normal channels as much as possible. Consular officials can advise you on the best way to send money or parcels. In many countries, mail sent or received by detainees and prisoners will be opened and read by prison authorities. Your telephone conversations may also be monitored.

In some countries, detainees and prisoners may be required to pay fees to access telephones and send mail. Be careful not to discuss or put in writing anything you do not want to become public. Consular officials in Ottawa and at Canadian government offices abroad may be able to provide more information.

Consular officials will advise which consular services can and cannot be provided depending on local circumstances, which may also affect your ability to help your family member or friend. In general, consular officials will try to provide more services when a Canadian is detained or imprisoned in a country where it is difficult for family or friends to provide help, or where prison conditions make these services necessary.

### HIRING AND WORKING WITH A LAWYER

Hiring a Canadian lawyer to help a friend or family member imprisoned in another country might not be the best option. To be able to practise in a country, a lawyer must be accredited there. An accredited local lawyer is usually better placed to understand

the local laws and legal process and to represent someone who has been arrested and detained abroad.

Ask your imprisoned friend or family member to send you their lawyer's full name and address and the details of the contract. This will ensure that you know about the legal arrangements in case the local lawyer asks you to pay additional fees without your friend or family member's knowledge.

For more information, see **Hiring and working with a lawyer** under **Information for prisoners**.

### TRANSFERRING FUNDS

Your imprisoned friend or family member may need money to purchase daily necessities and to pay legal fees. Contact consular officials in Ottawa or at the *Canadian government office* in that country to find out the best way to send money. It may be possible to send money directly to the prisoner's account at the prison, or it may be best to send funds via the embassy or consulate. Some prisons may charge fees for transferring or administering funds, and funds transferred via the

embassy or consulate are subject to consular specialized services fees.

## COMMUNICATING WITH A CANADIAN IN PRISON ABROAD

How you communicate with a friend or family member in prison in another country depends on the country, the offence and the detention centre's rules. You may be able to communicate directly with the person, or there may be no direct contact allowed. In some cases, contact is limited to certain days. Some institutions allow contact by letter only, and in other cases any messages must be passed through consular officials. Contact consular officials in Ottawa or the *Canadian government office* in the country for more information.

## VISITING A CANADIAN IN PRISON ABROAD

**Plan your visit to your imprisoned loved one before you leave Canada.** Make sure you check the **Travel Advice and Advisories** page for your destination for the most up-to-date travel information. Be sure to discuss your proposed



prison visit with consular officials in Ottawa early in the planning stages. While consular officers cannot make your travel or accommodation arrangements, they may be able to provide advice on the visitation process. If consular officers need to obtain a visit authorization for you from the local authorities, you may be asked to provide your travel details and other relevant information.

Prison authorities are not likely to grant visitors from Canada special treatment, such as admitting them outside regular visiting hours. Some prisons allow visits only at specific times of year or days of the week or restrict who may visit and how many visits or visitors a prisoner may receive. For example, they may not allow visits by common-law or same-sex spouses. We highly recommend that you arrange to be accompanied by an interpreter if you are not comfortable communicating in the local language.

**If you are a dual citizen**, use your Canadian passport when you are travelling abroad and present yourself as Canadian to foreign authorities if the laws of the country

you are visiting permit. Travelling on your Canadian passport may help you to access Canadian consular services if you need them.

## TRANSFER OF OFFENDERS

Only the detainee/prisoner, or their representative, may request a transfer to a Canadian correctional facility. See the section on **Transfer of offenders** under **Information for prisoners**.

## FOR MORE INFORMATION

### Global Affairs Canada Travel.gc.ca

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abroad, where service is available.)

**Fax:** +1 613 943 1054 or  
+1 613 996 5358

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(in Canada and the U.S.) or  
+1 613 944 1310

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## Correctional Service Canada

[csc-scc.gc.ca](http://csc-scc.gc.ca)

International Transfers Unit

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Ottawa, ON K1A 0P9  
Canada

**Tel.:** +1 613 947 9708 (Offenders  
outside Canada can call collect where  
service is available.)

**Fax:** +1 613 952 7676

**Email:** [internationaltransfers@csc-scc.gc.ca](mailto:internationaltransfers@csc-scc.gc.ca)

You can also visit the **International Transfer of Offenders** page.

