

IRCA Guide



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This guide instructs defence counsel on how to obtain and use IRCA principles. It is not intended to give legal advice.

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What Is an Impact of Race and Culture Assessment?

An Impact of Race and Culture Assessment (IRCA) is a pre-sentence report that provides social context to assist a sentencing judge in understanding the systemic and background factors that have contributed to the criminal offending of Black and other racialized individuals. IRCAs were developed in Nova Scotia in 2014 and are referred to as such throughout Canada, except in Ontario, which uses the term Enhanced Pre-Sentence Reports.

In sentencing proceedings, the judge can draw on an IRCA to determine an appropriate sentence that reflects and respects the fundamental principle of proportionality and the other principles and objectives of sentencing. IRCAs can be used to similar effect in bail negotiations, submissions, parole board hearings, etc.

An IRCA is typically written by an assessor who has qualifications in social work, clinical counselling, or a similar profession, although criteria relating to qualifications vary across the country. The assessor conducts interviews with the IRCA participant, collaterals, and support workers involved in their life. In most cases, IRCAs are considered expert reports.

The term “IRCA principles” is used in this guide to describe the IRCA participant’s personal and intergenerational experiences, including racial and cultural discrimination, and their strengths and cultural connections, all of which the Court must consider during legal proceedings.

For example, the Supreme Court of Canada recently discussed the relevance of IRCA principles in *Corbett* applications, where judges may need to correct for possible systemic biases, stereotypes, and assumptions by recognizing the social context in which the accused’s record was accumulated (*R. v. Hussein*, 2026 SCC 2 at paras. 98–100).

IRCAs are rooted in the fact that racialized individuals in Canada have historically faced – and continue to face – patterns of systemic racism and discrimination that have resulted in their marginalization in society and overrepresentation in Canada’s prison population.



They gained recognition following the 2014 Nova Scotia case of *R. v. X*, a youth case involving a charge of attempted murder. The IRCA for the case was prepared by Robert S. Wright, a social worker and mental health clinician in Nova Scotia. In her decision, Justice Derrick states the evidence “provides a more textured, multi-dimensional framework for understanding X, his background and his behaviours,” which ultimately contributed to the accused being given a youth sentence rather than an adult sentence.

Since then, Mr. Wright and his colleagues at the African Nova Scotia Justice Institute have developed the format of IRCAs and provided training on their use and application across the country.

In BC, Legal Aid BC (LABC) introduced a pilot project to provide IRCAs in 2022. Prior to this project’s introduction, defence lawyers in BC had to find other ways to put the impacts on racialized offenders before the Court (see *R. v. Ferguson*, 2018 BCSC 1523, for one of the earliest examples).

Purpose of this guide

Racism and discrimination are widespread and impact multiple generations of families. This guide is for defence counsel who represent racialized clients who have been affected by racism and discrimination, have experienced the effects of these factors intergenerationally, or find themselves in both positions.

It aims to help you better understand how these factors can intersect and influence a person’s involvement in the criminal justice system. It will also guide your conversations with clients about their personal experiences, strengths, and the type of support they need, especially if you do not have the option of using an IRCA. Such information about a client can be used to good effect in many situations, including bail, plea bargaining, submissions, sentencing, and parole hearings.

IRCA principles

IRCA principles, or factors, are unique to each person who receives an IRCA, although individuals and communities may share similar experiences rooted in racism and discrimination.

These experiences often include stereotyping, profiling, arrest and conviction rates that lead to resentment, and a general mistrust of justice professionals such as police, lawyers, and judges. IRCA principles may also refer to behaviours or cultural practices unique to the person's community that are not widely understood by people outside that group. Despite overwhelming challenges, community connections and cultural practices often support the growth of strength and resilience. You should explore all of these impact areas to better understand your client and their circumstances.

The Use of IRCAs in Court

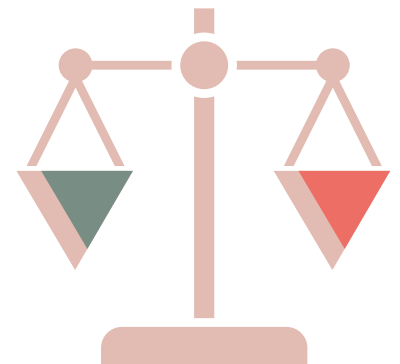
Prior to the development of IRCAs, *Gladue* principles in the form of a full report, letter, and oral submissions were used to provide essential background and contextual information on Indigenous offenders for sentencing, bail, and parole hearings.

These factors continue to be brought before the Court for Indigenous people through *Gladue* principles.

IRCAs contain similar information for other racialized groups and are in alignment with the *Criminal Code of Canada* at 718.2, which states:

A court that imposes a sentence shall also take into consideration the following principles:

(e) all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal [Indigenous] offenders.



Although it is clear the Court had Indigenous offenders in mind, it notes that non-jail sanctions and the circumstances of *all* offenders must be considered. In this vein, it is widely recognized that Indigenous, Black, and other racialized groups have certain experiences worthy of consideration.

Several key decisions have established the use and importance of IRCAs, including:

- ▶ *R. v. Jackson*, 2018 ONSC 2527
- ▶ *R. v. Morris*, 2018 ONSC 5186; *R. v. Morris*, 2021 ONCA 680
- ▶ *R. v. Anderson*, NSCA 2021 62
- ▶ *R. v. Desmond*, 2023 BCCA 442
- ▶ *R. v. Handule*, 2023 BCSC 1031
- ▶ *R. v. Doe*, 2024 BCPC 43

Regarding procedural importance, the Supreme Court of Canada has not ruled directly on IRCAs, but lower courts have established that they are crucial for assessing an offender's "moral culpability" in the context of historical and systemic factors.

The following key principles have been established:

- ▶ **Causal link not necessary:** "While there needs to be a connection between the identified racism and the circumstances relied on to explain or mitigate the criminal conduct, proof of a causal link is not required."¹
- ▶ **Proportionality:** IRCAs help ensure sentences are proportionate to the offender's specific circumstances.
- ▶ **Judicial consideration:** Failure to consider these factors can be a reversible error of law.

1 Nova Scotia Public Prosecution Service. (n.d.). *Fair treatment of African Nova Scotians and people of African descent in criminal prosecutions (FTANS)*, Areas of application, point 8.

How to Obtain IRCA Information

IRCA's are prepared by trauma-informed, qualified expert assessors who are trained to discuss sensitive and difficult experiences and can identify and explain the impact of trauma in a clear, professional, and legally relevant way. The value of a full IRCA, or a shorter IRCA letter (prepared when there are time or funding constraints), cannot be overstated.

However, an IRCA is not always an option – for example, there may be time constraints or procedural urgency, or the client is not ready or willing to disclose deeply personal information to an assessor.

In these circumstances, you must obtain key information directly from the client so that IRCA principles can still be presented to the Court. It is crucial to speak with the client in a trauma-informed manner. The goal is not to conduct an assessment but to allow the client to safely explain their lived experience in their own words, without pressure or judgment. You may also find it helpful to have a brief, safe, trauma-informed conversation with collaterals.

To create a safe and trauma-informed environment:

- ▶ Allow the client/collateral to choose a setting that feels safe for both you and them.
- ▶ Explain why you're asking certain questions and how the answers to them will be used.
- ▶ Reassure the client that they may pause, take breaks, or decline to answer any question.
- ▶ Use calm, respectful language and avoid rushing the conversation.
- ▶ Avoid confrontational, accusatory, or overly clinical or legal phrasing.
- ▶ Be attentive to signs of distress and respond with patience and empathy.

Clients who have experienced trauma may struggle with memory, chronology, or emotional regulation. This is a normal trauma response and should not be interpreted as inconsistency or lack of credibility.

How to ask questions

When you're gathering information to reflect IRCA principles, ask questions that are:

- ▶ **Open-ended:** They allow the client to describe experiences in their own words.
- ▶ **Non-leading:** They do not reflect assumptions or conclusions on your part.
- ▶ **Focused on impact:** They focus on how the client was affected rather than asking for detailed information.

For example:

- ▶ "Can you tell me what that experience was like for you?"
- ▶ "How did that situation affect you at the time?"
- ▶ "How does it continue to affect you now?"
- ▶ "Are there things you find difficult as a result of what you went through?"

Avoid pressing for graphic detail. You're looking to establish the effect of an experience or experiences, not document the explicit details.

Your aim is to identify impact areas:

- ▶ exposure to significant adversity, harm, or instability;
- ▶ emotional, psychological, or behavioural impacts of those experiences;
- ▶ ongoing effects of those experiences on functioning, decision-making, relationships, or well-being; and
- ▶ the client's coping strategies, including both adaptive and survival-based responses.

This information will help the Court understand your client's individual circumstances in the context of the offending behaviour, which is central to an IRCA-informed analysis.



Important limitations to note

As your client's counsel, you are **not** expected to diagnose a medical condition, assess trauma, or replace an expert assessor. The purpose of this discussion with the client is to ensure that the client's lived experience is fairly and accurately conveyed in the absence of an IRCA.

Where possible, the Court should be advised that:

- ▶ the information reflects the client's self-reported experience,
- ▶ an IRCA or IRCA letter could not be obtained because of practical or personal barriers, and
- ▶ the client was engaged in a trauma-informed discussion to minimize harm.

This approach will allow you to responsibly uphold IRCA principles while respecting the client's safety, dignity, and psychological well-being.

Trauma-informed practices

When you ask your client to share their personal history, you may be asking them to revisit experiences that are painful, shame-based, or traumatic. The way you approach these conversations matters as much as the information you gather.

A trauma-informed approach helps your client feel safer, respected, and more in control. It also produces more accurate and meaningful information for the Court. Arrange the interview far enough ahead of the court proceeding that you can have more than one meeting with your client if necessary. Set aside enough time for the conversation to allow the client to pause or take breaks if necessary. Ask the client where they would like to meet. Your office may not feel like a safe space to have this difficult conversation.

Preparing your client to discuss their IRCA principles

The information your client will be sharing may be triggering for them. Before you meet with your client to discuss their IRCA factors, try to speak to them about what they can expect when you meet. Ask if they want to bring someone to support them during or after the meeting – for example, a close friend, family member, Elder, cultural support person, counsellor, or other trusted professional.

In addition, tell them:

- ▶ Why you are asking particular questions.
- ▶ That they are in control of what they share.
- ▶ That they can take breaks, pause, or stop at any time.
- ▶ That they do not need to share details they are not ready to share.

You could ask:

- ▶ “How are you feeling about having this conversation?”
- ▶ “Would it help to break this into shorter meetings?”
- ▶ “Is there anything that usually helps you if this kind of topic becomes overwhelming?”

During your meeting to discuss their IRCA factors, remind them why you’ll be asking these questions and that their comfort is paramount throughout the conversation.

Obtaining consent and setting boundaries

Before you begin asking detailed questions, obtain your client’s clear consent and allow them to set boundaries for the conversation. For example, you could say:

- ▶ “I’m going to ask some questions about your life experiences. You can choose what you’re comfortable sharing.”
- ▶ “Some of this information may go into court materials. We can talk about what you’re okay with including and what you’re not okay with.”
- ▶ “If I ask something that doesn’t feel right, you can say no or ask to move on.”

Clearly communicate with the client:

- ▶ what information may be shared with the Court, and
- ▶ what information may remain confidential.

Revisit consent as the conversation continues. Consent is ongoing, not a one-time agreement.

Conversation guide

Use **open, respectful, non-judgmental language**. Avoid “why” questions. They can make you sound as if you’re assigning blame. Focus on impact as well as specific events.

For example:

- ▶ “Can you tell me about . . .?”
- ▶ “What was that like for you?”
- ▶ “How did that affect you at the time, or later on?”
- ▶ “You don’t have to go into detail. Just tell me whatever you’re comfortable sharing.”

Do not:

- ▶ push for graphic details,
- ▶ interrupt emotional responses, or
- ▶ try to “fix” or minimize the client’s experience.

Silence is okay. Emotion is okay. Taking time is okay.

If your client becomes distressed:

- ▶ Slow the conversation and offer to reschedule the meeting.
- ▶ Ask if they would like some water or fresh air.
- ▶ Normalize their reaction. For example: “This makes sense given what you’ve lived through.”



Impact areas

Remember: You are not asking your client to relive trauma. You're allowing them to be understood. Respect, patience, and choice are key. Use a trauma-informed approach to protect your client and strengthen the integrity of the IRCA.

When you're asking questions, try to cover as many aspects of your client's life and experiences as possible. Hearing specific examples from your client's life can help the judge and other decision-makers decide on an appropriate outcome.

You could start this conversation by saying "I'm going to ask about different experiences you may or may not have had. You don't have to answer any questions you don't want to answer, and you can give me as much or as little detail as you want. My questions will focus on challenging situations, as well as areas of strength and resilience."

For example:



Your client's personal strengths:

- ▶ "Can you think of a time when you helped someone in your family or community?"
- ▶ "Have there been times when others relied on you?"



Your client's resilience:

- ▶ "Can you think of a time when you got through something very difficult?"
- ▶ "Were there times you kept going with school, work, or family responsibilities despite challenges like homelessness, violence, or loss?"
- ▶ "What helped you survive or keep going during that time?"

Personal strengths and resilience help present a full picture of your client – what they have endured and how they have survived. When you highlight your client’s strengths and resiliency, you help decision-makers understand what your client has overcome, the effort they have put in to reach their goals, and their potential to meet the challenge they’re currently facing.

You do not need to cover every category in a single meeting. Let your client set the pace. Some areas may overlap.

Below are some impact areas and examples of questions you could ask about them.



Abuse: Emotional, physical, sexual, spiritual, verbal, or neglect

- ▶ “Did you ever feel unsafe at home or in relationships?”
- ▶ “Did you ever feel that your needs weren’t met when you were a child?”



Addiction/substance use: Personal use or exposure in the family

- ▶ “Have you or your family been affected by alcohol or drug use?”



Loss of connection to community: Loss of culture, identity, traditions, and language

- ▶ “Did you feel disconnected from your community or culture in any way?”



Involvement in criminal activity: Prior criminal history or being affected as a witness or victim*

- ▶ “Have you been affected by or involved in crime, either directly or indirectly?”

* Please take care not to expose your client to any other potential criminal charges or retaliation from others when you discuss this area of their life.



Mental and physical health: Depression, trauma, suicidal thoughts or attempts, diagnosed or suspected conditions (including FASD)

- ▶ "Have you had any mental or physical health issues?"



Community breakdown or disruption: Discrimination, neglect, violence, and missing persons

- ▶ "Did things happen in your community that made life feel unstable or unsafe?"



Early death of family or friends: Due to substance use, violence, or suicide

- ▶ "Did you lose people close to you when you were young?"



Employment and income: Lack of opportunity, unstable work, and low income

- ▶ "What has work or finding work been like for you?"



Family breakdown: Divorce, family violence, abandonment, and substance use

- ▶ "How would you describe your family life when you were growing up?"



Education: Lack of access, interruptions, and learning challenges

- ▶ "Were you ever unable to go to school even though you weren't ill?"



Foster care or adoption: Experiences in care or placement changes

- “Were you ever in foster care or adopted?”



Interventions and supports: Counselling, treatment, and cultural or healing supports

- “Have you ever received help or support for trauma, grief, mental health issues, or addiction?”



Loss or denial of rights: Racism and discrimination (personal or historical)

- “Have you experienced racism or unfair treatment by authorities, systems, or institutions?”



Living situation: Past and present housing instability or poor housing

- “What has housing been like for you over your life?”



Poverty: Childhood and adult experiences

- “Did financial hardship affect you or your family when you were growing up?”



Relationships: Positive and negative relationships; exposure to mental illness or addiction in caregivers

- “Who were the important people in your life, and how did those relationships affect you?”



Racism: Direct or indirect experiences in school, work, community, jail, or foster care

- ▶ “Have experiences of racism and/or stereotyping affected your opportunities or sense of safety?”



Violence: Family or community violence witnessed or experienced

- ▶ “Were there experiences of violence that stayed with you?”

The client’s support systems

Your client may find it helpful to continue working with established supports. The judge or parole board may take this information into account when they’re making their decision about sentencing or parole.

You could ask your client, “Do you have supports in place that you would like to continue using? For example, if you’re working with a mentor or counsellor or attending group therapy, would you like to continue doing so?”

Ending the conversation

At the end of your meeting:

- ▶ Check in with your client to ask how they are feeling. For example:
 - “How are you feeling right now?”
 - “Do you have support after you leave here?”
- ▶ Reinforce that they did not do anything wrong by sharing or withholding information.
- ▶ Explain the next steps clearly and calmly.

Where appropriate, encourage them to follow up with personal supports such as counselling, cultural support, or community resources.

When and How to Use IRCAs and IRCA Principles

IRCA principles obtained from a full IRCA, from an IRCA letter, or by counsel can be applied in a range of representation situations, including negotiations, bail, sentencing, and parole hearings.

IRCAs contain a wealth of information and tend to be quite lengthy – the average IRCA is 45 pages long. As was already noted, you'll need time to digest the IRCA principles in an IRCA or IRCA letter, or from conversations with the client. The judge and Crown counsel will also need time to review IRCA principles submitted to the Court in the form of an IRCA or IRCA letter.

Generally, IRCAs and IRCA letters contain a summary and recommendations. These provide a good snapshot of your client's personal life experiences, strengths, and challenges and the supports they need. It may be helpful for you to focus on these two sections when you're providing your submissions. Focus on any connections between the offence and your client's life experiences to highlight any links between them.

If you do not have an IRCA or IRCA letter, you could organize the information you collected through your conversations with your client and their collaterals by areas of impact and support and present them in point form for the Court. Best practice is to confirm with the client which details you'll share with the Court before you actually share them. It will generally be impractical to refer to significant portions of the IRCA in your submissions to the Court, so point the Court to the most relevant sections. If your client does not want details shared verbally in Court or does not want to hear them read aloud, you can give the judge page references instead. If you do not have an IRCA, you could hand up a written summary to the Court that you can refer to without mentioning the more private details.

Negotiations

You may be able to draw on IRCA principles when you're negotiating with Crown counsel at the pre-charge stage or pre-plea stages in a file. A deep understanding of your client's background and social context will help you in negotiating a non-charge, a stay of proceedings, a change to the charges, or other favourable resolution from Crown counsel. While formal IRCAs are

used mostly at the sentencing stage, their underlying principles are not stage-specific. Crown counsel is obligated to consider systemic factors when exercising their discretion throughout the life of the file. This means you should use IRCA principles at all stages of advocacy in your interactions with the Crown, from pre-charge discussions through plea and sentencing.

The Provincial and Federal Crowns are required by policy to consider the public interest when exercising their discretion in deciding whether to lay or proceed with charges. An accused's experiences of systemic racism, socioeconomic marginalization, and systemic disadvantage are directly relevant to whether prosecution serves the public interest. You can provide the Crown with details of the accused's background, framed by IRCA principles, clearly articulating how systemic disadvantage contributed to the circumstances giving rise to the alleged offence. You can also point to the specific collateral consequences of prosecution for a racialized accused individual, as well as the availability of community-based alternatives to prosecution, including culturally appropriate support. Public interest considerations framed by IRCA principles may lead the Crown to avoid or stay a prosecution if you can show them that the system has already overresponded to the client, based on their life experiences. Additionally, Crown counsel may stay charges if you can demonstrate that continuing might undermine confidence in the justice system among racialized communities.

Crown counsel has a quasi-judicial role, and their decisions at all stages must be informed by broader concerns about the overincarceration of racialized individuals. In articulating the particular systemic factors present in your client's background and advocating for a positive outcome, it may help to remind Crown of their obligations to exercise restraint and incorporate these factors into their decision-making.

Be cautious when you're sharing detailed social history information with the Crown before charges are resolved, particularly if the information could be used against your client (e.g., in assessing dangerousness or risk).

Bail hearings

It may be impractical to obtain an IRCA for your client's bail hearing, except in very serious matters, but IRCA principles may be integral to effectively advancing your client's case for release.

IRCA principles provide social context evidence that more accurately explains how race and ethnicity played a role in your client's being in court and how those factors may unfairly impact

their release. Pursuant to s. 493.2(b), a judge, justice, or peace officer must give particular attention to the circumstances of an accused person who belongs to a vulnerable population that is overrepresented in the criminal justice system and is disadvantaged in obtaining release. IRCA principles are clearly relevant to this assessment.

The principles may be used at the bail stage to challenge overreliance on past criminality by explaining how systemic biases, stereotypes, and assumptions impacted the accused's accumulation of prior criminal convictions. For example, in *R. v. E.B.*, 2020 ONSC 4383, Justice Schreck undertook a contextual assessment informed by s. 493.2(a) and (b), stressing the need to exercise significant caution before relying on numerous breach convictions to deny bail for accused persons from vulnerable and overrepresented populations (at paras. 45–50).

IRCA principles may also be used to help the Court look beyond surface level indicators and to explain risk in context by reframing what might otherwise be viewed as a risk factor. For example, they may show how past breaches were linked to profiling or over-policing or how systemic issues, such as lack of housing, contributed to the accused person's offending.

Additionally, IRCA principles can be used when the Court is assessing the viability of the accused person's release plan. For example, in *R. v. A.A.*, 2022 ONSC 4310, Justice Harris considered IRCA principles when assessing the secondary grounds and found that the inherent reduction of moral blameworthiness led to the possible conclusion that the accused was not as entrenched as the Crown suggested and that the particular release plan was sufficient (at paras. 74–83).

Finally, identifying helpful community support that aligns with the accused person's cultural values and suggesting culturally appropriate conditions can help secure the client's release while also promoting compliance with Court-imposed conditions.

Broadly speaking, you can use IRCA principles to urge the judge to, in the words of Justice Marchand in the context of considering *Gladue* factors at bail, “dig a little deeper” in their consideration of whether the accused person can be released and on what terms (*R. v. Townsend*, 2020 BCSC 63 at para. 100). Bail is the initial stage of the proceeding, and an accused person who is denied bail is at a significant disadvantage when it comes to trial preparation. Bail judges must recognize that overincarceration of Black and other racialized individuals may be unfairly perpetuated by failing to take a contextual approach at the bail stage.

Sentencing hearings

Sentencing hearings are the most frequent forum for IRCAs, and IRCAs can have a substantial impact on a sentence by providing a judge with a much more “accurate picture of the offender as a person and a part of society” (*Morris*, 2021 ONCA 680 at para. 91).

There are a few important factors to consider if you’re planning to use an IRCA for sentencing. First and foremost, you should be aware of the time it takes to prepare an IRCA. Ask for an IRCA as soon as possible so that you do not delay sentencing because you’re waiting for it. If possible and appropriate, consider seeking authorization from LABC before scheduling the sentencing.

As a defence lawyer, you’re trained to obtain as much background information about your clients as possible. However, you’ll almost certainly learn a great deal of new information about your client through an IRCA or your IRCA conversations with them. You must ensure you have time to digest the new information and subsequently prepare your submissions on sentencing.

Be aware that many Black offenders, particularly in BC, have never interacted with another Black person in a courtroom. This may not apply to other racialized individuals in BC. Also, keep in mind that most Crown and judges in BC have never read an IRCA. Despite everyone’s best efforts at cultural competency, the use of IRCAs at sentencing will likely be a learning opportunity for everyone in the justice system.

IRCAs are admissible and particularly relevant to the restraint principle in section 718.2(e) of the *Criminal Code*. Although Parliament has directed sentencing judges to give “particular attention to the circumstances of Aboriginal offenders,” courts have held that *Gladue/Ipeelee* jurisprudence can still inform the sentencing of Black offenders in several respects (*Morris*, *supra* at para. 123). The Ontario courts take judicial notice of the existence of anti-Black racism in Canada, but IRCAs and IRCA principles will explain what that actually means and how it has affected your client. This information will be invaluable in providing the sentencing judge with a clear picture of your client so they may properly assess their moral blameworthiness.

Parole board hearings

Discrimination does not end with the overrepresentation of Black and other racialized offenders in Canada's prison population. Black offenders and other people of colour are more likely to be given a security threat group, "STG," or gang affiliation label, charged for breaking the prison rules, placed in segregation, involved in use of force incidents, and kept in a higher-security correctional facility for longer.² This often results in the offender being considered at a higher risk to reoffend, making it less likely they'll be granted parole.

When you include IRCA principles, support recommendations, and training your client has completed in jail in your submissions to the parole board and highlight the inequalities racialized offenders face within the correctional system, you're providing a new perspective on your client's time in custody that could contribute to their release and access to individualized support. This information could also help contextualize the interactions the offender has had with staff in the prison and mitigate certain behaviours the parole board might otherwise count in their assessment of risk level because they are not viewing them through a culturally appropriate lens. Displaying your client's reduced moral blameworthiness at the time of the offence and during their stay in the correctional system could affect the risk level the parole board assigns to them and whether your client is believed to present an "undue risk to society" if released on parole. You could also consider whether there is a basis to apply to remove an STG affiliation or to request a "file correction" for some of your client's file information in advance of a parole hearing.

Consider the value of IRCA principles in the case of Renford Farrier. He finally received parole after more than 30 years of incarceration, and repeated denials of parole, when his advocate put IRCA factors before the parole board.

See also *R. v. Jackson*, 2018 ONSC 2527. It details the impact of systemic discrimination in Federal custody (paras 49–54).

2 See Update on the Experiences of Black Persons in Canadian Federal Penitentiaries at <https://oci-bec.gc.ca/en/content/office-correctional-investigator-annual-report-2021-2022#s11> (Office of the Correctional Investigator, 2021-2022 Annual Report).

How Does Counsel Obtain an IRCA?

In BC, the Department of Justice funds IRCAs for legal aid clients through LABC. Use the information in this guide to explain to your client what they should expect from the IRCA process.

You can request an IRCA through LABC's Lawyer Portal as a disbursement authorization. If the case qualifies, after the necessary information is provided, LABC will find an assessor and connect them with you.

If the Court orders an IRCA, LABC will work with defence and Crown counsel in a similar manner through these steps. Note that defence or Crown counsel must contact LABC to submit the request. There is no other mechanism for a court order to be communicated to LABC. In addition, if the Court orders an IRCA for an offender who does not qualify for legal aid, the IRCA will not be produced under the LABC program.

If your client does not qualify for legal aid, LABC can provide you with a list of assessors you can contact to obtain a private IRCA.

You'll need to tell your client to expect a phone call from an assessor who will prepare an IRCA for them, and the type of information the assessor will be looking for. In addition, you'll get a list of the information and documentation the assessor will need before they can start work on the IRCA.

The final IRCA is reviewed by an independent lawyer, arranged by LABC, before it's sent to you. You'll get your copy approximately one week before the court date.

At the time of publication, it takes three months to complete an IRCA from the time you provide the disclosure material to the assessor. If you cannot wait for a full IRCA, you may consider an IRCA letter, which can be completed in two months from the time you provide the disclosure material to the assessor.

For questions about IRCAs, contact LABC at irca@legalaid.bc.ca



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