



# Human Rights in Action

Handbook for Provincially  
Sentenced Prisoners in  
Saskatchewan

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# **Human Rights in Action: Handbook for Provincially Sentenced Prisoners in Saskatchewan**

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Elizabeth Fry Societies (CAEFS)

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# Preface

The manual you now have in your hands was produced with, by, and for women and men in provincial jails in Saskatchewan, students in the University of Saskatchewan College of Law 2015 Prison Law and Human Rights course, and Regional Advocates with the Canadian Association of Elizabeth Fry Societies. Thanks to the resources provided by the 2014-2015 Ariel F. Sallows Chair in Human Rights at the University of Saskatchewan College of Law, Kim Pate shepherded the development and production of this manual.

The HRIA project is dedicated to ensuring that the human rights of all prisoners are protected, especially those who are racialized and those with disabling mental health issues. The HRIA project vision is to increase our success in keeping people out of prison and returning them to the community. We are also committed to working to decrease the use of prison and to developing release strategies for those who are currently incarcerated.

All of the project's work is aimed at achieving substantive equality of and for those who are criminalized and imprisoned. The *Human Rights Training Manual* is meant to assist those in prison to advocate for themselves and their peers. It aims to provide information to prisoner advocates, to ensure that those whose rights are interfered with have support to address the discriminatory treatment, in addition to identifying and addressing areas that require systemic advocacy. The human rights advocacy training includes very explicit and practical information on how to work toward and prepare for early release and parole.

## A Brief History of the Human Rights in Action Project

On March 8, 2001, the Canadian Association of Elizabeth Fry Societies (CAEFS), the Native Women's Association of Canada (NWAC), Strength in Sisterhood (SIS) and 24 other national and international women's, Aboriginal and justice groups, urged the Canadian Human Rights Commission (CHRC) to conduct a broad-based systemic review of the federal government's discriminatory treatment of women prisoners.

Nearly three years later, the Commission issued a special report entitled, *Protecting Their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women*. The CHRC Report made nineteen recommendations calling for far-reaching changes with respect to the manner in which the Correctional Service of Canada (CSC) might work to alleviate the systemic discrimination experienced by women serving sentences of two years or more.

CAEFS and other coalition partners continued to collaborate on efforts to ensure the implementation of the CHRC recommendations and on longer term commitments to social justice, decarceration, and deinstitutionalization. CAEFS also sought and obtained resources that enabled it to work collaboratively with the Native Women's Association of Canada (NWAC) and Strength in Sisterhood (SIS) to further the human rights of women prisoners. The Human Rights in Action Project was developed to provide practical tools and training for women inside to work with the support of allies on the outside to address advocacy issues in the prisons for women, as well as the urgent need to develop community release options for all women, especially Aboriginal women exiting federal prisons.

## **The Authors**

This manual is a “work in progress.” The first draft was prepared by a group of law students from the Community Legal Assistance Services for Saskatoon Inner City (CLASSIC), working with the Elizabeth Fry Society of Saskatchewan.

This version was prepared by law students at the University of Saskatchewan, under the supervision and guidance of Kim Pate, 2014-2015 Ariel F. Sallows Chair in Human Rights at the University of Saskatchewan College of Law and Executive Director of the Canadian Association of Elizabeth Fry Societies (CAEFS). The final version was also reviewed by a group of former prisoners who are part of the Human Rights in Action initiative, as well as staff of the Legislation, Policy and Planning, Custody, Supervision and Rehabilitation Services of the Corrections and Policing branch of the Ministry of Justice for Saskatchewan.

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## Part I: Introduction

### The Law in Saskatchewan

#### What is the rule of law?

The rule of law is an underlying principle in our society and guaranteed in the Canadian Constitution (the *Constitution Act, 1867*<sup>1</sup>). The rule of law means that every person in Canada must not break the law and that everyone is equal before the law.

The Constitution has many functions in our society. One important function is to dictate what kind of laws can be legally made in Canada. The *Charter of Rights and Freedoms*<sup>2</sup> is part of the Canadian Constitution, and is supposed to guarantee that our laws protect the values and freedoms of our society. The freedoms and values the *Charter of Rights and Freedoms* protects are our right to be treated equally regardless of our sex, race, religion, age mental or physical abilities, and sexual orientation.<sup>3</sup>

#### Who makes the laws?

There are two types of ways that laws are created in Canada: (1) by governments (federal, provincial, and municipal) and (2) by Courts. (For more on the kind of law the Courts make, see the section on “case law” later in this chapter). Federal laws are those passed by Parliament and apply to all of Canada. Provincial laws are those that are passed by a provincial legislature and only apply to that province. So, while federal laws such as the *Charter of Rights and Freedoms* and the *Criminal Code*<sup>4</sup> apply to all Canadians, the laws of a province will also apply for various matters. Examples of Saskatchewan provincial laws include laws about prisons, human rights and family law matters. Many of which will affect you.

In both federal and provincial government, citizens elect representatives who make the law. However, in the courts it is judges who make the laws. Judges are appointed by either the federal or provincial government, depending on the court. The federal government appoints judges of higher courts: Court of Queen’s Bench, Court of Appeal, and the Supreme Court of Canada. The provincial government appoints

<sup>1</sup> *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5.

<sup>2</sup> *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

<sup>3</sup> *Reference re: Secession of Quebec* [1998] 2 SCR 217 at 32.

<sup>4</sup> *Criminal Code*, RS C 1985, c C-46.



judges of the Provincial Court. Every citizen should have his or her say in shaping the law in Saskatchewan and Canada. Therefore, it is important that all citizens exercise their right to vote – especially prisoners.

The fact that different laws apply federally and provincially can be confusing. The federal and provincial governments have split up the different legal areas in which they have control or ‘jurisdiction’. The Constitution (section 91 and 92<sup>5</sup>) lists which level of government has control over the different legal areas. For example, things like health care, education and municipal matters are the responsibility of the provincial government.<sup>6</sup> Things like First Nations or Metis issues, divorce and criminal law are the responsibility of the federal government.<sup>7</sup>

Prisons are split up between the federal and provincial governments, depending on the length of the sentence. The federal government controls prisoners with sentences of over two years. The provincial government controls prisoners with sentences of less than two years. So, if your sentence is exactly two years or over, then you will be in a federal prison, which follows federal laws, and if your sentence is under two years, you will be in a provincial prison.

It is important to know that if you are in provincial prison on a federal sentence (for example, before you are transferred to a federal prison), then the provincial laws of Saskatchewan will apply to you for that time. It is only when you are transferred to a federal prison, run by the Correctional Service Canada (CSC), that federal laws begin to apply.

Since this manual applies to provincial prisons, a lot of laws discussed will be laws of Saskatchewan. However, there are some federal laws, such as the *Criminal Code* and the *Charter of Rights and Freedoms* that apply to everyone. These federal laws apply regardless of whether you are in a provincial or federal prison. Therefore, it is very important that you are familiar with the laws that apply to your situation.

## **How does the law work?**

It is important to know that there is a chain of command to the law. Everyone, including governments and the Courts shown on the chart below, are supposed to follow the chain. The chain of command requires that every law made, by every law-making entity shown on the chart, have to be consistent with the laws that are made by the court or group above it.

In the Court system, a judge’s decision on a new type of case sets a new standard. This new decision is called a precedent. When a precedent is set, all the Courts below the Court in which the precedent is set are supposed to make the same decision in similar cases. For example, if the Court of Appeal of Saskatchewan makes a decision, all of the other Courts in Saskatchewan have to follow that decision. More importantly,

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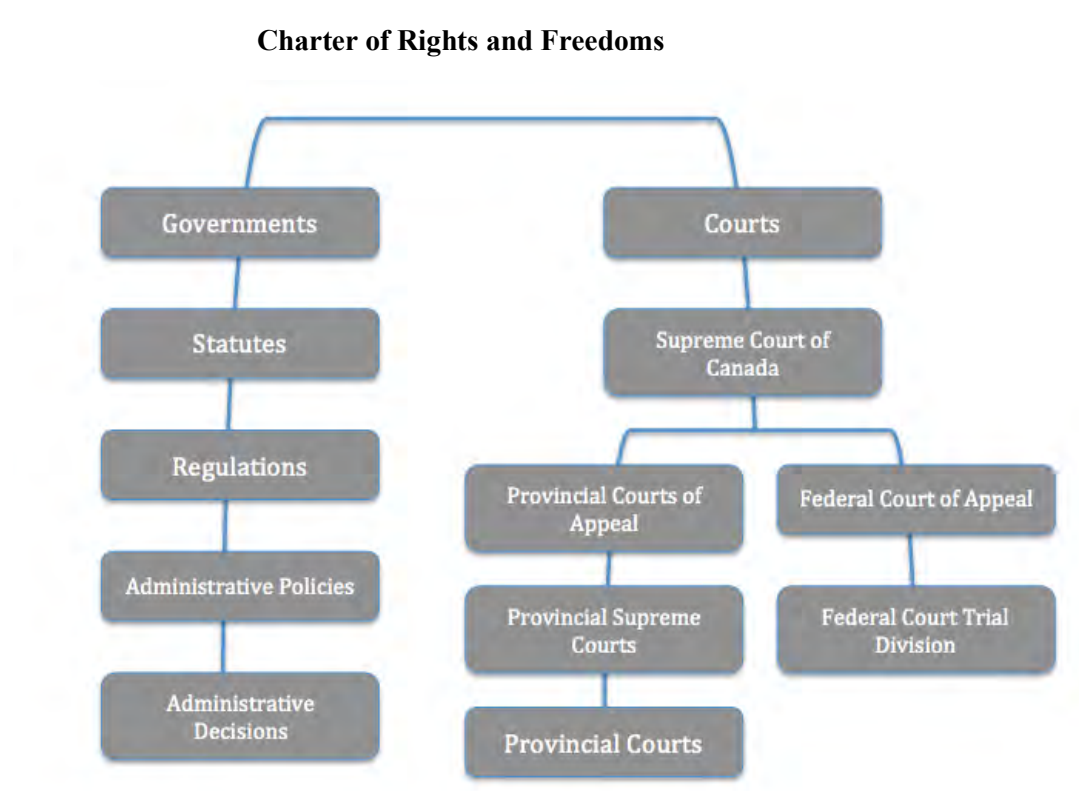
<sup>5</sup> *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5 s 91 & 92.

<sup>6</sup> *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5 s 92.

<sup>7</sup> *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5 s 91.

the Supreme Court of Canada decisions apply to all of Canadian Courts. For example, if the Supreme Court of Canada makes a decision, all of the Saskatchewan courts have to follow that decision.

The Following chart illustrates the order in the rule of law hierarchy:



**Which laws affect individuals in prison and where do they come from?**

### Laws from government

As stated earlier, The *Charter of Rights and Freedoms*<sup>8</sup> forms the first part of the *Constitution Act, 1982*<sup>9</sup>. The goal of the *Charter* is to protect the political and civil rights of Canadians. As you can see from the above chart, the *Charter* is at the very top of the hierarchy. This means that every law in Canada, including federal, provincial, and municipal laws, must follow its principles. More specifically, no government legislated law, regulation, policy, or administrative decision, nor any court decision, can contradict the rights provided to you by the *Charter*.

Some sections of the *Charter of Rights and Freedoms* that are particularly relevant to you as a prisoner are:

- **Section 2:** Everyone has the following fundamental freedoms:
  - freedom of conscience and religion;

<sup>8</sup> *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

<sup>9</sup> *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5.

- freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- freedom of peaceful assembly; and,
- freedom of association.
- **Section 7:** Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.
- **Section 8:** Everyone has the right to be secure against unreasonable search or seizure.
- **Section 9:** Everyone has the right not to be arbitrarily detained or imprisoned.
- **Section 10:** Everyone has the right on arrest or detention
  - to be informed promptly of the reasons thereof;
  - to retain and instruct counsel without delay and to be informed of that right; and,
  - to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.
- **Section 12:** Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.
- **Section 15:** (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Individuals can challenge a policy or law using the *Charter* if their rights are being breached. This process is called a *Charter* challenge. *Charter* challenges have been undertaken by prisoners using section 7. There may also be more room for challenges using other sections of the *Charter* – specifically sections 12 and 15.

## Statutes

A formal written law passed by Parliament, a provincial legislature, or a territorial legislature (laws may also be passed by municipal councils or Aboriginal governments) is called a statute. Statutes may also be called “laws” or “legislation” and some are called “codes”. Usually statutes tell us what we legally can and cannot do, as well as what rights we have. Statutes are organized by topic, in Canada. One of the most well known examples is the *Criminal Code*<sup>10</sup>: a statute passed by our federal Parliament.

Next to the *Charter*, *The Correctional Services Act, 2012*<sup>11</sup> is probably the most important statute for you to know about. *The Correctional Services Act, 2012* was made by the Government of Saskatchewan and is designed specifically for the operation of prisons in Saskatchewan. It specifies that you have certain rights, but also permits certain restrictions being placed on prisoners. Understanding *The Correctional Services Act, 2012* in these areas can help ensure that your rights are not being breached.

Other statutes that may affect you are *The Child and Family Services Act*<sup>12</sup> and *The Saskatchewan Human Rights Code*<sup>13</sup>. *The Saskatchewan Human Rights Code* states that it is against the law to discriminate against anyone based on the following grounds: disability, age (18 or more), religion or religious creed, family

<sup>10</sup> *Criminal Code*, RS C 1985, c C-46.

<sup>11</sup> *The Correctional Services Act, 2012*, SS 2012, c. C-39.2.

<sup>12</sup> *The Child and Family Services Act*, SS 2006, C 7.2.

<sup>13</sup> *The Saskatchewan Human Rights Code*, c S-24.1.

status, marital status, sex, sexual orientation, race or perceived race, nationality, place of origin, ancestry, colour, or receipt of public assistance. If you feel any of these rights are being infringed upon, you can file a complaint with the Saskatchewan Human Rights Commission. The Saskatchewan Human Rights Commission is a body set-up to investigate complaints and promote equality. Information on how to file a complaint can be found in the “Remedies” section of this manual (Part VI).

## **Regulations**

Regulations are specific rules. Regulations are created when administrative agencies interpret the statutes, set out its purpose and powers, and write up concrete rules concerning how these apply in reality. Regulations can only be made if a statute allows the government to enact them. Also, they cannot be inconsistent with the statute under which they are passed. The most important regulation for you is *The Correctional Services Regulations, 2013*<sup>14</sup>. These regulations set out important guidelines on things like searches, segregation and parole. The regulations also contain both provisions that protect your rights (i.e. complaints and appeals) and rules about how corrections can restrict your liberty (e.g., transfers, disciplinary processes, and sanctions), similar to *The Correctional Services Act, 2012*.

## **Policy**

A policy is a plan of action (more rules and procedures) established by government to achieve a specific goal. Government policy is transformed into law through statutes and regulations. A policy must therefore be consistent with any statutes or regulations that are applicable.

## **Administrative Policies and Decisions**

Some power to make decisions is designated to individuals at the administrative level. In terms of decisions made concerning some prison-related matters, the authorized decision-maker is local (the Director of the institution or her/his designate), regional (the Executive Director of Custody Services), or provincial (the Minister of Corrections and Policing). Policies which directly affect you involve the *Custody, Supervision, and Rehabilitation Services Division* (CSRS), which regulates all provincial correctional facilities in Saskatchewan. You have a right to have access to any of these policies, at your request.<sup>15</sup> More specifically, you will have reasonable access to *The Correctional Services Act, 2012*, and *The Correctional Services Regulations, 2013*. As with other parts of the law, administrative policies and decisions must be in accordance with the law set out in statutes and regulations.

Boards and Tribunals are administrative bodies that should be independent of the prison administration. Parole hearings are examples of tribunals.

## **Law from Courts**

### ***Case Law***

The law we have discussed so far is known as “Statutory Law”. “Case law” is another kind of law. Case law comes from judges' decisions or judgments. As previously discussed, when a judge makes a decision in a case - particularly on some issue that hasn't been decided before - the decision is called a precedent. This

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<sup>14</sup> *The Correctional Services Regulations, 2013*, c C-39.2.

<sup>15</sup> *CSA Regs, 2003*, R.R.S. c. C-39.1, s. 7

means that when the same issue is involved in cases that come later, the judge is supposed to rule in the same way the earlier judge did. The higher the court, the more likely it is that other courts will follow the precedent, as there is a hierarchy of courts in Canada. This means that if the Supreme Court of Canada makes a decision, all the provincial courts in Canada are supposed to follow it. The court hierarchy is shown in the chart above under the "How does the law work?" heading. Judge-made law can take the form of interpreting what a statute or regulations means, or what the Constitution requires. In some cases, where there is no applicable statute or regulation, judges will create law to fill these gaps in the law. This is called the "common law." At one time, much of our law was common law, but it is now a combination with statutes or regulations.

### ***International Treaties***

Treaties are international agreements that are signed onto by various countries. Countries that sign them are then supposed to implement what they have agreed to. The Courts do not have to follow treaties unless they have been implemented and made a part of Canadian law, but when Canada signs and ratifies a treaty, it can be used to show the rest of the world what laws and rights Canada supports. For example, the fact that Canada is a signatory to the *UN Standard Minimum Rules for the Treatment of Prisoners* should mean that Canadian prisoners are treated in accordance with standards set out in this treaty.

Other examples of treaties that Canada has signed are the *Universal Declaration of Human Rights*,<sup>16</sup> *United Nations Convention Against Torture*,<sup>17</sup> *United Nations International Covenant on Civil and Political Rights*,<sup>18</sup> and the *United Nations Convention on the Elimination of All Forms of Discrimination Against Women*.<sup>19</sup>

### ***Reports/Commissions***

In addition to the various legal documents related to the rights of prisoners, there have been a number of reports and inquiries in Canada related specifically to the treatment of prisoners. An example of this is the *Locked Out - Ombudsman Report, 2002*,<sup>20</sup> published by the Saskatchewan Ombudsman's Office. This office, which is separate from the government, conducts independent investigations of complaints. If you have a complaint about Corrections, contact them first. However, if you believe Correction's response to your complaint is unfair, you may contact the Ombudsman office.

### ***Can I Challenge an Unfair Law, Policy, or Decision?***

As noted above in the discussion of the *Charter of Rights and Freedoms*, you can challenge an unfair law or policy through a *Charter* challenge, and the Supreme Court of Canada may ultimately decide the case. However, there are other ways - at lower levels - that you can challenge unfair laws, regulations, policies, and decisions that affect you. These are outlined at the end of this booklet in the section on "Remedies" (see Part VI).

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<sup>16</sup> *Universal Declaration of Human Rights*, 10 December 1948, Res. 217 A (III).

<sup>17</sup> *United Nations Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment* 1465 U.N.T.S. 85; 8 C.F.R. s. 208.18.

<sup>18</sup> *International Covenant on Civil and Political Rights* 19 December 1966, 999 U.N.T.S. 171, Can. T.S. 1976 No. 47, 6 I.L.M. 386 (entered into force 23 Marh 1976, accession by Canada 19 May 1976).

<sup>19</sup> *United Nations Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, entry into force 3 September 1981 in accordance with article 27(1), Res. 34/180.

<sup>20</sup> *Provincial Ombudsman Special Report, Inmate Services and Conditions of Custody in Saskatchewan Correctional Centres*, 2002.



## Part II: Arriving at Prison

### The Intake Process

What information will I be asked to provide?

Upon arrival, you will be asked to provide some personal information.<sup>21</sup> This will likely include:

- Date of birth, full name, address, next of kin, where you were born, ethnicity, the number of children you are the guardian of, and your education level;
- If you identify as a First Nations or Metis person, you will be asked whether you have lived on a First Nations reserve. If so, you will be required to provide the name of the reserve;
- Physical description:
  - Weight, height, tattoos, and any identifying birth marks;
- Gang involvement/affiliation;
- Known incompatibles; and
- Medical information - this information will be obtained by the nursing staff
  - Health issues
  - Medications

### What is Integrated Case Management?

Integrated Case Management (ICM) is part of the Ministry of Corrections and Policing case management plan. According to the Ministry, ICM is a process that provides for a collaborative and coordinated team approach to managing a prisoner's case plan.<sup>22</sup> The objective is to successfully reintegrate the prisoner into the community. It focuses on involving you in the process, which generally includes:

- Gathering information;
- Assessing your needs and risks;
- Planning to address 'criminogenic needs'; and
- Reviewing plan progress at regular intervals.

According to the Ministry of Corrections and Policing, the ICM is "a comprehensive and integrated assessment process that identifies prisoner risk and needs early into an prisoner's sentence provides a sound

<sup>21</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Integrated Case Management*, 2005, s. Program (0043).

<sup>22</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Integrated Case Management*, 2005, s. Program (0043).

foundation for correctional case planning and intervention.”<sup>23</sup>

You should be involved in creating a plan that sets out what areas you want to work on and what programs and actions you are willing to take.

### **When do I meet my Case Manager?**

A case manager is assigned within three days of unit placement.<sup>24</sup> However, you may not meet your case manager until later.

### **What happens after I am sentenced?**

Saskatchewan uses “validated risk assessment” tools to develop case plans based on your identified risks. “Validated” means that they have been proven to be useful in determining what programs will assist you in reducing your risk and then your supervision needs on release.

A case management plan will be developed that focuses on addressing the needs that contributed to your coming into conflict with the law. This assessment is different from your “security assessment” rating. According to CPSP, this risk assessment is used as part of the Integrated Case Management (ICM), programming decisions, and helps develop a release plan.

In addition, ICM will decide whether Corrections believes you are eligible for community work placement, temporary absences, and early release.

### **Is the process the same for First nations and Metis peoples?**

Yes, the aforementioned policies on case management apply to all First Nations or Metis persons.

### **Does Corrections have to provide me with any information during the initial intake process?**

During your unit orientation, corrections workers will describe the unit procedures and advise you of the facility expectations. You will also be told where you can access the prisoner handbook. Every unit or dorm is set up differently; staff will explain where everything in the area is.

### **Is there other information I should receive automatically?**

As soon as an individual is confined to a prison, *The Correctional Services Regulations, 2013*<sup>25</sup> require the director to provide in writing the rules and the disciplinary procedures of the prison.<sup>26</sup> The director is also required to provide you with reasonable access to the following: (a) *The Correctional Services Act*, (b) *The Correctional Services Regulations*, (c) information about how to file a complaint with the director, (d) information about how to appeal a disciplinary hearing decision, temporary absence decision or segregation decision, and (d) information about how to apply for a program offered at a correctional facility or for parole.

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<sup>23</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Integrated Case Management*, 2005, s. Program (0043).

<sup>24</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Integrated Case Management*, 2005, s. Program (0043).

<sup>25</sup> *The Correctional Services Regulations*, 2013, c. C-39.2.

<sup>26</sup> *The Correctional Services Regulations*, 2013, c. C-39.2, s.6

## **How is a prison placement decision made?**

For provincially sentenced or remanded individuals in Saskatchewan, placement in a provincial correctional Centre in Saskatoon, Prince Albert or Regina is based on the location of the court where your case was heard. In some situations your sentence length and type of charge may allow direct admission to a lower security facility.

## **Who decides which unit I will be placed in?**

The decision for placement will be done by the Admitting staff, sometimes in consultation with the on shift Assistant Deputy Director of Operations or Assistant Deputy Director. However, if you are federally sentenced, you may be automatically placed in a high security area for an initial assessment period.

## **What kinds of programs are offered?**

Programming or intervention strategies offered in Saskatchewan have been developed to address risk areas identified by the risk assessment tool(s). Programs are delivered in structured groups and, or, one on one.

Structured group programs targeting identified risk factors include:

- Thinking for a Change
- Addictions programming
- Violence Prevention
- Employment essentials
- Classroom education

The *Courage to Change* program is facilitated by Corrections Workers in some Living Units. This program uses booklets targeting identified risk factors.

Other programming available includes parenting programs, cultural and chaplaincy programs.

These programs can be between 10 and 26 sessions, and may involve group participation. Some programs involve a pre-program interview to determine your suitability for the program, and then a post-program evaluation to identify progress. Ask your case manager for more information on programs available in your facility.

In addition to the programs offered in the facility, there are a number of community resources used by the Ministry of Corrections and Policy. These are often referred to by caseworkers in developing and managing case plans. The following is a list of some commonly used resources and agencies and depends on services available in the area where you will be released.

- Local Health District, Alcohol and Drug Service
- Local Health District Mental Health
- Native Alcohol and Drug Addictions Program (NADAP)
- Department of Community Resources - Family Services
- Alcoholics Anonymous/Narcotics Anonymous
- Gambling Anonymous
- Salvation Army
- Local Hospital Social Worker



- Indian Métis Friendship Centre
- Indian Métis Christian Fellowship
- Churches
- Elders

### **Are there programs for First Nations and Metis individuals?**

The cultural and spiritual needs of prisoners are tended to by a number of Cultural Advisors/Elders in all provincial facilities throughout the province. Prisoners have access to these services regardless of location or security status. Some of the services offered in facilities may include, but are not limited to: sweat lodge ceremonies, individual mentoring, smudging, sharing circles along with other traditional teaching. Cultural advisor/elders are contracted in the facilities to provide these services to the prisoners.

## **Security Classification**

### **What is Security classification?**

Classification is the security rating Corrections, Public Safety and Policing (CPSP) assigns to prisoners to distinguish them according to their needs and perceived risk to society. The head of corrections may establish a security assessment program for the purposes of determining the level of security required for a prisoner.<sup>27</sup>

A “Security Assessment” resulting in a security classification level is different from a “Risk Assessment”. Security classification is largely aimed at how likely it is that an Prisoner will attempt to escape or possibly harm other while in a correctional facility. A Risk Assessment is to determine the likelihood of re-offending when released.

### **Who decides what my security classification is?**

The director of a correctional facility may assign a prisoner to a specific level of security based on the results of the security assessments mentioned in this section.<sup>28</sup>

### **What information is used to determine classification?**

Personal information will be taken from your file to determine your classification, including:

- Current offence(s) and sentence(s);
- Previous offence(s) and sentence(s);
- Risk of escape and escape history;
- Outstanding criminal charges;
- Behavior on previous incarcerations;
- Incompatible relationships;
- Gang affiliation;
- Information provided by you, the police, courts, parole, etc.;
- Current medical, physical, emotional, or psychological state;
- Your safety; and
- Any other information deemed relevant

<sup>27</sup> *The Correctional Services Act*, S.S. 2012, c. C-39.2, s.26.

<sup>28</sup> *The Correctional Services Act*, S.S. 2012, c. C-39.2, s.26(4).

The director of a correctional facility may also require a prisoner to participate in:

- verbal and written security assessment procedures; and
- verbal interviews.

### **Problems around security classification**

There is concern in Canada and internationally about the over-incarceration and over-classification of First Nations and Metis people. The Canadian *Charter of Rights and Freedoms* prohibits discrimination against individuals based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability. If you believe any of these factors have increased your classification, you can argue that the classification procedure is discriminatory under section 15 of the Charter.<sup>29</sup>

### **How else does a more secure (higher) classification affect me?**

A higher classification will affect where in the correctional facility you are placed and in general means you will likely have fewer privileges than those classified as low security. If you are assessed as high security you will not be eligible for certain work placements or transfer to reduced custody facilities (for example a Community training Residence or a Correctional Camp.)

### **Can my classification be appealed or changed?**

If the director assigns a prisoner to a specific level of security based on the results of a security assessment the director shall give the prisoner written reasons for assigning a specific level of security, unless the prisoner is assigned the lowest level of security. If a prisoner is not assigned the lowest level of security, the director must give the prisoner an opportunity to make representations either in writing or by oral recording about why the assignment of that specific level of security should be changed.

## **Parenting in Prison**

### **Introduction**

Being separated from your children is difficult at any time. Being away from your children because you are in prison is especially difficult, due to the potential barriers to living with, visiting, and speaking with your children. Common difficulties involved in regaining custody of your children once you are released from prison can also cause great fear and anxiety.

This section reviews your rights as a parent in prison, as well the legal concepts involved in the law regarding the custody and care of children.

### **What is custody?**

Custody is more than determining which parent a child will live with because it involves the right to make important decisions about your child.

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<sup>29</sup> Canadian *Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982 (U.K.)*, 1982, c.11

According to *The Children's Law Act* of Saskatchewan, custody means the personal guardianship of a child and includes care, upbringing and any other incident of custody regarding the child's age and maturity.<sup>30</sup> This means that having custody of your child gives you the right to make important decisions about your child, including their physical care, control and upbringing.

### **What is access?**

Access is the right to visit or be visited by your child, and the right to be given important information about your child's health, education and welfare. Access is a right granted by the courts in child protection cases or during parental separation or divorce. Court orders often outline specific times when the parent with access can see the child. Sometimes the courts will order telephone access if it is too hard for a parent to see their child in person.

### **What is supervised access?**

Supervised access means that the parent who does not live with the child(ren) can only see them with another adult present. The access supervisor may be the child's other parent, a family member or friend, or professional, such as a social worker. Supervised access allows a child to continue to spend time with a parent when unsupervised contact has been found to present a risk to the child.

### **What is child protection?**

Child protection is when the government determines that they need to take over the care of a child because the court has decided that the child(ren) are at risk of abuse or neglect. Child protection law falls within provincial jurisdiction so it is the law of the province where the child is living that will apply. The laws in each province are similar with differences mainly in the area of procedures followed. Child protection proceedings are not criminal in nature, they are considered civil. This means that the standard of proof in child protection situations is on a balance of probabilities (which is a lower standard than the beyond a reasonable doubt requirement in a criminal law proceeding).

### **What are "the best interests of the child"?**

The "best interest of the child" (BIC) is the main test used by child protection authorities and the courts in any legal matter concerning children. This test can and has been used to override parents' *Charter* rights such as their right to freedom of expression and freedom of movement. This term has been not been specifically defined by the court, it has a very broad application and is decided on the facts of each individual case.

The BIC test is defined in Saskatchewan's *Child and Family Services Act*.<sup>31</sup> The factors that will be considered in determining the best interests of the child include:

- the quality of the relationships that the child has with any person who may have a close connection with the child;
- the child's physical, mental and emotional level of development;
- the child's emotional, cultural, physical, psychological and spiritual needs;
- the home environment proposed to be provided for the child;
- the plans for the care of the child of the person to who it is proposed that the custody of the child be entrusted;
- where practicable, the child's wishes, having regard to the age and level of the child's development;

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<sup>30</sup> *The Children's Law Act*, 1997, SS 1997, c C-8.2, s 3(1).

<sup>31</sup> *The Child and Family Services Act*, S.S. 1989-90, c.C-7.2,s.8.

- the importance of continuity in the child's care and the possible effect on the child of disruption of that continuity; and
- the effects on the child of a delay in making a decision<sup>32</sup>

### **Once I am in prison, do I still have rights to see my child?**

Courts can order that parents should have no access to their children. All decisions are made according to the judge's interpretation of the best interests of the child. The courts have developed a presumption of access in recent years. The current position is that it is usually in the best interest of the child to have some kind of access to both parents. This stance is reflected in current cases.

There are examples of prisoners maintaining access even under extreme conditions. In the case of a father wanting access to his children while incarcerated, the father was allowed telephone access with his children. Furthermore, the judge ruled that if some other type of access was available in the facility he was incarcerated in, that could also be an option.<sup>33</sup>

Although the courts usually decide access to children, the head of corrections may suspend all visiting privileges if he/she is of the opinion it is necessary for the following reasons:

1. Security of the Correctional Facility
2. Safety of the prisoners
3. Safety of the Staff members
4. Safety of the Public<sup>34</sup>

### **Do I still have the right to make important decisions about my child?**

The amount of decision-making power you have is directly related to the type of access you have with the child(ren). If you have no access, then you will likely have no ability to make important decisions. If you do have some access, then your ability to either make important decisions, or at least have a say in the decision making process, increases.

In joint custody situations, both parents have the right to make decisions about the child. Joint custody is when both parents share legal custody of the child(ren).

If you have custody of the child(ren) then you can make decisions about your child's health, education and well-being.

### **Does my child have rights?**

The *United Nations Convention on the Rights of the Child* in Article 9 says that a "child who is separated from one or both parents [can] maintain personal relations and direct contact with both parents on a regular basis except if it is contrary to the child's best interests". The Supreme Court of Canada has also determined that keeping a child away from his or her parents infringes the child's *Charter* rights. Specifically, the child's right to security of the person, under section 7 of the *Charter*.<sup>35</sup>

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<sup>32</sup> *The Child and Family Services Act*, S.S. 1989-90, c.C-7.2, s.4.

<sup>33</sup> *Klinger v Klinger*[2013]SKQB 59

<sup>34</sup> *The Correctional Services Act*, 2012, c 39.2, at s. 28(9).

This means that if you believe that your child is being kept from you because of an unfounded or unfair reason, you might be able to apply to have this decision reviewed. You would argue that your lack of access is a violation the child's section 7 *Charter* rights.

### **Who may apply for custody or access of a child?**

When looking into issues of custody or access, Saskatchewan courts look to people who are considered to have "sufficient interest" in the child's well-being. Person who are considered persons of "sufficient interest" are:

- a person, who in the opinion of the court, is a member of the child's extended family
- where the child is a status Indian:
  - whose name is included in a band list; or
  - who is entitled to have his or her name included in a Band list;
  - the chief of the band in question or the chief's designate; or
- any other person who is not a parent of the child but who, in the opinion of the court, has a close connection to the child.<sup>36</sup>

In Saskatchewan there is a presumption of law that parents, both biological and adoptive, are equally entitled to custody of a child.<sup>37</sup> A parent or a person who "stood in the place of a parent" is most likely to be granted custody or access.

### **What will the court consider when deciding if a proposed caregiver should be granted custody of my child?**

When deciding who should be granted custody of the child(ren), the courts consider the best interest of the child to be the most important consideration.

There are a number of factors that the courts consistently consider in deciding on who should get custody:

- the willingness of the person seeking custody to facilitate access with the non-custodial parent
- the quality of the relationship that the child has with the person who is seeking custody<sup>38</sup>
- their willingness to have the care and control of your child
- their ability to provide for your child, including their physical health
- the stability of the people and their environment
- if they have a spouse, how the spouse feel about brining the child into the home
- whether that person is already dealing with difficult issues that might interfere with their ability to care for your child<sup>39</sup>
- 

There are also things that the court is not supposed to consider when making this decision:

- the past conduct of any person unless the conduct is directly relevant to the ability of that person to act as a parent of the child;
- make no presumptions or draw no inference as between parents that one should be preferred over the other on the basis of the person's status as a father or mother.<sup>40</sup>

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<sup>36</sup> *The Child and Family Services Act*, S.S. 1989-90, c.C-7.2, s.23.

<sup>37</sup> *The Children's Law Act*, 1997, SS 1997, c C-8.2, s 3(1).

<sup>38</sup> *D.C.W.P v L.(s)* [ 2001] SKQB 261

<sup>39</sup> Newfoundland(Director of Child, Youth and Family Services, St. John Region) v N.B> [2001] N.J. No. 74

<sup>40</sup> *D.C.W.P v L.(s)* [ 2001] SKQB 261.

## **What role does a child protection agency play?**

These agencies are supposed to provide support for families and provide care for children when their parents are unable to. While incarcerated, if you don't have any family that is able to apply for custody of your child, a child protection agency (CPA) might apprehend your child. Children who are not placed with family members are placed in foster care. In Saskatchewan, the CPA will be either Social Services or First Nations Child and Family Services.

## **What if my child is First Nations or Metis?**

If your child is First Nations or Metis the Saskatchewan government can enter into an agreement with native bands or communities to help provide child and family services. If a CPA apprehends a First Nations or Metis child, they have to give the child's band or the agency providing family services 60 days notice of the application for the protection hearing.<sup>41</sup> The band or agency can then participate in the hearing to make recommendations with regard to the application.<sup>42</sup>

## **What rights do I have at a child protection hearing?**

Child protection hearings are held to decide if your child should be returned home with the parent(s) or if they need to be placed in the care of the state. When a hearing is scheduled you have to receive notice of the hearing within three clear days. The notice needs to be given to each parent. The notice must tell the parents the date, time, and place of the hearing and a summary of the reasons why the CPA believes the child is in need of protection.<sup>43</sup>

Parents under section 7 of the Canadian *Charter of Rights and Freedoms* are guaranteed a fair hearing when the state is seeking custody of their children. Whether you have a right to free legal assistance will depend on what province or territory you live in and the facts of your situation.<sup>44</sup> In Saskatchewan, Legal Aid assists with some family law matters, depending on the situation.

During a hearing, the court can subpoena a person to testify, and can consider any evidence of past conduct of a person who has access to the child. Past conduct evidence is only relevant if it pertains to the ability of that person to act as a parent to the child(ren).<sup>45</sup> The court is also allowed to review any other oral or written statements or reports.

## **What happens if my child is found to be “in need of care”?**

A child is “in need of care” when they are in need of protection and are no longer safe while in the care and control of their current guardian. If the court determines that the child is in fact in need of care, the court will order the child be taken from his or her current guardian place the child with another person the court sees fit to safely care for the child. The child may be placed with anyone including: the non-custodial

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<sup>41</sup> *The Child and Family Services Act*, S.S. 1989-90, c.C-7.2 s. 37(10).

<sup>42</sup> *The Child and Family Services Act*, S.S. 1989-90, c.C-7.2 s. 37(11).

<sup>43</sup> *The Child and Family Services Act*, S.S. 1989-90, c.C-7.2 s. 24(1).

<sup>44</sup> *The New Brunswick (Minister of Health and Community Services) v G.(J)[J.G.]*, [1999]S.C.J. No. 47.

<sup>45</sup> *Children's Law Act*, 1997, SS 1997, c C-8.2, s 8.

parent, family members, friends, or potentially with a foster family. The Court is tasked with the job of making the decision of whom the child will stay with based on the best interests of the child.<sup>46</sup>

### **What is a supervision order?**

In Saskatchewan, the Court may be inclined to order supervised access when there are concerns for the child's well-being if access is not supervised. This generally only occurs when the parent no longer has custody of the child. Often supervised Orders have several conditions attached to them, such as: the location of the visit, the length of the visit, and who will be present at the visit.<sup>47</sup> The court takes into account several factors when determining whether to make a supervision order, including, but not limited to:

- the child and parent have had no contact for a long time and may need help re-establishing their relationship;
- the parent seeking access has limited parenting skills;
- the parent has a history of abusing drugs or alcohol;
- the parent has a history of mentally, physically or sexually abusing the child; or
- there is a risk of the child being abducted by the parent.<sup>48</sup>

It should be noted that in Saskatchewan, this order cannot last for more than a year.

### **Are Child Protective Orders final?**

Child protective orders are rarely final because the intent of the court is to keep in mind the best interest of the children at all times.

### **What can I do to apply for access to my child?**

It is possible in some situations to still have access rights to your child even when that child is in protective care. This occurs when the Court determines that it would be in the best interest of the children. The amount of time a child spends with their parent is on a case-to-case basis as the court has the task to balance how much access time is in the best interest of the child, taking into account various factors. For example: the parental relationship, drug abuse, and risk of abuse.

### **Do I need a lawyer when applying for access?**

It is recommended that an individual hoping to obtain access of their child seek legal advice and counseling. This is because there are many challenging obstacles to overcome when dealing with an issue of this nature. Many people may not know these issues exist nor understand them. For example, filling out and filing relevant documents with the court, knowing and understanding what questions to ask, and answer in a Court

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<sup>46</sup> *Gordon v Goertz*, [1996] 2 SCR 27

<sup>47</sup> Supervised access: <<http://www.justice.gov.sk.ca/swu-supervised-access-exchange>>.

<sup>48</sup> Supervised access: <<http://www.justice.gov.sk.ca/swu-supervised-access-exchange>>.

room. Knowing the questions that will be asked of an individual is critical in the sense that a judge will base his or her decision on the information provided to them.

Likely information that the court will want to see of the person looking for access to their child are questions including:

- Has the parent always been in this child's life – were they in charge of the day to day upbringing of this child?
- How is the relationship of the parent and the child now? Has it changed substantially since incarceration? Is there support available for the child upon the release of the parent?
- How has the child been acting socially? Is the child secluded or still with a bunch of friends? If the child is secluded now, has that child always been? Are relationships with others failing? Is the child acting rebellious? Is the child doing well at school – or are there drops in the grades?
- What is the child's relationship with other family members currently in his life? Any new relationships?

### **Access and Legal Expenses**

The cost of legal proceedings is substantial. In situations where a person is unable to afford his or her legal proceedings, there are often alternatives available.

For example, in Saskatoon, Community Legal Assistance Services for Saskatoon Inner City (C.L.A.S.S.I.C.). Legal Aid is a company of fully qualified lawyers that offers legal expertise to low-income individuals who would otherwise be unable to receive adequate legal advice. C.L.A.S.S.I.C. is a community legal clinic in partnership with law students at the University of Saskatchewan. These students complete Pro Bono work for low-income individuals while under the supervision of practicing lawyers. C.L.A.S.S.I.C. can be reached at:

**C.L.A.S.S.I.C.** - 123 20 St. W., Saskatoon, SK, S7M 0W6 – Telephone: (306) 657-6100

In most parts of the province, if you can't afford a lawyer, you might qualify for legal aid. To apply for legal aid, contact the office closest to you. Legal Aid Saskatchewan currently has 15 Legal Aid Offices across Saskatchewan. They are:

#### **Battlefords Area Office**

Provincial Building, #L103 - 1192 102nd Street

North Battleford

S9A 1E9

p: 306.446-7700

f: 306.446-7598

1-877-441-4418

#### **Meadow Lake Area Office**

Unit #3, 101 Railway Place

Meadow Lake

S9X 1X6

p: 306.236-7636

f: 306.236-7634

1-800-461-8188



**Melfort Area Office**

Box 6500, 3rd Floor, 105 Crawford Avenue East

Melfort

S0E 1A0

p: 306.752-6220

f: 306.752-6127

1-877-424-1901

**Moose Jaw Area Office**

#113 - 110 Ominica Street West

Moose Jaw

S6H 6V2

p: 306.694-3700

f: 306.694-3738

1-877-424-1902

**Northern Area Office**

Box 5000, Mistasinihk Place,

1328 La Ronge Avenue

La Ronge

S0J 1L0

p: 306.425-4455

f: 306.425-4472

1-800-667-4095

**Prince Albert Area Office**

Box 3003, 11th Floor, L.F. McIntosh Building,

800 Central Avenue

Prince Albert

S6V 6G1

p: 306.953-2850

f: 306.953-2866

1-877-424-1900

**Regina City Area Office**

#200, 1871 Smith Street

Regina

S4P 4W5

p: 306.787-8760

f: 306.787-8827

1-877-424-1897

**Regina Rural Area Office**

#102 - 2400 College Avenue

Regina

S4P 1C8

p: 306.787-1141

f: 306.787-2316

1-877-424-1906

**Saskatoon City Criminal Legal Aid Area Office**

#1053 - 122 Third Avenue North,

Sturdy Stone Centre

Saskatoon

S7K 2H6

p: 306.933-7820

f: 306.933-7827

1-877-424-1898

**Saskatoon City Family Legal Aid Area Office**

#155 - 122 Third Avenue North,

Sturdy Stone Centre

Saskatoon

S7K 2H6

p: 306.964-2200

f: 306.964-2222

1-877-324-2200

**Saskatoon Rural Area Office**

#941 - 122 Third Avenue North, Sturdy Stone Centre

Saskatoon

S7K 2H6

p: 306.933-7855

f: 306.933-7854

1-877-424-1899

**South East Area Office**

#101 - 1302 3rd Street

Estevan

S4A 2V6

p: 306.637-4620

f: 306.637-4625

1-877-424-1903

**Swift Current Area Office**

3rd Floor, 350 Cheadle Street West

Swift Current

S9H 4G3

p: 306.778-8272

f: 306.778-8307

1-877-424-1905

**Yorkton Area Office**

#301 - 120 Smith Street East

Yorkton

S3N 3V3

p: 306.786-1440

f: 306.786-1405

1-877-424-1904

A final alternative available for those who are unable to afford the cost of litigation may be a duty counsel lawyers. Often, a duty counsel lawyer may be available to provide an individual with legal advice if that individual has a court date that he or she has to appear for.

## Can My Child Come Visit Me?

The most basic answer to this question is “yes”.

In correctional facilities (for men or women), the visitation process is similar to a regular adult visit. A child (or guardian) has to fill out a form called the adult correctional facility visiting program application. This application asks questions such as name, age and any information on the prisoner the child is visiting. The child must attend the correctional centre with a guardian. It should be noted that during orientation, it is mandatory the child is included on the visitation list as well as the guardian who is responsible for the child during the prisoner’s incarceration.

An Application form can be located at: <http://www.justice.gov.sk.ca/><sup>49</sup>

## Are there parenting skills programs?

Pine Grove Correctional Centre for women has a Children’s Visiting Program (CVP). The CVP consists of parenting skills training developed using traditional teaching and operated by the Meyowin Circle Group:

- Parent Effectiveness Training
- Nobody’s Perfect
- Aboriginal literacy and Parenting Skills
- Reclaiming our lives, Creating Our TIPI
- Positive Discipline

Each session is three weeks in length. Prince Albert Correctional Centre (men) also offers the *Reclaiming Our Lives, Creating our Tipi*.

Ask your case manager for information on the availability of programs in your facility.

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<sup>49</sup><http://www.justice.gov.sk.ca/adx/aspx/adxGetMedia.aspx?DocID=3998,3635,1,Documents&MediaID=6033d904-e757-466c-a8f0-a8050d5ebf36&Filename=Visiting+Application+Form.pdf>



## PART III: PROTECTING YOUR RIGHTS

While many things in jail will restrict your freedom, you maintain certain rights and privileges inside. It is important to know the difference between rights and privileges. A right is a legal entitlement which cannot be taken away from prisoners. Withholding someone's right is against the law; and, there are remedies that may be used to ensure that rights are provided.

Privileges, on the other hand, usually have to be earned in prison, and are not guaranteed. For example, a temporary absence is not guaranteed, and may be granted based on your behaviour or other factors. Corrections staff often can decide to grant or limit privileges, but they still should not be taken away for random or arbitrary reasons.

You have a number of very important rights. The following section will look at some of the rights you have in prison and discuss how you can make sure these rights are respected.

### Confidentiality and Access to Information

#### Personal Information

The personal information in your file is used to decide your classification level, your ability to get a temporary absence and your eligibility for a placement in a reduced custody facility.

It is important to make sure there are no errors, and correct information is recorded to avoid issues with getting temporary absence.

*The Freedom of Information and Protection of Privacy Act*<sup>50</sup> protects your right to access this information under section 5 of the Act. You have the right to an answer about your request for information within 30 days<sup>51</sup>, regardless of whether or not it was changed under section 32 of the Act. This amount of time could be extended to 60 days under certain situations<sup>52</sup>.

There are limits to your right to privacy. Generally, your privacy is not guaranteed under certain circumstances such as protecting the security of everyone in the prison or to investigate or prevent an offence from taking place<sup>53</sup>.

Other reasons that your privacy may be not guaranteed are listed in section 110(1) of the

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<sup>50</sup> *The Freedom of Information and Protection of Privacy Act (FIPPA)*, S.S. 1990-91, c. F-22.01

<sup>51</sup> *FIPPA* s 7(2)

<sup>52</sup> *FIPPA* s 12(1)

<sup>53</sup> *The Correctional Services Act*, S.S. 2012, c. C-39.1, s.13

*Saskatchewan Correctional Services Act*<sup>54</sup> For example, health information collected by correctional staff, a nurse, an Elder, or a director may not be confidential if the health information could endanger the staff or other prisoners; otherwise all personal health information is supposed to remain confidential.

As well, any ***court ordered*** psychiatric or psychological assessments that you do are not considered confidential under *The Health Information Protection Act*.

Since Corrections operates based on informed consent to the health care intake assessment, if you do not wish to participate in the intake process, a security classification will still be completed, based on whatever documents available to the jail staff. Personal information that you share that does not jeopardize the safety or security of others is treated should not be shared, but corrections can and will disclose it when they determine they need to do so.

### **Do I have the right to know what information *Corrections* has in my file?**

YES. You have the right to access any of your personal information under the *Freedom of Information and Protection of Privacy Act*. However, according to the *Freedom of Information and Protection of Privacy Act*<sup>55</sup> information may be refused to you by the head of a government institution, if the information is for evaluation purposes or where the information is provided in confidence.

### ***How do I access my own information?***

You can sometimes have access to parts of your file when meeting with a case management team or a Director. You can also access the information by making a request in writing for your own information by filling out the “Access to Information Request Form”. This form is available on the Saskatchewan Information and Privacy Commissioner web site or requested from correctional staff.

You will have to make the application to the Ministry of Justice (Corrections and Policing). The form you fill out needs to be detailed about what exactly what you are looking for in order to get the correct records. For example, include the date of any interviews that took place or the date of reports that were made.

Again, any requests that are made should be answered within 30 days<sup>56</sup>. This deadline might be extended if the request is for a large amount of records or it is impossible to complete the request in 30 days<sup>57</sup>.

If the request is denied, then you are entitled to be given reasons for the refusal<sup>58</sup> Information on how to get the decision reviewed should also be included.

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<sup>54</sup> *Correctional Services Act*, S.S. 2012, c. C-39.1, s.13

<sup>55</sup> *FIPPA* s 13(2)

<sup>56</sup> *FIPPA* s.7(2)

<sup>57</sup> *FIPPA* s. 12(1)

<sup>58</sup> *FIPPA* s. 7(3)

Note that sometimes there is a fee for requesting information, but that may be waived if you are unable to pay<sup>59</sup>.

Saskatchewan Information and Privacy Commissioner

503 - 1801 Hamilton Street

Regina SK S4P 4B4

Telephone: 306-787-8350

Toll Free Telephone (within Saskatchewan): 1-877-748-2298 Fax:

306-798-1603

Email: [webmaster@oipc.sk.ca](mailto:webmaster@oipc.sk.ca)

***What information can the general public be given about me?***

Your sentence and/or charges are a matter of public record. The general public is not entitled to additional information about you.

***Can any information that I request be withheld from me?***

Under the *Freedom of Information and Protection of Privacy Act*<sup>60</sup>, information can be denied for different reasons, such as if it would disclose confidential information or if it could interfere with an investigation that would harm law enforcement.

**How much personal information will be shared and who will have access to my personal information?**

Correctional staff members like probation officers will have access to your personal information based on a need-to-know basis and in accordance with Saskatchewan's privacy laws. Medical information can be shared according to the *Health Information Protection Act (HIPA)*, but correctional staff at the prison will not have access to your medical information without your consent.

However, if the Director believes that the withholding of certain information poses a grave and serious risk to staff and other prisoners, personal information can be shared under the Director's discretion.

***Is the communication with my lawyer confidential?***

Yes, communication with your lawyer is considered confidential and privileged, however written communications, including personal mail, are inspected for contraband. If the mail is coming into the prison, it will be inspected and searched for contraband in front of you. If this mail is intercepted and read, you will be advised in writing and have the opportunity to appeal.

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<sup>59</sup> FIPPA s.7(5)

<sup>60</sup> FIPPA s.15(1)(b)(i)

### ***Under what circumstances can information be released to police and victims?***

Police can be informed if you have made an early release application and whether it has been accepted or denied. The police are also aware of your release date once it is finalized, as it is a matter of public record. Your probation officer is also told of any early release application and is asked to give an opinion about it. Victims are also informed of early releases<sup>61</sup>.

### **Right to Counsel (Legal Assistance)**

#### ***Do I have a right to a lawyer while I am in prison?***

You have a right to legal assistance- also known as a right to counsel. You have the right to be given information about free legal services in Saskatchewan, if you ask for it.

Your lawyer will not tell other people or institutions what you say. Anything you tell your lawyer will be kept between you and them, and will assist your lawyer in working on your case.

#### ***Can the prison listen to conversations between my lawyer and I?***

No, the prison cannot. Any communication between you and your lawyer is “privileged”- which means nobody else is allowed to listen in, read your letters, or other such things.

#### ***When would I use a lawyer?***

Administrative Segregation: If you are kept in “administrative segregation” (solitary confinement) for more than 24 hours, the prison must ensure that you have a reasonable opportunity to get advice from a lawyer right away<sup>62</sup>. They must let you out of your cell or bring a phone to you to do this.

Major disciplinary charge: If you are charged with a major disciplinary offence, you have the right to get a lawyer<sup>63</sup>. This lawyer will then be able to participate in your hearing, in exactly the same way that you would have. The lawyer can advocate for you, make statements to the person running the hearing, and cross-examine the prison’s witnesses.

NOTE: the prison only has to give you a “reasonable opportunity” to get a lawyer. This means that you should work hard to get in touch with a lawyer as soon as you can, so that the prison does not go ahead with the hearing before you have one<sup>64</sup>.

Any time the prison is breaking its rules: Prisons are required to follow the law, just like people are. Although it can feel like prisons are able to do whatever they want, this is not the case. Calling a lawyer when staff break rules, or when you are being treated unfairly, can help fix this situation.

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<sup>61</sup> The Correctional Services Act, SS 2012, c. C-39.1, s.28

<sup>62</sup> *The Correctional Services Regulations*, 2013, s. 40 (3)

<sup>63</sup> *The Correctional Services Regulations*, 2013, s. 61 (2)

<sup>64</sup> *The Correctional Services Regulations*, 2013, s. 61 (3)

Issues such as treatment by guards, quality of food or medical care, reclassifying a prisoner from medium to high security, and use of restraints or force, are governed by the law.

If you have been treated unfairly, speak to a lawyer to see if anything illegal happened.

### **In-Person visits with my lawyer**

The prison must make sure you have “reasonable access” to your lawyer<sup>65</sup>. This includes in-person meetings.

If you and your lawyer are going to meet with each other, the prison must make sure that this meeting is held in private, and that nobody listens to your conversation together<sup>66</sup>.

Because the communication between you and your lawyer is “privileged”, you do not have to tell any prison staff what you and your lawyer spoke about.

### **Phone calls with my lawyer**

Your conversations with your lawyer are “privileged”. This means that the prison cannot record your phone calls with them; they also cannot listen to your phone calls<sup>67</sup>.

Prisons cannot charge you the usual fees for phone calls; however, they can still bill you for the long distance costs, if applicable<sup>68</sup>.

There is no listed time limit for your phone call to a lawyer; prison staff cannot make you get off of the phone with your lawyer, except perhaps in exceptional circumstances.

### ***What if I am on remand?***

You still have access to counsel, and the right to private phone calls and visits with your lawyer.

## **Right to Health Care**

### ***What level of healthcare should I get while in prison?***

The quality of healthcare you receive while you are in prison should be as good as the healthcare available to non-prisoners<sup>69</sup>.

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<sup>65</sup> *The Correctional Services Act*, SS 2012, c. C-39.1, s. 28 (5)

<sup>66</sup> *The Correctional Services Regulations*, 2013, s. 10 (2)

<sup>67</sup> *Policy Manual on Inmate Telephone System*, s. 1.5.2

<sup>68</sup> *Policy Manual on Inmate Telephone System*, s. 1.5.3

<sup>69</sup> *Policy Manual on Healthcare Standards*, s. 18.1



### ***What types of treatment do I have a right to?***

You have the right to health care treatment that is necessary for your health. This includes things beyond emergency health services, including basic care, and continuing care for long-term conditions<sup>70</sup>. Prisons also have a responsibility to focus on health promotion and illness prevention<sup>71</sup>.

Dental Care: treatment for “acute dental conditions” must be made available to you. The prison must deal with symptoms such as swelling, pain and discomfort due to a dental issue<sup>72</sup>.

Mental Health: you are entitled to essential mental health services<sup>73</sup>, including both emergency and long-term care issues. Prisons cannot force you to receive mental health treatment: you must consent to it<sup>74</sup>.

### **When should I be able to access health services?**

While you have the right to health care, and health services must be provided in accordance with health care standards of the community, prisoners are not usually provided with access to elective treatment, nor are health care services provided 24 hours per day<sup>75</sup>. A doctor provides a weekly on-site clinic and is otherwise on call. Nurses are available 16 hours per day. If you require emergency health care after-hours, you will be transported to an outside hospital.

There are two types of health care services: “elective” and “non-elective”. Non-elective means “medical care is required without delay”<sup>76</sup>. Elective means treatment is not an emergency. A good example of elective treatment is a small cavity in your tooth, which is not currently causing any pain or swelling, and can safely wait to have a filling put in.

### **Who gets to know about my medical information and medical records?**

You are entitled to confidential health care<sup>77</sup>. This means that neither the security staff, nor any other non-medical staff is supposed to have access to information regarding your health care. It also means that unless a doctor has your consent, s/he cannot share information with the prison, unless not sharing information would lead to a “significant risk of substantial harm to others” or, if you have been deemed incompetent [usually because you are considered a risk to yourself]<sup>78</sup>.

If you believe that your doctor has shared information improperly, you could contact a lawyer and/or consider filing a complaint with College of Physicians and Surgeons of Saskatchewan.

Complaint forms are available on line at <http://www.cps.sk.ca> or you can write or call:

Complaints Department  
College of Physicians and Surgeons of Saskatchewan  
101 - 2174 Airport Drive  
Saskatoon, SK  
S7L 6M6  
Phone: (306) 244-7355  
Toll Free: 1-800-667-1668

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<sup>70</sup> *Policy Manual on Healthcare Standards*, s. 1.2

<sup>71</sup> *Policy Manual on Healthcare Standards*, s. 1.3

<sup>72</sup> *Policy Manual on Healthcare Standards*, s.6.1

<sup>73</sup> *Policy Manual on Healthcare Standards*, s.16.1

<sup>74</sup> *Policy Manual on Healthcare Standards*, s.16.2

<sup>75</sup> *Policy Manual on Healthcare Standards*, s. 2.2

<sup>76</sup> *Canada Health Act*, s. 11(3)

<sup>77</sup> *Policy Manual on Healthcare Standards*, s. 2.4.

<sup>78</sup> *College of Physicians and Surgeons Code of Ethics*, s. 7.1 (35)



## Part IV: Restrictive Measures

### Solitary Confinement/ Segregation

As *The Correctional Services Act*, the associated regulations, policies and forms all use the phrase “Administrative Segregation”, for what is internationally referred to as solitary confinement, both phrases are used in this manual.

#### A Note About Recent Developments on Solitary Confinement/Segregation at the United Nations

As early as 1990, the United Nations has called for the restriction or abolition of solitary confinement as a punishment in prisons around the world.<sup>79</sup> The United Nations has said that “the use of solitary confinement itself can amount to acts prohibited by article 7 of the International Covenant on Civil and Political Rights, torture as defined in article 1 of the Convention against Torture, or cruel, inhuman, or degrading punishment as defined in article 16 of the Convention.”<sup>80</sup> This is important, because Canada has agreed to the terms of this international description.

The Special Rapporteur on Torture for the United Nations Human Rights Council concluded that isolation should never be used with young people or those with mental health issues, and that, “any imposition of solitary confinement beyond 15 days constitutes torture or cruel, inhuman or degrading treatment or punishment, depending on the circumstances.”<sup>81</sup>

#### What is solitary confinement/segregation and how do I know if I am in it?

- Solitary confinement/Segregation is when you are separated from the general population and put in a cell by yourself. Freedom is more restricted than for most other prisoners. You do not have access with the rest of the prison population to prison programs, yard, gym, et cetera.
- If you are in solitary confinement the unit you are in may be called a number of things such as: segregation, separation, cellular, lockdown, Supermax, the hole, administrative segregation (“Ad-Seg”), solitary confinement, therapeutic segregation, Secure Housing Unit (SHU), or high security.<sup>82</sup>

<sup>79</sup> United Nations, *Basic Principles for the Treatment of Prisoners*. (1990). Adopted and Proclaimed by General Assembly Resolution 45/111 of 14 December 1990.

<sup>80</sup> United Nations, Special Rapporteur of the Human Rights Council A/66/268 *Torture and other cruel, inhuman, or degrading treatment or punishment*. (2011), at para 30.

<sup>81</sup> United Nations, Special Rapporteur of the Human Rights Council A/66/268 *Torture and other cruel, inhuman, or degrading treatment or punishment*. (2011), at para 76.

<sup>82</sup> United Nations, Special Rapporteur of the Human Rights Council A/66/268 *Torture and other cruel, inhuman, or degrading treatment or punishment*. (2011), at para 26.

- Saskatchewan's legislation and policies use two segregation labels "Administrative Segregation" and "Disciplinary Segregation".
- If you are on segregation status you may be housed in a cell containing only the bare minimum (eg. a mattress, sink and toilet). Your allowable cell effects may be limited and your movement in and out of the cell will be severely restricted.

### **What is the purpose of solitary confinement/segregation?**

- The purpose of segregation is to keep you from associating with the general population in order to ensure the security of the prison and safety of the staff and prisoners, including you.<sup>83</sup> It is also sometimes used as a disciplinary measure.

### **What are the different types of solitary confinement / segregation and when can you be placed on that status?**

- In Saskatchewan there are two main types of solitary confinement/segregation:

#### **1. Administrative Segregation<sup>84</sup>**

- The Manager of the correctional centre has the authority to segregate you if s/he has reasonable grounds to believe that your presence in the general population may jeopardize the security of the prison or the safety of any person (including you) or that you might interfere with a serious investigation.
- Administrative Segregation is intended to be used to prevent problems in the jail; it can be either *voluntary* or *involuntary*.
- This type of segregation may occur when a staff member believes that you are at risk for self-injury or suicide.
- A staff member who places you on Administrative Segregation status must have a reasonable belief that you have acted, attempted to act, or intend to act in a manner that threatens the security of the prison or the safety of the staff and/or prisoners.
- They must also reasonably believe that your continued presence in the general prison population would threaten the security of the prison, or the safety of other prisoners, staff members, or the public.
- You can also be placed in this type of confinement if they want to remove you from the general population because your presence would interfere with the investigation of a major disciplinary offence.

#### **2. Disciplinary Segregation<sup>85</sup>**

- This type of segregation is used when you are found guilty of a serious disciplinary offence.
- You must be found guilty of a major offence by the prison discipline panel. You cannot be placed on Disciplinary Segregation status for a minor disciplinary offence.<sup>86</sup>
- This type of segregation is intended to be a punishment.

<sup>83</sup> Solicitor General of Canada, *Commission of Inquiry Into Certain Events At the Prison For Women in Kingston*, (1995), <[http://www.caefs.ca/wp-content/uploads/2013/05/Arbour\\_Report.pdf](http://www.caefs.ca/wp-content/uploads/2013/05/Arbour_Report.pdf)>[Arbour].

<sup>84</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 58 [CSA].

<sup>85</sup> Solicitor General of Canada, *Commission of Inquiry Into Certain Events At the Prison For Women in Kingston*, (1995), <[http://www.caefs.ca/wp-content/uploads/2013/05/Arbour\\_Report.pdf](http://www.caefs.ca/wp-content/uploads/2013/05/Arbour_Report.pdf)>.

<sup>86</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 77(2).

- Placement on segregation for disciplinary reasons is limited to a maximum of 10 days.<sup>87</sup>
- If you are facing a discipline panel for a major disciplinary offence, you must be given the opportunity to reasonably consult with a lawyer or other advocate.<sup>88</sup>
- You may be temporarily confined pending your disciplinary hearing if the staff member who laid the charge believes on reasonable grounds that you pose a threat to your safety, the security of the prison, other prisoners, staff members, or the public. You may also be confined in order to preserve evidence.<sup>89</sup>

What should I know about the effects of solitary confinement/segregation?

- There is a large body of research showing that the effect of long-term solitary confinement (segregation) can have serious impacts on your mental, physical, and emotional health due to prolonged isolation and mental, social, and physical inactivity.<sup>90</sup>
- You may experience the following signs and symptoms while in solitary confinement: hallucinations, anxiety, difficulties thinking, disturbed thoughts, impulsiveness, poor concentration, poor memory, feelings of hopelessness, depression, rage, and impulse for self-injury.<sup>91</sup>
- Because of these effects you should be returned to the general population in the prison as soon as possible.<sup>92</sup>
- There must be no reasonable alternative to solitary confinement/segregation in order for you to be placed there. If a reasonable alternative exists, your detainment in solitary confinement/segregation is unlawful.<sup>93</sup>

What rights do I have in solitary confinement/segregation?

- For any involuntary administrative segregation, you must be provided with a written explanation within 24 hours of placement there.<sup>94</sup>
- If you are involuntarily confined for longer than 24 hours, you must be given a reasonable opportunity to seek advice from a lawyer without delay, so that your confinement can be reviewed by the Segregation Panel.<sup>95</sup>
- Your solitary confinement status is reviewed by a Segregation Panel within two working days of your involuntary or voluntary placement and again at least once every twenty-one days.<sup>96</sup>

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<sup>87</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 77(1)(d).

<sup>88</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 61(2).

<sup>89</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 58.

<sup>90</sup> Solicitor General of Canada, *Commission of Inquiry Into Certain Events At the Prison For Women in Kingston*, (1995), <[http://www.caefs.ca/wp-content/uploads/2013/05/Arbour\\_Report.pdf](http://www.caefs.ca/wp-content/uploads/2013/05/Arbour_Report.pdf)>.

<sup>91</sup> Solicitor General of Canada, *Commission of Inquiry Into Certain Events At the Prison For Women in Kingston*, (1995), <[http://www.caefs.ca/wp-content/uploads/2013/05/Arbour\\_Report.pdf](http://www.caefs.ca/wp-content/uploads/2013/05/Arbour_Report.pdf)>.

<sup>92</sup> Solicitor General of Canada, *Commission of Inquiry Into Certain Events At the Prison For Women in Kingston*, (1995), <[http://www.caefs.ca/wp-content/uploads/2013/05/Arbour\\_Report.pdf](http://www.caefs.ca/wp-content/uploads/2013/05/Arbour_Report.pdf)>.

<sup>93</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 58(b).

<sup>94</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 40(2) [CSR].

<sup>95</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 40(2).

<sup>96</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 42.

- You should receive reasonable notice of your scheduled review notifying you that your segregation status will be reviewed, so you can make a decision to present your position to the Segregation Panel. You have the right to make representations either in writing or by oral recordings.<sup>97</sup>
- If you are segregated because of an investigation for a criminal offence, you have the right to access a telephone and contact a lawyer within 24 hours.<sup>98</sup>
- If you are in solitary confinement you should still receive case management services, spiritual support, recreational activities, psychological counseling, administrative, education and health care services.<sup>99</sup>
- You should check to see if your prison has local policies that deal with solitary confinement. It is possible that similar to the federal prison system, there are required daily visits from the warden or a management delegate such as a unit manager or any person in that capacity such as an officer in charge. Registered health care staff may also be required to visit you daily. It is wise practice to request a copy of the prison-specific regulations if you or a friend is placed in solitary confinement.
- The prison director is required to provide all prisoners with reasonable access to *The Correctional Services Act* for Saskatchewan, *The Correctional Services Regulations*, and information about how to file a complaint and how to appeal a disciplinary decision or segregation decision.<sup>100</sup>

### Complaining or Appealing a Solitary Confinement / Administrative Segregation Decision:

- The review process outlined above requiring a review, access to a lawyer, written reasons being provided to you and so on, is intended to be **automatic** and should start the moment you are placed in solitary confinement/ administrative segregation status.
  - Regardless of the regular review process as established for solitary confinement outlined above, you may also make a separate complaint or appeal about being placed in solitary confinement under the grievance process covered in another chapter of this manual.
- As a prisoner in a Saskatchewan jail, you have the entitlement to fair treatment and access to a timely and efficient complaint procedure.<sup>101</sup>
- You may complain in writing to the director. You should refer to the chapter on grievances for more detailed information on this process. All complaints and appeals regarding disciplinary decisions or sanctions, and solitary confinement must receive a written and signed decision from the Director or designate within two to five days.<sup>102</sup>

What can I do if I believe my rights are violated in solitary confinement?

<sup>97</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 42(3).

<sup>98</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 40(3).

<sup>99</sup> Solicitor General of Canada, *Commission of Inquiry Into Certain Events At the Prison For Women in Kingston*, (1995), <[http://www.caefs.ca/wp-content/uploads/2013/05/Arbour\\_Report.pdf](http://www.caefs.ca/wp-content/uploads/2013/05/Arbour_Report.pdf)>.

<sup>100</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 6.

<sup>101</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 3(e).

<sup>102</sup> *Corrections Division Policy and Institutional Policy Manual*, Saskatchewan – Review of Offender Complaints in Provincial Correctional Centres 0011.

- The first step is usually to use the automatic review process if there is any question about the decision to place you in solitary confinement / segregation.
- An additional can be to use the internal grievance and appeal process before taking the matter outside of the prison.
  - You can consult the chapter on grievances in this manual to learn more about the process for grieving decisions. If you are still not satisfied after you use this process, you may want to consider grieving the matter outside of the prison.

External agencies including courts and the Ombudsman's office usually ask that you use the internal appeals process prior to pursuing a remedy through these bodies.

- You can contact the Ombudsman's Office:<sup>103</sup>
  - Telephone: 1-306-933-5500 or 1-800-667-7180; website: [www.ombudsman.sk.ca](http://www.ombudsman.sk.ca)
  - They have powers to investigate a variety of areas and can take complaints about: living conditions, treatment and healthcare services provided.
  - The decisions made by Ombudsman are final but they are only recommendations made to your facility.
  - Anyone can file a complaint.
  - They cannot investigate court or judge-made decisions, decisions made by professional healthcare providers (such as a doctor or pharmacist), criminal matters, and personal disagreements between prisoners.
- You can contact the Elizabeth Fry Society or John Howard Society:
  - Elizabeth Fry Society - Telephone: 1-306-934-4606 or 1-888-934-4606; website: [www.elizabethfrysask.org](http://www.elizabethfrysask.org)
  - John Howard Society - Telephone: 1-306-244-8347 or 1-888-757-6658; website: [www.sk.johnhoward.ca](http://www.sk.johnhoward.ca)
  - These associations work with women and men in prisons to help advocate for their beliefs and to ensure equal and humane treatment in the prison system. The organizations aim to address racism, oppression, criminalization, and victimization.
- There may be a lawyer who specializes in correctional law and who is available to you to contact. (check with the local legal aid office).
- You can also consider contacting a member of the media. The Canadian Broadcasting Corporation can be reached at the following numbers:
  - Regina – Radio: (306) 347-9692; Television: (306) 347-9651
  - Saskatoon – Radio: (306) 956-7414 Television: (306) 956-7430
- As a prisoner, you do not lose your rights as a citizen. Politicians are also available for you to contact and can help to address broader policy issues, or individual instances of significant injustice.
  - The Opposition party in Saskatchewan has a critic that is specifically responsible for Corrections, Justice, and Public Safety issues. You can address mail to 2405 Legislative Drive, Regina, Saskatchewan, S4S 0B3.

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<sup>103</sup> *Ombudsman Act*, <[www.ombudsman.sk.ca](http://www.ombudsman.sk.ca)> [*Ombudsman*].

- The Saskatchewan Minister Responsible for Corrections and Policing is responsible for Saskatchewan prisons and for the administration of Justice within the province.
  - Mail can be addressed to either Minister by title and send to:  
2405 Legislative Drive  
Regina, Saskatchewan  
S4S 0B3
- You may also wish to contact a federal politician such as your Member of Parliament or the Federal Minister of Justice (criminal law) or Public Safety (federal prisons). Letter mail to Members of Parliament or Senators does not require postage.
  - Mail can be addressed to: Name of Member of Parliament, House of Commons  
Ottawa ON K1A 0A6
- CLASSIC (Community Legal Assistance for Saskatoon's Inner City) is a free legal clinic that uses law students as volunteers. They will provide service to prisoners in Saskatchewan. Their telephone number is (306) 657-6100.
- The Saskatchewan Human Rights Commission is also available to assist where you believe you are being discriminated against on a prohibited ground (religion, creed, marital status, family status, sex, sexual orientation, disability, age, colour, ancestry, nationality, place of origin, race or perceived race, receipt of public assistance, and/or gender identity). They can be contacted toll-free at 1-800-667-9249.

## Transfers

### Why would I be transferred?

- You can be transferred to another jail in Saskatchewan, a federal prison, or an “institution for the custody of prisoners” in another province or territory of Canada.<sup>104</sup>
- A transfer can occur in response to a change in security requirements or security status and to provide a safe environment for you and others.<sup>105</sup>

### What will be considered in deciding whether I should be transferred or not?

- Similar to the federal prison system, several criteria will likely be considered when deciding if you are to be transferred or not: safety of the public, safety for yourself and others, security of the prison, accessibility to your home and community or family, your cultural environment, compatible language environment, availability of appropriate programs and services, and your willingness to participate in those programs.

### What kind of transfers are there and what can I expect?

#### a) Voluntary<sup>106</sup>

- This type of transfer is done upon your consent or request.

<sup>104</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 19.

<sup>105</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 19.

<sup>106</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 21.

- The Director of the prison in which you are being held must communicate the request to the receiving prison within two to five business days.<sup>107</sup>
- The receiving prison's decision must be communicated back to you within five to ten days along with reasons for the decision (if denied). You have the right to appeal the decision within five days.
- Saskatchewan has signed inter-provincial transfer agreements with British Columbia, the Northwest Territories, Alberta, Manitoba, Ontario, and Quebec to allow for the inter-provincial transfer of a prisoner, or a warrant of committal when a transfer is in the prisoner's best interests.<sup>108</sup>
- Voluntary inter-provincial transfer may be based on the following criteria (you will need to establish the following things in your application):
  - Over six months remain to be served prior to your earliest release date;
  - No outstanding charges exist (other than radius charges);
  - Your transfer can occur by way of a Temporary Absence, or use of Provost services;
  - Your transfer facilitates family contact and release planning; and
  - Your transfer provides a cost-benefit to the correctional facility (you may need to get some guidance on this point).
- It is also important to note that exceptions to the above listed criteria can be made in situations of hardship or other mitigating circumstances. (For example: if you have a terminally ill or elderly immediate family member, language difficulties, if you have children far away from the place you are imprisoned, due to your own young or old age, etc.)
- Your transfer request will be reviewed by the receiving prison. You will then be approved or denied. Reasons for the decision should be documented and placed on your case management file.
- If you request a transfer, you are normally responsible for the transportation costs. In exceptional situations, the Executive Director of Custody Services may authorize a correctional facility to cover a portion or all transportation costs for an inter-provincial transfer.<sup>109</sup>

#### **b) Involuntary<sup>110</sup>**

- This transfer is done against your will.
- Some of the most common reasons for an involuntary transfer include:
  - Responding to assessed security requirements;
  - Overcrowding;
  - Providing a prisoner with access to relevant programs and services, including health care;
  - Providing a person with a safe environment;
  - For assessment purposes;
  - For court proceedings; or
  - Due to assessed incompatibility with staff.
- If this is not an emergency then the correctional facility director must advise you in writing of the reasons of the transfer and the proposed destination.

<sup>107</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 5.

<sup>108</sup> Corrections Division Policy **and Institutional Policy Manual, Saskatchewan**: Inter-Provincial Transfers – 0027 at 2.0 [Transfers].

<sup>109</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 77(2).

<sup>110</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 20.



- Then you must be given two business days to prepare a response to the proposed transfer.
- The Director or delegate must then meet with you to explain the reasons for the transfer and to give you the opportunity to make representations. You may do this verbally or (if you prefer) in writing.
  - You can probably present your thoughts in both ways if you make a request to do so. Writing a response will often ensure the Director considers everything you want to say and there is an accurate, documented record of the reasons you oppose the transfer in your own words if you choose to grieve the involuntary transfer at a later date.
- You might feel very upset or emotional, but when writing, it is good practice to try your best to use a rational and respectful tone that is based on logical reasons which explain your opposition of the involuntary transfer.
  - Examples of some reasons you may have to oppose an involuntary transfer include:
    - social bonds or friendships that you have formed with other prisoners / staff;
    - access to programming;
    - success in a work program;
    - family difficulty for visitation (for example, if your entire immediate family lives in Regina, and you are being involuntarily transferred to Prince Albert);
    - humanitarian concerns;
    - access to Elders, cultural programs, or religious groups;
    - length of time you have already spent in the prison; and
    - potential impact of the transfer on your physical, mental, emotional, or spiritual health.
- You must be given notice of the final decision with respect to the transfer, including the reasons for the decision no later than the day of the transfer, if the final decision is to transfer you; **or** within five business days after the final decision, if the final decision is not to transfer you.

#### c) Emergency<sup>111</sup>

- This can be an involuntary or voluntary transfer done in an emergency situation.
- This type of transfer will only occur where there is **immediate risk** to the prison, risk to the public, risk to the safety of you or another prisoner, or any other reason that might exist according to the Director.
- The correctional facility director or designated staff of the receiving institution will meet with you within 2 working days after you are placed in the institution to explain the reasons for your transfer and you will be provided with 48 hours to respond to this in writing or in person.
- If you submit a response then the final decision will be provided to you within 5 working days.
- Sometimes involuntary transfers may be labeled as emergency transfers and you may not agree that your transfer actually qualifies as an emergency situation.
  - If this happens, and you feel like there was no real emergency that required you to be transferred, you should appeal to the Executive Director, Custody Services, contact a lawyer, or the Ombudsman's office. This will ensure that your procedural

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<sup>111</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 20.

protections are respected. Some safeguards that you are entitled to for non-emergency transfers are:

- (1) right to advance notice of the transfer;
- (2) the right to timely access to the information being used to justify the transfer; and
- (3) the right to several types of responses which might result in stopping the transfer from taking place at all.

### **What can I do if I believe my rights are violated?**

- When an involuntary transfer is proposed, or an emergency transfer takes place, you should be advised of the appropriate complaints procedure related to transfers in writing. It is important that you use the established appeal process if you feel the decision was wrong.
- A court is unlikely to grant a remedy if you have not exhausted the prison's internal remedy procedure first.
- You can contact the Ombudsman's Office:
  - Telephone: 1-306-933-5500 or 1-800-667-7180; web site: [www.ombudsman.sk.ca](http://www.ombudsman.sk.ca)
  - They have powers to investigate a variety of areas and can take complaints about involuntary or emergency transfers.
  - The decisions made by Ombudsman are final but they are only recommendations made to your facility.
  - Anyone can file a complaint.
  - They cannot investigate court or judge-made decisions, decisions made by professional healthcare providers (such as a doctor or pharmacist), criminal matters and personal disagreements between prisoners.
- You can contact the John Howard Society or the Elizabeth Fry Society of Saskatchewan:
  - Elizabeth Fry Society - Telephone: 1-306-934-4606 or 1-888-934-4606; web site: [www.elizabethfrysask.org](http://www.elizabethfrysask.org)
  - John Howard Society - Telephone: 1-306-244-8347 or 1-888-757-6658; web site: [www.sk.johnhoward.ca](http://www.sk.johnhoward.ca)

These associations work with women and men in the justice system to help advocate and ensure equal and humane treatment in the prison system. The organization aims to address racism, oppression, criminalization and victimization of women.
- There may be a lawyer who specializes in prison law and who is available for you to contact.
- CLASSIC (Community Legal Assistance for Saskatoon's Inner City) is a free legal clinic that uses law students as volunteers. They will provide service to prisoners across Saskatchewan. Their telephone number is (306) 657-6100.
- You can also contact a politician or the media, contact information is contained in the solitary confinement section, earlier in this chapter.
- The Saskatchewan Human Rights Commission is also available to assist where you believe you are being discriminated against on a prohibited ground (religion, creed, marital status, family status, sex, sexual orientation, disability, age, colour, ancestry, nationality, place of origin, race or perceived race, receipt of public assistance, and/or gender identity). They can be contacted toll-free at 1-800-667-9249.

## Disciplinary Charges

### What is the purpose of the disciplinary system?

- If you have committed a disciplinary offence you will be given a written notice of the charge in accordance with the regulations.<sup>112</sup> Notice of the charge must state whether it is a major or a minor offence with which you have been charged.<sup>113</sup>
- Once you are charged, the discipline panel must deal with the charge in accordance with the regulations.<sup>114</sup>
- At the conclusion of the disciplinary proceedings the discipline panel shall find that you either committed the offence or they must dismiss the charge.<sup>115</sup>
- After making the decision the discipline panel will give you a written notice about their findings, your rights of appeal, and any disciplinary sanctions to be taken.<sup>116</sup>

### What are the disciplinary offences?

- There are “Minor” and “Major” offences. All these offences are outlined in *Correctional Services Regulations* s. 54 or are listed as a Director’s Rule.
- The regulations state that the following are considered “Major” offences:
  - Commit any unlawful acts;
  - Engage in a physical fight;
  - Conspire to escape;
  - Assist another prisoner in escape;
  - Throw bodily substances at another person;
  - Refuse to submit to, resist, or obstruct a search in accordance with the act or regulations;
  - Verbally and physically abuse or gesture to threaten someone;
  - Engage in activities associated with a gang; including wearing an item, symbol or using a signal associated with a gang;
  - Behave in a manner that shows hatred or contempt towards another person due to their race, colour, ancestry, religion, family status, physical & mental disability, sex, sexual orientation, age, place of origin, marital status, family status, physical or mental disability, sex, sexual orientation, or age;
  - Manufacture, use, or possess alcohol or another intoxicant;
  - Become impaired by alcohol or another intoxicant;
  - Refuse to provide a sample of urine for analysis;
  - Obstruct or interfere with security measures;
  - Possess contraband or attempt to conspire and bring contraband into a facility;
  - Manufacture any contraband;
  - Disobey any lawful order given by staff;
  - Offer, give or accept a bribe;
  - Steal someone’s property;
  - Create or participate in a disturbance;

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<sup>112</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 73.

<sup>113</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 73.

<sup>114</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 74.

<sup>115</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 75.

<sup>116</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 76.

- Have communications that are indecent, threatening, and/or abusive;
  - Contravene a court order; and/or
  - Counsel, aid or abet a person who is committing an offence.
- “Minor” offences include the contravention of any prison rule established by the Director under s.23 of the *Correctional Services Act*.

### Will police be involved in my charge?

- If the offence is serious enough, and reasonable grounds exist to believe that a criminal offence has been committed, the Director may refer the matter to the police and should document the police response.<sup>117</sup>

### What are Disciplinary Panels?<sup>118</sup>

- The director shall establish one or more disciplinary panels for the correctional facility for the purpose of conducting disciplinary proceedings and determining disciplinary charges against prisoners.
- The disciplinary panel will hear minor disciplinary offences as per s. 53 of *Correctional Services Regulations*.
- The disciplinary panel will provide the prisoner with a **full and fair hearing**, conduct a thorough and objective inquiry, ensure that continuity has been maintained and evidence that is presented is relevant to the charge.<sup>119</sup>
- It is important to note that the disciplinary panel must find that you committed an offence on the “balance of probabilities” rather than “beyond a reasonable doubt.” This is a lower standard than used in a normal criminal hearing. The decision-maker is simply determining whether it is more likely that you committed the offence than not. This is different from “beyond a reasonable doubt,” where there must be more evidence presented than simply a 51% likelihood that you did indeed commit the act in question.<sup>120</sup>

### Who is part of the disciplinary panel?

- The director shall appoint at least one staff member but no more than 3 for the disciplinary panel.<sup>121</sup>

### What defences can I present before the panel?<sup>122</sup>

- You can respond orally or in writing and present all relevant information for your defence.
- You will be given the opportunity to question witnesses, introduce evidence, and examine exhibits and documents. You should have a reasonable time to examine and think about any evidence presented against you by the other side prior to the hearing. This is called the principle of “disclosure.”<sup>123</sup>

<sup>117</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 57.

<sup>118</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 70.

<sup>119</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 60.

<sup>120</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 68.

<sup>121</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 52.

<sup>122</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 61.

<sup>123</sup> See *R. v. Stinchcombe*, [1991] 3 S.C.R. 326 – This case is broadly applied to require disclosure but it is also upheld specifically in Administrative Law settings as summarized in the legal maxim *audi alteram partem* – or “listen to the other side.”

## What are my rights if I am charged?<sup>124</sup>

- You have the right to be present at the hearing unless this would jeopardize safety of any person present, or if you decide to not appear or your presence would be disruptive to the proceedings.
- You also have the following rights at the hearing before the disciplinary panel:<sup>125</sup>
  - You have the right to be advised as to the nature and factual basis of the disciplinary offence charged.
  - You have the right to question witnesses through the chairperson of the panel, introduce evidence, and examine exhibits and documents to be considered in the making of the decision.
  - You have the right to make oral or written representations during all phases of the hearing, including representations respecting the appropriate punishment, sanction, or sentence.
  - You have a right to bring witnesses to the hearing in order to provide information that should be considered by the disciplinary panel. They have the ability to decide whether or not to hear the information. If they feel it is irrelevant, they may refuse to hear the information from your witness. You can respectfully challenge this determination.
- The prison is also required to provide you with a “full and fair hearing.” The disciplinary panel must:
  - Conduct a thorough and objective inquiry into all matters relating to the charge.
  - Maintain control of the hearing.
  - Ensure that continuity of possession of evidence has been maintained and that the evidence presented is relevant to the charge.<sup>126</sup>
- If you are charged with a major disciplinary offence, then you can retain a lawyer or other advocate (including another prisoner) to assist you to adequately present a defence.
  - One organization to be aware of is CLASSIC, a free legal clinic operated by law students. They can be reached at 1-306-657-6100..

## Can a hearing be delayed?

- The hearing must take place as soon as is reasonably practicable but can be delayed by not more than two business days after the prisoner receives written notice of the charge.<sup>127</sup>
- A panel hearing can also be delayed if further investigation is needed and/or to permit a witness, staff member or another person to attend or to allow you to have an interpreter.<sup>128</sup>
- If you are not available to attend a hearing then it should be adjourned unless you admit to committing an offence, another witness can provide sufficient information on your behalf, and you give the panel the consent to proceed without you.<sup>129</sup>
- You may also request an adjournment if you need more time to prepare a defence, find an advocate, or for other reasons. The adjournment must not undermine the integrity of the proceedings, but should be granted in most circumstances.<sup>130</sup>

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<sup>124</sup> *The Correctional Services Regulations*, Saskatchewan, 2013.

<sup>125</sup> Corrections Division Policy **and Institutional Policy Manual, Saskatchewan: Prisoner Discipline in Adult Correctional Facilities 0045 at 8.0.**

<sup>126</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 60.

<sup>127</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 59.

<sup>128</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 63.

<sup>129</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 66.

<sup>130</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 63(1)(b).

### **What evidence can be presented before the disciplinary panel?**

- You can submit written, oral, and video evidence.
- You can have a witness attend to present information for your defense.<sup>131</sup>
- The disciplinary panel is not bound by legal rules of evidence and may receive and accept the evidence and information however it deems appropriate and can also refuse to accept evidence that is not seen as relevant and trustworthy.<sup>132</sup>

### **What happens if I don't dispute a charge?**

- If the panel finds that you have committed a major or minor disciplinary offence then they may impose one of the sanctions listed in s. 77 of the *Correctional Services Act*, for example, segregation to a cell, assignment of extra duties and so on.

### **What sanctions can be imposed before the disciplinary panel?<sup>133</sup>**

- These are all listed in s. 77 of the *Correctional Services Act*:
  - Reprimand for major and minor offences;
  - Loss of privileges for not more than 30 days for major offence and 7 days for minor offence;
  - Confinement to a cell, room or unit during leisure time for not more than 10 days for major offence and 3 days for minor offence;
  - Segregation to a cell, unit or security area for a period not more than 10 days for major offence;
  - Payment in the amount of not more than \$ 400 with respect to property damage for major offence and \$ 50 for minor offence;
  - Loss of pay not exceeding \$25 for major offence and \$ 10 for minor offence;
  - Assignment of extra duties – no more than 10 hours for major offence and 4 hours for minor offence; and/or<sup>134</sup>
  - Forfeiture of a period of remission earned, not exceeding 15 days for major offence.

### **How can I appeal the outcome of the disciplinary panel?**

- If your sanction includes the forfeiture of a period of earned remission, you can appeal to the appeal adjudicator:<sup>135</sup>
  - You must provide the director of the correctional facility with a notice of appeal within 5 business days after the decision.
  - The notice must set out the details of what you are appealing, the reasons for the appeal and the relief that you are seeking.
  - The decision of the appeal adjudicator is final.
- For any other sanction, you can appeal to director of correctional facility:<sup>136</sup>

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<sup>131</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 64.

<sup>132</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 65.

<sup>133</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 77.

<sup>134</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 69.

<sup>135</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 79; *The Correctional Services Regulations*, Saskatchewan, 2013, s. 74.

<sup>136</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 80; *The Correctional Services Regulations*, Saskatchewan, 2013, s. 75.

- You may appeal the decision to the director of the facility by providing them with notice of appeal within 5 business days after the decision.
- Notice must set out the details of what you are appealing, the reasons for the appeal and the relief that you are seeking.
- The decision of the director is final.

## Searches

Why do searches happen?

- Searches of the body are among the most intrusive, humiliating, dehumanizing, traumatic, and degrading things that happen to people routinely within prisons.<sup>137</sup>
- The stated aim of the search policies in provincial prisons is to reduce the risk of contraband and of unauthorized items in correctional facilities.
- Therefore, searches should never be used either directly or indirectly as a punishment or as a method of making people comply with other demands.
- Searches must be carried out with regard for the “privacy and dignity of individuals being searched.” Searches must be conducted in a manner which respects gender, religious, and cultural considerations.<sup>138</sup>

Sacred, religious, and cultural items will be treated with respect. They are to be manipulated by the owner, or an Elder / religious representative where the owner is not present.<sup>139</sup> **What are the two different categories that legally justify a search to be carried out in a prison? (Routine & non-routine searches)**<sup>140</sup>

- Searches can be conducted at any time, either routinely, non-routinely, or on the basis of an emergency.
- They can be done when you are first admitted or transferred, or when you are entering or leaving a unit or segregation area, when you completed contact with a visitor, when you enter or leave a work area, before providing a urine sample, when you enter a medical area, a discharge area, an administration area, a recreational area, a programs area or counseling area, and when you enter or leave a high security area.
- The search can be done to find contraband and to preserve evidence relating to a disciplinary or criminal offence.
- Specific information on the types of searches and how each of the searches is to be carried out can be found later in this section.

<sup>137</sup> See esp. *R. v. Golden* [2001] 3 S.C.R. 679, 2001 SCC 83, at headnote, 83, 89, and 90.

<sup>138</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004 at header [Searches].

<sup>139</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004 at header.

<sup>140</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004 at header.

1. **Routine Search**<sup>141</sup> – this is a broad type of search conducted **without individual suspicion** that forms part of the facility's regular search plan. The different types of searches may be carried out in a routine way under the circumstances that follow below.

Section 8 of the *Canadian Charter of Rights and Freedoms* guarantees your right to be secure against unreasonable search or seizure. Therefore, searches must be carried out in a manner that does not violate this right.

In order to make sure prisons are safe, and prevent weapons and contraband such as drugs from getting into the prison, guards have the legal right to search you in circumstances that police don't have for a random person walking down the street. This is similar to how we as a society allow scans, frisking, or metal detector searches of people getting onto planes in order to prevent terrorism. Although these actions constitute a "search," the law says it is "reasonable" in order to protect the safety of people who choose to fly on commercial planes.

- Routine non-intrusive and frisk searches of prisoners may be done by anyone who works in a correctional facility.
- Routine non-intrusive / frisk searches may be done, **without suspicion** that you have contraband on your body when:
  - You enter, leave, or return to a prison.
  - You enter or leave solitary confinement or a high security area.
  - You go to or return from a contact visit.
  - You go to or come from a work or program area in a prison.
  - You are required to undergo urinalysis. The search is to be conducted immediately before the sample of urine is produced.
  - You are going to or coming from these areas in a prison:
    - Medical area;
    - Admitting / discharge area;
    - Administration area;
    - Recreation area;
    - Programs area; and
    - Counseling area.
- **Routine Strip Searches**<sup>142</sup>
  - Routine strip searches must be carried out by a member of the same sex as you and a witness.
  - A routine strip search *may* occur (note that it is not necessary in every circumstance) **without individual suspicion** when:
    - You enter or leave prison;
    - You enter or leave solitary confinement or a high security area;
    - You are going to or returning from a contact visit;
    - Contraband is found in your possession; or
    - You are going to or coming from a work or program area in a prison.
- **Routine Thorough Visual Inspection**<sup>143</sup> – this is a routine inspection to visually detect contraband, unauthorized items, or activity which may jeopardize the safety or security of the

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<sup>141</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004.

<sup>142</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004.



prison. "This does not normally include opening drawers or closets, but may include inspecting under beds or behind dressers, cabinets, or cupboards."

- A guard may also conduct a **routine cell search** as outlined in the Facility Search Plan where a guard believes on reasonable grounds that a cell contains contraband or evidence of an offence; they may search the prisoner's cell and its contents. Confirmation of personal effects must be verified against the "Prisoner Personal Property Record."

2. **Non-Routine Search**<sup>144</sup> – this is a search conducted on **reasonable grounds** when it is determined that the search is necessary to detect the presence of contraband or evidence related to an offence pursuant to section 56 of *The Correctional Services Act*. (Broad power is granted to pursue a body cavity search, frisk search, non-intrusive search or strip search for contraband of prisoners, visitors, and employees). Guards and managers may conduct a non-routine frisk search on their own authority. A manager must approve a non-routine strip search of a prisoner, unless the requirements for an emergency are met.

- **Exceptional Search (Blanket Search)**<sup>145</sup> – the director may authorize a frisk or strip search of **all** the prisoners on reasonable grounds where it is believed that because of the presence of contraband a clear and substantial danger to human life, safety or the security of the correctional facility exists, and a search is necessary in order to seize the contraband and avert the danger. Strip searches must be conducted by a staff member of the same sex. This type of exceptional search must be reported in an incident report that you can ask to access, or attempt to request through an Access to Information Request.
- **Exceptional Searches of Cells** – these are also authorized in the regulations where the Director believes that contraband or evidence related to an emergency is located in cells.
- **Emergency Search** (Unplanned individual strip search) – this is a strip search of a prisoner on reasonable grounds **without** the normally required approval from a prison manager and **without** complying with the requirement that the strip search must be conducted by a male in male facilities. Such a search is said to be justified in regulations where the staff member:
  - a. Reasonably believes that there is evidence of an offence or contraband being secreted on the person's body; and
  - b. Believes on reasonable grounds that the delay to get approval or satisfy gender requirements (in male facilities) would compromise safety or result in the loss or destruction of evidence.
- Immediate reporting is required where a strip search is carried out under emergency provisions.
- The requirement that females are only to be searched by female guards is never to be violated, even in an emergency situation.
- If you are differently gendered, staff should respect your wishes to be searched by the gender of your choosing.

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<sup>143</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004.

<sup>144</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004.

<sup>145</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004.

## What happens during a search?<sup>146</sup>

- Every time a non-routine strip search or emergency search is conducted, a post search report must be filled out and submitted to explain what was seized, the reason for the search, how the search was conducted and so on. You can have access to this report.<sup>147</sup>
- If the staff member believes on reasonable grounds that a prisoner may be in possession of contraband or evidence with respect to an offence, the staff member may conduct a search of prisoner's cell and its contents with prior authorization.<sup>148</sup>

## Can prison staff search anyone?<sup>149</sup>

- Visitors can be frisk searched upon coming into and leaving the correctional facility.<sup>150</sup>
- A strip search may also be done on a visitor by a staff member of the same sex if there are reasonable grounds to believe that the visitor is carrying contraband or carrying other evidence with respect to an offence.<sup>151</sup>

## What are the different types of searches?

### a) Frisk search

- Is a search done by hand in the prescribed manner.<sup>152</sup>
- A frisk search must be carried out from head-to-foot, down the front and back of your body, around the arms and legs and inside clothing folds, pockets and footwear.<sup>153</sup>
- A search may include searching your personal possessions, including any clothing you may have, search of your cell, or other living accommodations.
- If you are a female prisoner the frisk search must be conducted by a female staff member.

### b) Non-intrusive search

- This is a search by technical or other means in the prescribed manner and includes a canine search.<sup>154</sup>
- These searches can be carried out using a walk-through metal detector, a hand-held scanner, a medical imaging device, a fluoroscope or a body orifice scanner.<sup>155</sup>
- The search may include a search of personal possessions, including your clothing.<sup>156</sup>

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<sup>146</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004 at 5.0.

<sup>147</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004 at 5.3 and 5.4.

<sup>148</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 46.

<sup>149</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 47, 48, 49.

<sup>150</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 47, 48; *The Correctional Services Regulations*, Saskatchewan, 2013, s. 32, 33.

<sup>151</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 49.

<sup>152</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 34.

<sup>153</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 25.

<sup>154</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 34.

<sup>155</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 24.

<sup>156</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 24.

**c) Strip search<sup>157</sup>**

- This is a visual search while you are naked and may require you to open your mouth, display the soles of your feet, open hands and have the officer run his/her fingers through your hair and have you bend over to do a visual inspection of your cavity areas.
- The search must be conducted in a private area, out of sight of others by a staff member of the same sex as you.
- For men, the witness may be a woman staff member who is behind a privacy screen.
- Your clothing and possessions will also be searched.
- If you are a woman, a woman staff member must search you and another woman must witness the search regardless of the circumstances.

**d) Body cavity or medical imaging search<sup>158</sup>**

- A body cavity search is the physical probing or close examination of a body cavity such as the rectum or the vagina in order to search for contraband. The definition of “body cavity” does not include the mouth, which you will usually be required to open during a strip search.<sup>159</sup>
- It can only be carried out by a qualified medical professional in a medical facility.
- A medical imaging search by x-ray, ultrasound, etc. can also be ordered.
- Your written consent is required for this type of search.

**e) Bodily substance test**

- Includes an oral bodily fluid test, a hair follicle test, a perspiration test, a breath test or any other prescribed test.<sup>160</sup>
- This type of test will sometimes be used to test for the presence of intoxicants in addition to urinalysis.<sup>161</sup>

**When can a body cavity search be performed?<sup>162</sup>**

- An order for a body cavity search may be made by the Director of the prison when they have reasonable grounds to believe that you are carrying contraband in a body cavity.<sup>163</sup>
- You **cannot be forced** to undergo a body cavity or medical imaging search. Your written consent is required.<sup>164</sup>
- The medical provider must obtain consent from you before a cavity search is conducted.
- The consent you provide must be given voluntarily and not under any influence or duress.
- The search must be performed in a non-emergency medical surrounding in a private area, out of sight of every other person except a staff member of the same sex as you.

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<sup>157</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 26, 34; *The Correctional Services Regulations*, Saskatchewan, 2013, s. 28.

<sup>158</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004 at header.

<sup>159</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 34.

<sup>160</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 34.

<sup>161</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 44.

<sup>162</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004 at header.

<sup>163</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 29.

<sup>164</sup> Corrections Division Policy and Institutional Policy Manual, Prisoner Consent for a Medical Procedure, Medical 0005, at 2.0 [Consent].

- The alternative to not consenting to a body cavity or medical imaging search may be placement in a “dry cell” for a number of days. This is a cell without plumbing fixtures. Your bowel movements will be checked for contraband until staff members are satisfied that nature has run its course.<sup>165</sup>

### **Who can perform a body cavity search?<sup>166</sup>**

- The search must be conducted by a qualified medical practitioner.

### **What happens if I refuse a search?**

- You can only refuse a body-cavity search, all other searches including strip searches, will be performed voluntarily or involuntarily.

### **Do I have to submit to a urine test?<sup>167</sup>**

- A director of a correctional facility may demand that a prisoner provide a sample for a urinalysis at any time.<sup>168</sup>
  - 1) if the director of the correctional facility believes on reasonable grounds that the prisoner has taken an intoxicant into the prisoner’s body or
  - 2) if abstention from intoxication is a condition of a work program, voluntary treatment program or conditional release and the urinalysis is required to monitor a prisoner’s compliance with the condition at a regular interval or anytime that the director suspects on reasonable grounds that the prisoner breached the condition.
- Before carrying out the demand, the director must inform the prisoner of the basis of the demand and the consequences of failure to comply with the demand.
- If a prisoner fails to comply with a demand the director may issue a charge of a disciplinary offence, request a temporary absence panel to suspend, cancel or revoke a temporary absence and impose any other loss of privileges that the director considers appropriate.
- If a prisoner objects to providing a sample for a urinalysis the director can consider the prisoner’s objections to determine whether there are reasonable grounds on which to require the sample and then ensure that the prisoner is kept separate for no more than two hours from other people until a determination is made. If the director determines that there are reasonable grounds on which to require the sample, the director shall direct the prisoner to provide the sample.<sup>169</sup>

### **How will my urine sample be collected?<sup>170</sup>**

- The person who supervises the taking of the sample must be of the same sex as you.
- Before providing the sample you must wash your hands and provide the sample in the container given to you by the person supervising the collection.
- The person supervising must be present to observe you providing the sample.
- You have two hours to provide a sample from the time the demand is made.

<sup>165</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 41(b).

<sup>166</sup> Corrections Division Policy and Institutional Policy Manual, Prisoner Consent for a Medical Procedure, Medical 0005, at 2.0.

<sup>167</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 30.

<sup>168</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 44.

<sup>169</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 30.

<sup>170</sup> *The Correctional Services Regulations*, Saskatchewan, 2013, s. 31.

- The person taking the sample must ensure that you are kept separate from other people and are not left alone during the sample collection.
- Once the sample has been provided the person who supervised the taking of the sample must seal the container, attach a label, certify the label and fill out a written notice that indicates the label affixed corresponds to your name.

#### **Can my cell be searched?<sup>171</sup>**

- Yes, your cell can be searched and its contents in accordance with the Facility Search Plan. If a staff member believes they have reasonable grounds to conduct a search, or if they reasonably believe an emergency exists, they may also conduct a non-routine search of your cell.<sup>172</sup>

#### **Can I make a complaint about a cell search?**

- Yes, you can make a complaint to the director using the normal complaint / grievance process.

#### **Can corrections search medicine bundles and other religious or cultural belongings?**

- Yes, but these items must be treated respectfully. You may handle your own religious or spiritual items during a search. If you are not present, they should be handled by an Elder or spiritual leader.<sup>173</sup>

#### **Can staff seize something found in a search?**

- Yes, items may be seized where a staff member believes that the item is contraband or it is evidence of a major offence. The item should be deposited in a safe, secure place and returned to you (upon your release) if it is not established that the item is contraband or evidence of a major offence.<sup>174</sup>

#### **What should I do if I believe my rights have been violated?**

- You can complain to a director according s. 48 of the *Correctional Services Regulations*.
- You can also appeal any decision according to s. 49 of the *Correctional Services Regulations*.
- You can contact the Ombudsman's Office:<sup>175</sup>
  - Telephone: 1-306-933-5500 or 1-800-667-7180; web site: [www.ombudsman.sk.ca](http://www.ombudsman.sk.ca)
  - They have powers to investigate a variety of areas and can take complaints about: living conditions, treatment and healthcare services provided.
  - The decisions made by Ombudsman are final but they are only recommendations made to your facility.
  - Anyone can file a complaint.

<sup>171</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 45.

<sup>172</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 45.

<sup>173</sup> <sup>173</sup> Corrections Division Policy and Institutional Policy Manual, Saskatchewan: Searches in Adult Correctional Facilities, Security 0004 at header.

<sup>174</sup> *The Correctional Services Act*, Saskatchewan, 2012, s. 57.

<sup>175</sup> *Ombudsman Act*, <[www.ombudsman.sk.ca](http://www.ombudsman.sk.ca)>.

- They cannot investigate court or judge-made decision, decisions made by a professional healthcare providers (such as a doctor or pharmacist), criminal matters and personal disagreements between prisoners.
- You can contact the Elizabeth Fry Society or John Howard Society:
  - Elizabeth Fry Society - Telephone: 1-306-934-4606 or 1-888-934-4606; web site: [www.elizabethfrysask.org](http://www.elizabethfrysask.org)
  - John Howard Society - Telephone: 1-306-244-8347 or 1-888-757-6658; web site: [www.sk.johnhoward.ca](http://www.sk.johnhoward.ca)
  - These associations work with women and men in the justice system to help advocate for their beliefs and to ensure equal and humane treatment in the prison system. The organizations aim to address racism, oppression, criminalization and victimization of prisoners.
- There may be a lawyer who specializes in correctional law and who is available to you to contact.
- CLASSIC (Community Legal Assistance for Saskatoon's Inner City) is a free legal clinic that uses law students as volunteers. They will provide service to prisoners across Saskatchewan. They can be reached by telephone at (306) 657-6100.
- You can also contact a politician or the media, contact information is contained in the solitary confinement section, earlier in this chapter.
- The Saskatchewan Human Rights Commission is also available to assist where you believe you are being discriminated against on a prohibited ground (religion, creed, marital status, family status, sex, sexual orientation, disability, age, colour, ancestry, nationality, place of origin, race or perceived race, receipt of public assistance, and/or gender identity). They can be contacted toll-free at 1-800-667-9249.



## Part V: Authorized Absences, Parole and Early Release

### Authorized Absences or Temporary Absences<sup>176</sup>

#### What is an authorized absence (AA)?

An Authorized Absence (AA) is a temporary absence from the prison for a specific reason, and with certain terms or conditions attached. AAs are usually your first absences from the prison since they are the first types of absences for which you are eligible. They are different from parole, since you have to report back to the prison once the AA is over. AAs may be “escorted” or “unescorted.”

#### What are the different types of absences?

- **Escorted:** An absence from the prison under direct escort. It can either be a security escort (corrections staff) or a citizen escort (volunteer from the community). The Director decides who will be the escort.
- **Unescorted:** An absence from the prison without escort. Different convictions require different portions of time served before an unescorted absence can be granted.
- **Group A:** Regular authorized absences for program purposes. These allow you to participate in pre-employment activities or employment. These absences may be escorted or unescorted and are part of the Rehabilitation Authorized Absences discussed later on.<sup>177</sup>
- **Group B:** Irregular authorized absences for case management purposes or part of your reintegration plan. These absences may be escorted or unescorted. An example of this would be an absence to return home in order to make arrangement for transportation when you are released from the prison.<sup>178</sup>

#### What criteria need to be met for me to get an AA?

In cases where you have been charged with one of the below offences, you will be required to serve one third of the aggregate sentence before being granted a Group B authorized absence.

<sup>176</sup> The federal Prisons and Reformatories Act uses the phrase temporary absence. The CSA (2012) now uses temporary absence. Until all provincial policies are changed to reflect “temporary absence” the two phrases “Authorized Absences” and “Temporary Absences” are used interchangeably.

<sup>177</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Authorized Absences of Prisoners*, 2004, s. Program 0023.

<sup>178</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Authorized Absences of Prisoners*, 2004, s. Program 0023.

<b>OFFENCE</b>	<b>SECTION OF THE CRIMINAL CODE</b>
Sexual interference	151
Sexual touching	152
Sexual exploitation	153
Sexual assault	271
Assaulting a Peace Officer	270
Assault with a weapon, causing bodily harm or aggravated assault	267, 268, 269
Uttering threats or assault (related to domestic violence)	264.1, 265, 266
Robbery	343, 344
Criminal negligence causing bodily harm	221
Dangerous driving causing bodily harm	249(3)
Impaired driving causing bodily harm	255(2)
Trafficking and/or possession for the purposes of trafficking marijuana and hashish	
Arson	433, 434
Weapons, ammunition and explosives	78, 80, 71, 72, 75, 91, 103(10), 112
Breach of recognizance (in relation to peace bond or domestic dispute)	811
Other crimes against the person where there is a threat upon the life or safety not noted above or in the following section	

You must serve one-half of your aggregate [total] sentence prior to being granted an authorized absence if currently serving a sentence for:

<b>OFFENCE</b>	<b>SECTION OF THE CRIMINAL CODE</b>
Sexual assault	272, 273
Incest	155
Procurement	170
Offences related to homicide, murder, manslaughter, and infanticide	222 - 237



Attempted murder	239
Conspiracy-murder	239
Accessory after the fact to murder	240
Causing bodily harm without intent	244
Advocating genocide	318
Dangerous driving causing death	255(3)
Criminal negligence causing death	220
Kidnapping and/or forcible confinement	279
Abduction	280, 281
Torture	269.1
Hijacking	76
Offences related to aircraft in flight	77, 28
Trafficking and/or possession for the purpose of trafficking restricted drugs or narcotic substances (with exception of marijuana and hashish)	

### What other criteria need to be met?

Once you have served the necessary part of your sentence, you need to comply with several other conditions before being considered for an authorized absence.<sup>179</sup>

- All outstanding charges, including Crown Appeals must be disposed of (except for minor charges and any charges for which you have been granted bail).
- You must maintain a low security rating for 28 days prior to your application.
- The purpose for the AA must be consistent with your case management plan.
- Your release for an absence must be unlikely to present a danger to the community through criminal activity or irresponsible behaviour.

### For what purposes can AAs be granted?

Where the criteria for obtaining AAs are met, an AA can be authorized for the following reasons, with or without escorts<sup>180</sup>:

- **Humanitarian:** Allows you to attend to essential personal matters, family visits, serious illnesses and funerals of family members. Each AA must be limited to the amount of time

<sup>179</sup> The following conditions have all been taken from the Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Authorized Absences of Prisoners*, 2004, s. Program 0023.

<sup>180</sup> The following criteria have all been taken from the Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Authorized Absences of Prisoners*, 2004, s. Program 0023.

required to deal with the specific issue. A Humanitarian AA is usually 84 hours long but can be a maximum of 15 days. Work is not considered grounds for a humanitarian AA.

- **Medical:** Allows you to leave the prison for medical appointments or treatments. These absences are limited to the duration required for the medical appointment or treatment, and are only available for medical treatment services that are not available in the prison. You may apply, or a dentist or medical doctor may apply on your behalf. The proposed treatment must comply with minimum health care standards or your specific treatment plan.

\* *Note:* If you are accepted for treatment in a recognized drug or alcohol treatment program, you should be considered for a Group A Rehabilitation AA (as long as the other criteria are met).

- **Rehabilitation/Reintegration:** Allows you to be absent in order to participate in a particular activity or program that will help in your rehabilitation or reintegration. Rehabilitation/reintegration AAs can be a maximum of 15 days.

### Who makes the decision?

The Director, Acting Director or another designated individual will decide whether or not you are entitled to an AA.<sup>181</sup>

### What is the procedure for getting an AA?

In order to be granted an AA, you must submit an application to the case management staff.

Before reviewing a Group B application for a Rehabilitation Authorized Absence, the correctional staff will conduct a community assessment. This includes:

- The verification of your absence plan with your family or sponsor; and
- The verification of your marriage or common-law relationship (if you have a spouse).<sup>182</sup>

The results of the assessment should be documented by the staff. When completed, the Director must ensure the assessment is reviewed. This may be done by an appointed Authorized Absence Panel (appointed by the Director) or by a specific member of corrections staff appointed for this purpose. This person will take some other factors into account. They include:

- Your risk assessment rating and criminal record.
- Your past performance in reintegration programs (such as parole).
- Your behaviour in the correctional facility.
- Information gained from consultation with the victim.

The panel or individual appointed are required to give you an opportunity to provide written or oral reasons as to why an AA should be authorized.<sup>183</sup>

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<sup>181</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Authorized Absences of Prisoners*, 2004, s. Program 0023.

<sup>182</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Authorized Absences of Prisoners*, 2004, s. Program 0023.

<sup>183</sup> *The Correctional Services Regulations*, 2013, s. 45(1).

Once reviewed, the Director or appointed staff member(s) are responsible for approving or denying the AA permit. They must give you and the Director written notice of their decision within two days of the decision being made.<sup>184</sup>

### **Who is notified if I am granted an AA?**

If an AA is granted, the victim will be notified as well as the police in the area where you plan to go during your absence.<sup>185</sup>

### **What if I am denied an AA?**

If you have been denied an AA, you may appeal in writing within 7 days to the Director.<sup>186</sup> The Director must give you an opportunity to make your case in either writing or by oral recording.<sup>187</sup> The Director must review the initial assessment and may conduct any additional investigation he/she considers necessary.<sup>188</sup> The Director will make a decision and provide you with the decision and reasons for the decision within two business days of receiving your appeal request.<sup>189</sup>

\* *Note:* If your application for a Group B AA has been denied, you must wait 28 days from the date of the decision before being eligible for another assessment.<sup>190</sup>

### **Can an AA be cancelled?**

Yes, it can. The Temporary Absence Panel or appointed staff member are able to suspend or cancel an AA before it begins or cancel the AA after it has begun. They may do this if:

- You have breached your AA conditions or a cancellation is necessary to prevent you from breaching; or
- The reasons for authorizing your AA have changed or no longer exist.<sup>191</sup>

### **What conditions will be attached to my AA?**

Some conditions of your AA will be mandatory.<sup>192</sup> These are:

- Reporting to local police as necessary;
- Not to operate a motor vehicle unless specifically approved as part of the AA;

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<sup>184</sup> *The Correctional Services Regulations, 2013*, s. 45(2).

<sup>185</sup> *The Correctional Services Act, 2012*, s. 28(5)(b).

<sup>186</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Authorized Absences of Prisoners*, 2004, s. Program 0023.

<sup>187</sup> *The Correctional Services Regulations, 2013*, s. 47(1).

<sup>188</sup> *The Correctional Services Regulations, 2013*, s. 47(2).

<sup>189</sup> *The Correctional Services Regulations, 2013*, s. 47(3).

<sup>190</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Authorized Absences of Prisoners*, 2004, s. Program 0023.

<sup>191</sup> *The Correctional Services Regulations, 2013*, s. 46(a) and (b).

<sup>192</sup> Conditions taken from the Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Authorized Absences of Prisoners*, 2004, s. Program 0023.

- Not to consume alcohol or enter premises whereby alcohol is primarily sold; and
- Remain at place of residence or with sponsor as determined appropriate.

There are additional conditions that may or may not be placed on you.<sup>193</sup> These can include:

- A curfew;
- A requirement to attend a specific program;
- Supervision by person or agency; and
- Electronic monitoring.<sup>194</sup>

### **What if I violate a condition of my AA?**

If you stay past the expiry of your AA, you will be declared unlawfully at large within two hours unless the expiry time is extended for a valid reason or you have returned within two hours.<sup>195</sup>

If corrections staff become aware of a violation, or receive information that you present a risk to the community, the Director or appointed individual is responsible for revoking the AA and arranging for you to return.<sup>196</sup>

### **What is the Extended Authorized Absence Program (EAAP)?**

The EAAP is an early release program. It is primarily used in situations in which a standard AA cannot meet the needs of a special absence. Examples include: dealing with transportation issues if you are released to a remote location, and accommodating programming when the timing of your actual release might prevent it (such as an upcoming registration in an educational program outside the prison).

In order to access this program, you must complete an application. Your case manager and the supervisor of your unit are also responsible for completing portions of the application. Your case manager and the Prisoner Handbook you received at orientation should provide additional information about this program.

You are not eligible for this program if:

- You have violated a conditional sentence; or
- You are serving a sentence for fine default, homicide, attempted murder, or a prison breach.

During this program you will be monitored and required to report.<sup>197</sup>

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<sup>193</sup> Conditions taken from the Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Authorized Absences of Prisoners*, 2004, s. Program 0023.

<sup>194</sup> *The Correctional Services Act, 2012*, s. 29.

<sup>195</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Authorized Absences of Prisoners*, 2004, s. Program 0023.

<sup>196</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Authorized Absences of Inmates*, 2004, s. Program 0023.

<sup>197</sup> Saskatchewan Corrections, Public Safety and Policing Adult Corrections Branch, *Extended Authorized Absence Program*, 1997, s. Program 0021.

## Parole<sup>198</sup>

### What is parole?

Parole is a conditional release from custody where you live in the community for the remainder of your sentence. It is considered to be less restrictive than Authorized Absences because there are fewer conditions. Parole provides the last level of control and supervision prior to the end of your sentence.<sup>199</sup>

Parole does not shorten your sentence. Rather, you will continue to be under the supervision of a parole officer while you are in the community, and you must abide by the conditions of your release for the entire length of your sentence. The Parole Board has the power to revoke your parole and require your return to prison if the conditions of your release are not met.<sup>200</sup>

### What is the difference between day parole and full parole?

There are two types of parole: day parole and full parole.

- **Day parole (DP)** allows you to participate in community-based activities (such as employment, volunteer work, or studies) while serving your sentence. You are required to return to your provincial jail or halfway house at the end of each day unless otherwise authorized in writing by the Parole Board of Canada. DP is intended for prisoners who cannot access community resources through temporary absences. DP is more restrictive than full parole and remission continues to apply.<sup>201</sup>
- **Full parole (FP)** allows you to serve the remainder of your sentence in the community. While on full parole you may live on your own but you will be required to be in regular contact with a parole officer and inform him or her about any changes to your situation or release plans.<sup>202</sup>

### Who grants parole?

Parole is a Federal program and is granted by the Parole Board of Canada (PBC). The PBC has the authority to grant, deny, cancel, terminate or revoke day parole and full parole.

### How does the PBC decide whether I am eligible for parole?

If you apply for parole, the PBC will consider your criminal history, institutional behaviour, benefits from your program, and your release plan. The PBC is looking to see if you are at risk to reoffend while on parole, and also whether parole will help you to integrate into society so that you will be less likely to offend in the future.<sup>203</sup>

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<sup>198</sup> In Saskatchewan, prisoners serving sentences of less than two years may apply for parole and if they do, the process outlined below applies. It is extremely rare, however.

<sup>199</sup> <http://pbc-clcc.gc.ca/infocntr/pg-eng.shtml>.

<sup>200</sup> <http://pbc-clcc.gc.ca/infocntr/pg-eng.shtml>.

<sup>201</sup> <http://pbc-clcc.gc.ca/infocntr/pg-eng.shtml>.

<sup>202</sup> <http://pbc-clcc.gc.ca/infocntr/pg-eng.shtml>.

<sup>203</sup> *Corrections and Conditional Release Act*, 1992, s. 102.

## **When am I eligible for parole?**

If you are serving a sentence of less than 2 years, you must serve half of your sentence before you are eligible for day parole. Generally, if you are serving a sentence of more than one year then you will be encouraged to apply for parole within the first month of incarceration. This is largely due to the significant length of time it takes to process a prisoner's application. Note also that the PBC does not have to review your parole application if you are serving a sentence of less than 6 months.<sup>204</sup>

\* Note: The PBC may grant parole in exceptional circumstances (such as terminal illness).<sup>205</sup>

## **How do I apply for parole?**

You must request a parole application form from a staff member. The application package will then be sent to the Correctional Service of Canada Parole Office nearest the jail where you are serving your sentence to be processed.

## **What happens next?**

When your application for parole is received, you will be assigned to a Corrections Service Canada (CSC) community parole officer. The community parole officer will prepare your case and provide it to PBC no later than three months from the date you applied.<sup>206</sup>

The community parole officer will meet with you to discuss your release plans and then develop a supervision plan for your release into the community. This plan may include living in a halfway house, participating in programs, seeing a psychologist, and maintaining employment. The community parole officer will prepare a report for the PBC and recommend whether you should be granted release and whether any special conditions are necessary and reasonable to protect society and facilitate your re-entry into the community.<sup>207</sup>

## **Will I have a parole hearing?**

Typically not. The Board is permitted to review your case in their office and make a decision without meeting you.<sup>208</sup> Whether or not you have a hearing, the information the Parole Board will consider for review will be shared with you in advance.

## **Will you be provided with reasons for their decision?**

If you are denied parole, you should be provided with reasons for the PBC's decision. The Board's decision should identify the reasons why your risk is not manageable in the community right now. This will allow you to focus on these specific issues before your next parole review.<sup>209</sup>

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<sup>204</sup> *Corrections and Conditional Release Act*, 1992, s. 119(2).

<sup>205</sup> *Corrections and Conditional Release Act*, 1992, s. 121.

<sup>206</sup> [http://pbc-clcc.gc.ca/infocntr/pa/parole\\_app-eng.shtml](http://pbc-clcc.gc.ca/infocntr/pa/parole_app-eng.shtml).

<sup>207</sup> [http://pbc-clcc.gc.ca/infocntr/pa/parole\\_app-eng.shtml](http://pbc-clcc.gc.ca/infocntr/pa/parole_app-eng.shtml).

<sup>208</sup> [http://pbc-clcc.gc.ca/infocntr/pa/parole\\_app-eng.shtml](http://pbc-clcc.gc.ca/infocntr/pa/parole_app-eng.shtml).

## **What happens at a parole hearing?**

At a parole hearing information will be presented to the PBC along with your application, custody report, classification reports, community assessment, pre-sentence report, and any written submission from the victim.

According to the PBC's website, you should be prepared to answer the following questions at your parole hearing:

- Why did you commit the offence(s) for which you have been sentenced?
- What do you understand about your offence (addictions, triggers, crime cycle)?
- How will your release plan manage your risk to offend?
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Victims may play a role in the parole hearing. They have the opportunity to present a prepared statement about the continuing effect of the crime, and any concerns they have for their safety or the safety of their community. This information will be provided to you before the PBC reviews your case.

## **Is the process different if I'm Aboriginal?**

If you are Aboriginal you may request a hearing with an Elder/ Advisor. (You may also request one if you are non-Aboriginal but are committed to an Aboriginal way of life).<sup>210</sup>

The Elder/ Advisor provides Board members with information about the specific cultures and traditions of the Aboriginal people that you are affiliated with, as well as information about Aboriginal cultures, experiences and traditions in general.

In order to have a hearing with an Elder/ Advisor you must fill out the *Request for an Aboriginal Hearing* form and submit it to your community parole officer.

## **Can I appeal a decision by the Parole Board?**

If you are not happy with the decision of the Parole Board you have 60 days from the date of the decision to appeal to the PBC Appeal Division in Ottawa.

## **Can my parole be revoked?**

Yes. Parole may be revoked or suspended. The primary reason that the state revokes or suspends parole is that there has been a violation of conditions. Also, parole may also be revoked or suspended where the PBC is concerned that you are at risk of breaching the conditions of your parole.<sup>211</sup> If your parole is suspended, then you will be returned to prison. If your parole is revoked, then you must serve the remaining portion of your sentence in custody. Note that you may also face an additional sentence stemming from a breach of parole.

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<sup>209</sup> <http://pbc-clcc.gc.ca/infocntr/pg-eng.shtml>.

<sup>210</sup> <http://www.csc-scc.gc.ca/acts-and-regulations/702-cd-eng.shtml#s6>.

<sup>211</sup> *Corrections and Conditional Release Act*, 1992, s. 135.

## **Earned Remission Program**

### **What is the Earned Remission Program?**

The Earned Remission Program allows you to accumulate points that are credited against your sentence entitling you to be released from prison before the expiration of your sentence.<sup>212</sup> This program's intent is to recognize positive behaviour and involvement in programs that address your needs.

By law you are allowed to accumulate a specific number of days of earned remission to reduce your time spent in custody. By following institutional rules as well as conditions governing temporary absences, you can be credited with 15 days earned remission for each month served. This means that you are eligible to earn remission equaling approximately one third of your sentence and may be eligible for release after serving roughly two thirds of your sentence.<sup>213</sup>

### **For what reasons/ actions may I lose/ gain my earned remission credits?**

You will receive one point daily for complying with rules and one point for participating in programs. You will lose a point if you do not attend a program that is part of your case plan or if you fail to participate in case management activities or your unit orientation. Disobeying any rule will also result in losing a point.

Four lost remission points in one month will result in the loss of one day of remission. You are entitled to written reasons where you have been awarded less than full remission for a 30-day period.<sup>214</sup> Every 30 days you are also entitled to a review with your caseworker. During your review your points and updated release date will be discussed.

Moreover, violating any institutional rules, regulations or conditions may result in disciplinary action whereby you could lose earned remission points.<sup>215</sup> The number of credits you lose is at the discretion of the correctional facility manager.<sup>216</sup>

### **Can a decision about remission be appealed?**

Yes. If you are not satisfied with the correctional facility manager's decision, you may write to the Director for a review of the decision within 5 business days after you have received the written decision.<sup>217</sup> The Director must review your request and make a decision within 5 days of your request. The Director must also provide you with written reasons for his/her decision.<sup>218</sup>

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<sup>212</sup> *Prisons and Reformatories Act*, 1985, s. 6(5).

<sup>213</sup> *Prisons and Reformatories Act*, 1985, s. 6.

<sup>214</sup> *The Correctional Services Regulations*, 2013, s. 81(3).

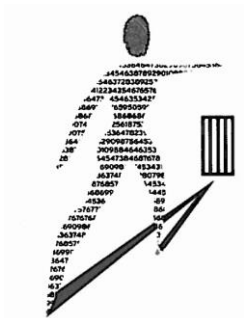
<sup>215</sup> *Prisons and Reformatories Act*, 1985, s. 6(4).

<sup>216</sup> *Prisons and Reformatories Act*, 1985, s. 6(4).

<sup>217</sup> *The Correctional Services Regulations*, 2013, s. 81(4).

<sup>218</sup> *The Correctional Services Regulations*, 2013, s. 81(5) and (6).





## PART VI: REMEDIES

There are steps you can take to protect your rights if you feel that they are violated. This section provides you with the necessary information to do so. The main topics include:

- Requests
- Complaints
- Judicial Reviews
- Complaints to the Ombudsman's Office
- Complaints to the Saskatchewan Human Rights Commission

### Remedies

#### What are remedies?

Remedies are solutions to problems you may face while in prison. There are a number of ways to seek these solutions. These include:

- making a request for something you are not getting
- filing a complaint with Corrections
- filing a complaint to the Saskatchewan Human Rights Commission
- filing a complaint with the Ombudsman's Office
- attempting to have your case reviewed in Court.

There are different ways for you to seek solution to a problem. However, the basic and most common to any challenge is a complaint. In this section, we discuss how to file a complaint, the different types of complaints available to you, and the information that you should include in your complaint.

#### What can I do if I feel I am being treated badly?

As an individual in prison, you retain all of the rights you previously enjoyed, except those rights that are necessarily limited as a result of incarceration. One of these rights is the ability to make a complaint when you feel you have been treated badly and to seek remedies for actions and decisions made by prison authorities that you feel are unfair<sup>219</sup>

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<sup>219</sup> Saskatchewan Ministry of Justice, *Inmate Orientation Manual* (2015), p. 4

There are varieties of ways to have your voice heard. For instance, you have the following rights:

- The right to file a grievance regarding an action or decision of a staff member without fear of retaliation or other negative consequences<sup>220</sup>,
- The right to legal assistance and reasonable access to legal reading materials<sup>221</sup>
- The right to a fair disciplinary hearing protected by procedural safeguards, including:<sup>222</sup>
  - the right to notice of a hearing or a case;
  - the right to a hearing, whether it is oral or written;
  - the right to counsel regarding “serious matters,” particularly matters in which a decision against you could mean any further restrictions on your liberty, such as loss of earned remission or segregation;
  - the right to know the case against you and present a defence;
  - the right to cross-examine witnesses if there is a hearing against you.
- The right to review and challenge inaccuracies in your file;<sup>223</sup>
- The right to make a complaint to the Privacy Commissioner;<sup>224</sup>
- The right to make a complaint to the Saskatchewan Human Rights Commission;<sup>225</sup>
- The right to make a complaint to the Ombuds Office<sup>226</sup>

*Document everything!* In order to ensure that the above rights are protected, it is essential that you keep careful records of the time and dates of any incident, as well as any attempt you make in trying to resolve your problems.

If you have an interaction with a staff member that upsets you, write it down and include the date and time it happens. Keep a copy of any written requests you make and ask the staff person to sign and date your copy to show when and who you submitted it to. If you file a complaint, do the same and keep a copy of it for your records.

If you receive any written documentation from prison staff, an outside organization, the SK Human Rights Commission, the Courts, or anybody else – keep it in as safe a place as possible! This will be very helpful in bringing your complaint forward toward resolution. You may also want to give copies of your paperwork to someone outside of the prison, such as a legal advocate.

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<sup>220</sup> Saskatchewan Ministry of Justice, *Inmate Orientation Manual* (2015), p. 11

<sup>221</sup> *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c.11. *Correctional Services Regulations* 2013, RRS c. C-39.2 Reg 1, part XIII, s. 61(2); Saskatchewan Ministry of Justice, *Inmate Orientation Manual* (2015), p. 4

<sup>222</sup> *Correctional Services Regulations* 2013, RRS c. C-39.2 Reg 1, part XIII, s. 61.

Saskatchewan Ministry of Justice, *Inmate Orientation Manual* (2015), p. 8.

<sup>223</sup> *Freedom of Information and Protection of Privacy Act* (FIPPA), SS 1990-91, c. F-22.01, s. 32(1)

<sup>224</sup> *Freedom of Information and Protection of Privacy Act* (FIPPA), SS 1990-91, c. F-22.01, s. 49(1)

<sup>225</sup> *Saskatchewan Human Rights Code*, c. S-24.1, s.27(1)

<sup>226</sup> *The Ombudsman Act*, 2012, R.S.S. c. 0-4, s.17

## **What is a problem that I should try to remedy?**

Any decision or action by a staff member that negatively affects you or compromises your dignity, or that you believe denies your rights or further restricts your liberty is either not allowed, or there are rules about what can be done. In any event, you are entitled to know what the rules are. If your case manager or the ADDP for your unit cannot or will not assist you, you are entitled to complain about it. Corrections staff are encouraged to informally resolve matters, but you are not required to do so, especially if the issue you are concerned about affects your rights and freedoms.

Here are some examples of issues that could impact your liberty and freedom:

- Poor treatment by a staff member;
- Denial of your exercise time;
- Denial of access to your documents;
- Denial of telephone calls, especially if it is to your lawyer;
- Unit placement;
- Inaccuracy in your file(s) or report(s);
- New (higher) security classification;
- Reduction of your visiting rights;
- Disciplinary charge(s);
- Placement in administrative segregation; or,
- Involuntary transfer.

## **Why should I seek a solution to my problem?**

Perhaps the most obvious reason to seek a remedy for your problem is that success will mean an immediate improvement in your personal situation. However, there are other reasons that may be just as important or even more so.

One of the most important reasons to file a complaint is that you have a right to do so. You also have the right to be treated with respect and dignity and the right to validation when someone treats you otherwise. One of the best ways to protect your rights is to exercise them.

When you use the complaint procedure successfully, you demonstrate that the procedure can work. If, on the other hand, you cannot get a problem resolved through the complaint procedure, by using the process that is available, even if it does not provide the results you want, you are still documenting that something is going wrong, and therefore, helping to build the argument that other alternatives are needed. You can help to maintain or even advance your rights simply by exercising them.

Filing complaints can have an impact on the justice system as a whole and help other prisoners. Your documentation of c o m p l a i n t s a n d grievances allow organizations representing prisoners to collect statistics that reflect the reality of people's experiences inside prisons. This information in turn may assist organizations to hold institutions accountable.<sup>227</sup>

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<sup>227</sup> For example, in 1997, the Working Group on Human Rights examined the ability of the Correctional Service of Canada to monitor its compliance with Canada's domestic and international human rights obligations, and developed a strategic model for evaluating human rights performance

## Requests

### What is a request?

A request is simply asking for something that you want or need, either orally or in writing. A request is appropriate in situations where the problem is less serious. For instance, let's say you are told that are not allowed to take a required program yet, because of the criminogenic factors outlined in your Risk Assessment. You could make a request to access the program as soon as possible in order to permit you to fulfill the requirements of your plan. You could also request a timeline in terms of when you are expected to take the program, whether there are any other expectations of you in order to access the program(s), etc. A request is generally seen as less threatening by staff, while it still allows you to document your needs and concerns<sup>228</sup>

### How do I make a request?

Request slips are normally available in every unit. Please refer to Appendix B at the end of this handbook for a copy of the Correctional Facility Request Slip. Filling out a request slip is often better than making an oral request because it leaves a 'paper trail' (proof that you made the request). Ask where the slips are available at your institution. If you can't make a photocopy, take two copies of the Request Slip to copy it out twice, and keep a copy for yourself.

### Why bother trying to make a request first?

Consider what it is you want. If you can get what you want without making a complaint, then ask for it. Staff may not know what you need until you ask!

Making a request also creates a record for your attempt to resolve a problem at the lowest level possible. Being able to show that you first tried to resolve your problem by making a request may help your case if you later decide to file a complaint.

Finally, because making a request is a simpler process and involves less paperwork than filing a complaint, it may be a faster way to resolve your problem.

### What are potential problems with making a request?

In practice, requests are more likely than complaints to be ignored or to get lost. Also, if you decide to make a request, be careful that you don't run out of time to file a complaint (see usual time frames below), in case your request does not result in a satisfactory solution.<sup>39</sup>

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<sup>228</sup> Canadian Association of Elizabeth Fry Societies (CAEFS), et al, *Human Rights in Action: Handbook for Women Serving Federal Sentences*, p. 83

## Complaint Process

### What is a complaint?<sup>229</sup>

A complaint is a written notice that tells Corrections you are unhappy with an action or a decision by a staff member. (See a copy of a Complaint form at the end of the handbook.)

### How long do I have to file a complaint?

You do not have a time limit for filing complaints of any nature. Except for a complaint about a decision of a disciplinary panel – for these, you must file an appeal within 5 days of the decision being made.<sup>41</sup> You can request to have a green Appeal Form if they are not already available in your unit. Please refer Appendix D at the end of this handbook for a copy of the Correctional Facility Appeal Form.

### How do I file a complaint?

You can request to have a yellow Complaint Form if they are not already available in your unit. You can make a complaint by writing directly to the Director.<sup>42</sup> Please refer Appendix C at the end of this handbook for a copy of the Correctional Facility Complaint Form. When the Director receives the complaint, s/he must make a decision about the complaint, and can inspect records or conduct an investigation to decide what is appropriate.<sup>43</sup> If you can't make a photocopy, copy out the complaint form twice and keep a copy for yourself. If you can't make a photocopy, take two copies of the Complaint Form to copy it out twice, and keep a copy for yourself.

Please also see Appendix E at the end of this handbook for the Complaint Resolution Process in Adult Correctional Facilities (page 1 to 7).

Also, please see Appendix F for the Appeals, Representations and Redress Mechanisms in Adult Correctional Facilities (page 1 to 12).

### Complaint with the Provincial Correctional System

If your complaint is about the corrections system in general, you can call Custody Supervision and Rehabilitation Services at 306-787-8958.

If your complaint is about a provincial correctional facility, you can call the facility directly. In most cases you will be referred to the internal complaint process, which begins with you speaking with your unit manager or filling out a complaint form, which will be forwarded to the director.

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<sup>229</sup> *The Correctional Services Regulations*, 2013, C-39.2, s. 48-49

Pine Grove Correctional Centre	306-953-3100
Prince Albert Correctional Centre	306-953-3000
Regina Correctional Centre	306-924-9000
Saskatoon Correctional Centre	306-956-8800

### **What do I include in my complaint?<sup>230</sup>**

Before writing your complaint, think about what you want to say and why you've decided to make a complaint in the first place. In order to write an effective complaint, you should consider answer the following important questions:

#### **WHY**

- What do you want to get out of it?
  - For example: To get a decision reversed? A service you are being denied? Information? Creation of a record?
- Why is it necessary to file a complaint rather than a less confrontational and time-consuming request?

#### **WHO**

- Whose action/inaction do you want to complain about?
- Is the problem within the jurisdiction (with the power) of Corrections? Remember that examples of things that are not in Correction's jurisdiction include:
  - a doctor who will not prescribe pain medication;
  - a decision of the Parole Board; and
  - the action of a contract worker.

#### **WHAT**

##### **What is the issue?**

- If the issue involves discrimination (based on race, religion, gender, ethnic origin, age, sexual orientation, disability, etc.) make that clear. This will alert Corrections to the fact that your complaint may implicate the *Saskatchewan Human Rights Act*.

##### **What are the facts?**

- Don't make them up or try to fill in missing blanks.
- Remember to keep careful records! This will allow you to relay detailed and accurate facts, such as dates and times.

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<sup>230</sup> Canadian Association of Elizabeth Fry Societies (CAEFS), et al, *Human Rights in Action: Handbook for Women Serving Federal Sentences*, p. 91-92

### **What are the opinions?**

- Be clear that your opinion is based on your own analysis of the situation and, therefore, is not a “fact.”
- Ask yourself if there is an alternate scenario that could also match the facts.

### **What is the relevant law or policy?**

- Find a relevant law (from the *Correctional Services Act*), regulation, or policy that is directly related to your case.
- Was there a breach of this law, regulation, or policy?

### **What “corrective action” do you want the Ministry of Corrections, Public Safety and Policing to take?**

### **What outcome would you like to achieve?**

### **What solution would make you happy?**

### **What if I don’t have all the information I need?**

You have the right to access the information that is relevant to your case. If Corrections is withholding this information from you, then you may want to file an *Access to Information* request or make a complaint to the Privacy Commissioner. (For more information on this, please refer to the chapter on “Confidentiality and Access to Information” in Part III.)

If a lawyer or an advocacy organization (such as your local Elizabeth Fry Society) is working on your behalf, they may need you to sign an information release so they can access records on your behalf.

### **Are complaints kept confidential?**

All complaints are subject to Saskatchewan’s privacy laws and may be shared with relevant parties in order to investigate your complaint and for statistical purposes. If your claim is not kept confidential you can file a complaint with the Saskatchewan Information and Privacy Commissioner. (See “Confidentiality and Access to Information” chapter in Part III.)

### **When can I expect to hear back about my complaint?**

You should receive a decision in writing, which includes written reasons, within 5 days of the time that the Director receive your complaint<sup>231</sup>

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<sup>231</sup> *The Correctional Services Regulations*, 2013, C-39.2, s. 48(4)

### **Who reads the complaint?**

The Director will read the complaint,<sup>232</sup> although s/he has discretion to delegate this function to another correctional facility manager, unless the complaint is about that person.

### **When can I expect to hear back about my complaint?**

You should receive a decision in writing, which includes written reasons, within 5 days of the time that the Director receives your complaint. If exceptional circumstances occur and the

Director is unable to make a decision within 5 days, then you are entitled to an update regarding the status of your complaint every 5 days until a decision is made.<sup>233</sup>

### **What if I am not happy about the decision of my complaint?**

See “Other Options” below for who to contact and under what circumstances.

### **Are there any possible negative consequences for filing a complaint?**

No.<sup>234</sup>

There is no policy or law that allows anyone to threaten you or being treated differently because you have filed a complaint. If you notice a difference in the way you are being treated and you suspect it is because you filed a complaint, or you were told this is why, be sure to speak with your case manager or unit supervisor. If this doesn't work, consider filing a request to see the policy that allows this treatment, and/or submit a complaint about the treatment.

### **Other Options**

What can I do if I'm not satisfied with the Director's decision?

If you are not satisfied with the decision of your original complaint, you can file a higher level complaint by writing to the Executive Director, Custody Services:

Saskatchewan Corrections and Policing  
Executive Director, Custody Services  
700-1874 Scarth Street  
Regina, SK S4P 4B3

Tel: 1-306-787-9077 (Executive Coordinator of the Executive Director)

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<sup>232</sup> *The Correctional Services Act*, SS 2012, C-39.2, s. 67

<sup>233</sup> *The Correctional Services Regulations*, 2013, C-39.2, s. 48(5)

<sup>234</sup> *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act* (U.K.), 1982, c. 11, s. 2(b)



If you are still not satisfied with how your complaint is handled, you have a few options, depending on the situation:

- If you have been **treated unfairly**, you can make a complaint to the Ombudsman for Saskatchewan.
- If you have been **discriminated against**, you can file a complaint with the Saskatchewan Human Rights Commission.
- If you have been **unlawfully imprisoned**, you can apply for *habeas corpus*

You can also contact either the John Howard Society (for male prisoners) or the Elizabeth Fry Society (for women prisoners) for more help. (See contact information below.)

## Contact the Ombud's Office

## What is the Ombudsman?

Ombudsman Saskatchewan is an independent office, headed by the provincial Ombudsman. The Ombudsman is appointed by the Legislative Assembly but operates independently from the government and all political parties, and is free to make its own conclusions.

The Ombudsman holds the Government of Saskatchewan accountable in terms of fairness by investigating and resolving complaints about unfairness in government services, organizations and institutions. The Ombudsman takes complaints and investigates, mediates or provides other services to help resolve complaints. The Ombudsman is neutral and looks at the complaint from all sides.<sup>235</sup>

Ombudsman Saskatchewan has jurisdiction over all provincial ministries including Corrections and Policing . If you complain first to Corrections and you think their response is unfair, you should contact the Ombudsman.<sup>236</sup> The Ombudsman has successfully resolved complaints involving Corrections on multiple occasions.

## How can the Ombudsman help me?

The Ombudsman can investigate matters concerning provincial correctional centres by holding hearings and obtaining information to make inquiries.<sup>237</sup> If the Ombudsman finds that Corrections has treated you unfairly, they may issue a report detailing how the situation can be rectified and whether a policy should be reconsidered.<sup>238</sup>

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<sup>235</sup> <https://www.ombudsman.sk.ca/info/who-we-are-1>

<sup>236</sup> <https://www.ombudsman.sk.ca/info/correctional-institutions>

<sup>237</sup> *The Ombudsman Act, 2012* R.S.S. c. 0-4, ss.17, 24, 25

<sup>238</sup> *The Ombudsman Act, 2012* R.S.S. c. 0-4, ss. 27

### **Before you contact the Ombudsman, talk to:**

- A case manager or staff
- The Team Leader or Assistant Deputy Director Programs
- The Director

If you are still not satisfied, contact the Ombudsman.

### **How do I file a complaint with the Ombudsman?**

You can file a complaint by **mail, phone or fax**.<sup>239</sup> Please refer to Appendix G at the end of this handbook for a copy of the Ombudsman's complaint form.

Making a complaint to the Ombudsman is *free*. Calls to the Ombudsman through the inmate telephone system are *free and are not recorded or monitored*.<sup>240</sup>

If you are in jail, your family or friends can contact the office on your behalf. Once you are released, and in the community, you can also make a complaint **in person** at either the Saskatoon or Regina office or **online** at [www.ombudsman.sk.ca/complaint/make-a-complaint-online](http://www.ombudsman.sk.ca/complaint/make-a-complaint-online).<sup>241</sup>

### **What kinds of complaints does the Ombudsman deal with?**

The Ombudsman takes complaints about unfair treatment. For example:

- You can't see a doctor, nurse or dentist
- Health and safety issues in your unit
- Problems with visits
- Not enough fresh air and exercise
- Overcrowding
- Access to programming
- *Telmate* issues<sup>57</sup>

The Ombudsman *cannot* investigate a judge's decision or anything that happened in court, medical decisions made by doctors, dentists or psychiatrists, criminal matters or personal disagreements with other prisoners. If you don't know who to talk to about these kinds of problems, the Ombudsman's office can tell you.<sup>242</sup>

### **What should I include in my complaint?**

Include as much information and detail as possible, including:

- Your **contact information** (first & last name, correctional centre, unit you are in, etc.)
- What happened – be as specific as possible (dates, times, locations, the name and titles of anyone involved)
- What steps you have taken to solve the problem

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<sup>239</sup> <https://www.ombudsman.sk.ca/info/make-a-complaint>

<sup>240</sup> <https://www.ombudsman.sk.ca/uploads/document/files/corrections-brochure-mens-july-2013-en.pdf>

<sup>241</sup> [www.ombudsman.sk.ca/complaint/make-a-complaint-online](http://www.ombudsman.sk.ca/complaint/make-a-complaint-online)

<sup>242</sup> <https://www.ombudsman.sk.ca/uploads/document/files/corrections-brochure-mens-july-2013-en.pdf>

<https://www.ombudsman.sk.ca/uploads/document/files/corrections-brochure-womens-july-2013-en.pdf>

Try to keep detailed, up-to-date notes about everything that happens and everything you do. Keep track of all paperwork and letters related to your complaint. This will make it easier for the Ombudsman to conduct an investigation. Remember: *It is important to DOCUMENT EVERYTHING!*

### How long do I have to file a complaint?

There is *no deadline* for when you must file a complaint with the Ombudsman. However, it is good to file a complaint as soon as possible. This will also make it easier for the Ombudsman to conduct an investigation and hopefully find solutions to your situation.

### What will happen when I make a complaint?

When you make your complaint, the Ombudsman will ask you about what happened, ask you what steps you have taken to try to solve the problem and talk to Corrections staff to get their side of the story.<sup>243</sup>

For more information, you can refer to Appendix H at the end of this handbook for the Ombudsman's complaint process flow-chart.

Depending on the complaint, the Ombudsman may or may not conduct an investigation. They might be able to work out a solution quickly, or they might negotiate or mediate one. The end result in every case is different:

- Corrections may decide to voluntarily make changes to fix the problem
- If the Ombudsman decides that Corrections or the staff acted unfairly or could have done better, the Ombudsman will make a recommendation stating what should be done to improve
- The Ombudsman may decide that there was no unfair treatment and that nothing more needs to be done<sup>244</sup>

The Ombudsman completes most complaints within 90 days, but some may take longer.<sup>245</sup>

### Contact the Ombudsman

#### Regina Office

Ombudsman Saskatchewan  
150 – 2401 Saskatchewan Drive  
Regina, SK S4P 4H8

Phone: 306-787-6211  
Toll-free: 1-800-667-9787  
Fax: 306-787-9090  
E-mail: [ombreg@ombudsman.sk.ca](mailto:ombreg@ombudsman.sk.ca)

#### Saskatoon Office

Ombudsman Saskatchewan  
500 – 350 3rd Avenue North  
Saskatoon, SK S7K 6G7

Phone: 306-933-5500  
Toll-free: 1-800-667-9787  
Fax: 306-933-8406  
E-mail: [ombsktn@ombudsman.sk.ca](mailto:ombsktn@ombudsman.sk.ca)

#### Office Hours

- Both locations open Monday to Friday: 8:00 am to 12:00 pm and 1:00 pm to 5:00 pm
- The offices are closed on weekends and statutory holidays.

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<sup>243</sup> <https://www.ombudsman.sk.ca/uploads/document/files/corrections-brochure-mens-july-2013-en.pdf>  
<https://www.ombudsman.sk.ca/uploads/document/files/corrections-brochure-womens-july-2013-en.pdf>

<sup>244</sup> <https://www.ombudsman.sk.ca/uploads/document/files/corrections-brochure-mens-july-2013-en.pdf>  
<https://www.ombudsman.sk.ca/uploads/document/files/corrections-brochure-womens-july-2013-en.pdf>

<sup>245</sup> <https://www.ombudsman.sk.ca/faqs/questions-answers>

You can e-mail general inquiries or comments. If you have a complaint, however, contact the Ombudsman by phone, fax, mail, on line or in person.

For more information, visit <https://www.ombudsman.sk.ca/info/correctional-institutions>.

## Contact the Saskatchewan Human Rights Commission

### What is the Saskatchewan Human Rights Commission?

The Saskatchewan Human Rights Commission promotes and protects the dignity, fundamental freedoms and equal rights of Saskatchewan citizens. It is responsible for investigating and resolving complaints about discrimination.<sup>246</sup>

Because Saskatchewan Corrections is provincially regulated, it is subject to the *Saskatchewan Human Rights Code*.<sup>247</sup>

### How can the Human Rights Commission help me?

When you file a complaint, the Commission will work with you and Corrections to reach an agreement that will resolve your complaint. Complaints are resolved either through mediation, investigation or a hearing. Resolving complaints through mediation – which can happen at any stage of the process – is the fastest way to resolve a problem.<sup>248</sup>

### What kinds of complaints can the Human Rights Commission take?

You can file a complaint with the Human Rights Commission if you believe you have been **discriminated against** on the following grounds:

- Disability
- Age (18 or more)
- Religion or religious creed
- Family status
- Marital status
- Sex
- Sexual orientation
- Race or perceived race
- Nationality or place of origin
- Ancestry
- Colour
- Receipt of public assistance<sup>249</sup>

It is against the law for you to be denied anything or be treated differently from other prisoners on the basis of any of the above grounds.<sup>250</sup>

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<sup>246</sup> <http://saskatchewanhumanrights.ca/about-us>

<sup>247</sup> You can find the Code online at <http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/S24-1.pdf>

<sup>248</sup> <http://saskatchewanhumanrights.ca/how-to-file-a-complaint/the-resolution-roadmap>;

<http://saskatchewanhumanrights.ca/how-to-file-a-complaint/filing-a-complaint>

<sup>249</sup> Saskatchewan Human Rights Code, c. S-24.1, s.27(1)

<sup>250</sup> <http://saskatchewanhumanrights.ca/how-to-file-a-complaint/filing-a-complaint>

## **Discrimination can be either direct or systemic.**

**Direct Discrimination** happens when an individual or group is treated differently in a negative way based on the above prohibited grounds of discrimination. This kind of discrimination tends to be easy to identify. For example, if prison staff use a racial slur, that is direct discrimination.

**Systemic discrimination** is the creation, perpetuation or reinforcement of persistent patterns of inequality among disadvantaged groups. It is usually the result of seemingly neutral legislation or policies, procedures, practices or organizational structures.

Systemic discrimination tends to be more difficult to detect than direct discrimination. For example, if every prisoner is allotted one hour of outside exercise per day but the yard is not wheelchair accessible that is systemic discrimination.

If you believe you experienced with direct or systemic discrimination, you can file a human rights complaint.

## **How do I file a complaint with the Human Rights Commission?**

Contact the Saskatchewan Human Rights Commission office by **mail, phone, fax, e-mail** or **in person** and explain your complaint to an intake consultant.<sup>251</sup> Please refer to Appendix I at the end of this handbook for a copy of the Human Rights complaint form.

You will have to fill out and submit an “**Intake Questionnaire**” that will tell the Commission about your complaint. The questionnaire can be submitted by **mail, fax** or **e-mail**, and can also be filled out and submitted **online** on the Commission’s website.<sup>252</sup>

Once you submit the questionnaire, an intake consultant will assess your complaint. If the Commission decides to proceed with your complaint, you will be asked to **sign a complaint form**. A human rights complaint form is a legal document that sets out the allegation of discrimination. Your complaint will be official once you sign it.<sup>253</sup>

## **What should I include in my complaint?**

You will need to include the following information:

- Your name and contact information (name of institution and unit, phone number)
- The name and contact information of the person, group or institution you are complaining about
- The ground of discrimination (sex, race, ability etc.)
- What happened (include as many details as possible, including locations, dates, times, the people involved and names of possible witnesses)

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<sup>251</sup> <http://saskatchewanhumanrights.ca/how-to-file-a-complaint/filing-a-complaint>

<sup>252</sup> <http://saskatchewanhumanrights.ca/how-to-file-a-complaint/filing-a-complaint>

<sup>253</sup> <http://saskatchewanhumanrights.ca/how-to-file-a-complaint/filing-a-complaint>

- What you have already done to resolve the complaint
- How you would like the matter to be resolved
- Any documents that would support your case (letters, reports, your notes et.)<sup>254</sup>

To ensure that your complaint is handled quickly and thoroughly, you should:

- Keep detailed notes and written records of what happened
- Prepare a list of witnesses you think should be interviewed, including their contact information
- Keep in touch with Commission staff
- Inform the Commission of any changes in your contact information<sup>255</sup>

### **What if I need help filing a complaint?**

Filling out the forms for a human rights complaint can be difficult. If you need help you can ask someone you trust to help you. You can also ask someone you trust to file a complaint on your behalf.<sup>256</sup> You can also call the Commission to ask for guidance.

You can also contact either the John Howard Society (for male prisoners) or the Elizabeth Fry Society (for women prisoners) for help. (See below for contact information.)

### **How long do I have to file a complaint?**

You have **one year** from the time that you *become aware of the discrimination* to file a human rights complaint. This means you may be able to file a complaint more than one year after the incident happened, if you only later became of it. You should, however, try to file the complaint as soon as possible.<sup>257</sup>

### **What will happen when I make a complaint?**

Once you file a complaint, a copy will be given to Corrections. In most cases, the Commission will try to mediate the complaint. The Commission's mediator is not on anyone's side and will not try to advocate for one party or another. Most complaints are resolved through mediation.<sup>74</sup>

If your complaint is not resolved in mediation then there will be an investigation. You may have to supply more information. The investigator will then write a disclosure report and both sides will have an opportunity to respond to it.<sup>258</sup>

The Chief Commissioner will review the disclosure report and decide either to dismiss the complaint or to proceed to a hearing. If a hearing is ordered it means that the Commission believes

<sup>254</sup> [http://saskatchewanhumanrights.ca/+pub/documents/complaint\\_process/Intake\\_Questionnaire\\_20141027.pdf](http://saskatchewanhumanrights.ca/+pub/documents/complaint_process/Intake_Questionnaire_20141027.pdf)

<sup>255</sup> <http://saskatchewanhumanrights.ca/how-to-file-a-complaint/filing-a-complaint>

<sup>256</sup> Elizabeth Fry Society of Saskatchewan, Canadian Association of Elizabeth Fry Societies (CAEFS) et al., *Human Rights in Action: Handbook for Provincially Sentenced and Remanded Women in Saskatchewan*, 2011, p. 65

<sup>257</sup> *Saskatchewan Human Rights Code*, c. S-24.1 s. 27(5)

<sup>258</sup> <http://saskatchewanhumanrights.ca/how-to-file-a-complaint/the-resolution-roadmap>;  
<http://saskatchewanhumanrights.ca/how-to-file-a-complaint/filing-a-complaint>

it is more likely than not that the allegations you made in your complaint are true and that the discrimination you suffered requires compensation.<sup>259</sup>

Before the hearing there will be one further mediation attempt. The hearing will not cost you anything.<sup>260</sup>

### **Are complaints confidential and do I have to worry about retaliation?**

The Commission tries to maintain confidentiality during the complaint process. However, the information you provide will be used by the Commission to investigate your complaint. This information may be disclosed if it is required to conduct the investigation or to allow the person you are complaining about to fairly respond to your complaint.

It is against the law<sup>261</sup> for anyone to threaten, intimidate or retaliate against you for filing a complaint with the Commission.<sup>262</sup>

If you do experience retaliation after filing a complaint, contact the John Howard Society (for male prisoners) or the Elizabeth Fry Society (for women prisoners) (See below for contact information).

### **Contact the Saskatchewan Human Rights Commission**

#### Regina Office

Suite 320  
1855 Victoria Avenue  
Regina, SK S4P 3T2  
Toll free: 1-800-667-9249

Fax: (306) 787-0454  
E-mail: [shrc@gov.sk.ca](mailto:shrc@gov.sk.ca)

#### Saskatoon Office

8th Floor, Sturdy Stone Building  
122-3rd Avenue North  
Saskatoon, SK S7K 2H6  
Phone: (306) 933-5952  
Toll free: 1-800-667-9249

Fax: (306) 933-7863  
E-mail: [shrc@gov.sk.ca](mailto:shrc@gov.sk.ca)

#### Office Hours

- Both locations open Monday to Friday: 8:30am to 12:00pm and 1:00pm to 4:30pm.
- The offices are closed on weekends and statutory holidays.

For more information about Saskatchewan Human Rights Commission and how they can assist you, visit [www.saskatchewanhumanrights.ca](http://www.saskatchewanhumanrights.ca)

### **Apply for Habeas Corpus**

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<sup>259</sup> <http://saskatchewanhumanrights.ca/how-to-file-a-complaint/the-resolution-roadmap>;

<http://saskatchewanhumanrights.ca/how-to-file-a-complaint/filing-a-complaint>

<sup>260</sup> <http://saskatchewanhumanrights.ca/how-to-file-a-complaint/the-resolution-roadmap>;

<http://saskatchewanhumanrights.ca/how-to-file-a-complaint/filing-a-complaint>

<sup>261</sup> It could be an offence punishable under the Summary Offences Procedures Act (violating section 45 (d) or could be a crime if there are threats that fit Criminal Code criteria.

<sup>262</sup> *Saskatchewan Human Rights Code*, c. S-24.1 s. 45(d)

## What is habeas corpus?

*Habeas corpus* is one of our most important safeguards of liberty. It allows prisoners to challenge the legality of their detention.

As a prisoner, you retain residual liberty rights and are entitled to meaningful and significant access to justice in order to protect those rights.<sup>79</sup>

*Habeas corpus* is a legal action that can be made before a court if someone is unlawfully detained or imprisoned. Any prisoner, or another person acting on their behalf, may make an application for *habeas corpus*.

A *habeas corpus* application allows you to appear in court and forces Corrections officials to prove that they have lawful authority to detain you. If the prison is acting unlawfully then you may be released.<sup>80</sup>

## When can I apply for habeas corpus?

Prisoners in Saskatchewan can make an application for *habeas corpus* to the Court of Queen's Bench (the Provincial superior court). The Court **must** hear an application for *habeas corpus* in most circumstances.<sup>81</sup>

You may make an application for *habeas corpus* if you believe you have been unlawfully:

- Placed in segregation (solitary confinement)
- Transferred to a higher security unit
- Transferred to another institution
- Transferred as part of an emergency transfer

You may make an application for *habeas corpus* whenever you believe that your residual liberty rights are unlawfully restricted.

## How do I make an application for habeas corpus?

If you wish to make an application you should immediately contact your **lawyer**, if you have one.

If you do not have a lawyer, you can contact **Legal Aid Saskatchewan** about the possibility of obtaining their services.



## **Contact Legal Aid Saskatchewan**

### Regina Office

Regina City Area Office  
#200, 1871 Smith Street  
Regina SK S4P 4W5

Phone: 306.787-8760  
Toll free: 1-877-424-1897  
Fax: 306.787-8827  
E-mail: [ReginaCity@legalaid.sk.ca](mailto:ReginaCity@legalaid.sk.ca)

### Saskatoon Office

Saskatoon (Criminal) Area Office  
#1053 - 122 Third Ave. N. Sturdy Stone  
Saskatoon SK S7K 2H6

Phone: 306.933-7820  
Toll free: 1-877-424-1898  
Fax: 306.933-7827  
E-mail: [SaskatoonCriminalLaw@legalaid.sk.ca](mailto:SaskatoonCriminalLaw@legalaid.sk.ca)

### **Battlefords Area Office**

Provincial Building, #L103 - 1192 102nd Street  
North Battleford  
S9A 1E9  
p: 306.446-7700  
f: 306.446-7598  
1-877-441-4418

### **Melfort Area Office**

Box 6500, 3rd Floor, 105 Crawford Avenue East  
Melfort  
S0E 1A0  
p: 306.752-6220  
f: 306.752-6127  
1-877-424-1901

### **Northern Area Office**

Box 5000, Mistasinihk Place,  
1328 La Ronge Avenue  
La Ronge  
S0J 1L0  
p: 306.425-4455  
f: 306.425-4472  
1-800-667-4095

### **Meadow Lake Area Office**

Unit #3, 101 Railway Place  
Meadow Lake  
S9X 1X6  
p: 306.236-7636  
f: 306.236-7634  
1-800-461-8188

### **Moose Jaw Area Office**

#113 - 110 Ominica Street West  
Moose Jaw  
S6H 6V2  
p: 306.694-3700  
f: 306.694-3738  
1-877-424-1902

### **Prince Albert Area Office**

Box 3003, 11th Floor, L.F. McIntosh Building,  
800 Central Avenue  
Prince Albert  
S6V 6G1  
p: 306.953-2850  
f: 306.953-2866  
1-877-424-1900

**Regina Rural Area Office**

#102 - 2400 College Avenue

Regina

S4P 1C8

p: 306.787-1141

f: 306.787-2316

1-877-424-1906

**Saskatoon Rural Area Office**

#941 - 122 Third Avenue North, Sturdy Stone Centre

Saskatoon

S7K 2H6

p: 306.933-7855

f: 306.933-7854

1-877-424-1899

**South East Area Office**

#101 - 1302 3rd Street

Estevan

S4A 2V6

p: 306.637-4620

f: 306.637-4625

1-877-424-1903

**Swift Current Area Office**

3rd Floor, 350 Cheadle Street West

Swift Current

S9H 4G3

p: 306.778-8272

f: 306.778-8307

1-877-424-1905

**Yorkton Area Office**

#301 - 120 Smith Street East

Yorkton

S3N 3V3

p: 306.786-1440

f: 306.786-1405

1-877-424-1904

If you are in the community, you can also make general inquiries on line at  
<http://www.legalaid.sk.ca/contact/>.

Alternatively, you can contact either the John Howard Society (for male prisoners) or the Elizabeth Fry Society (for women prisoners) for help.

Contact the John Howard Society or the Elizabeth Fry Society

The John Howard Society (for male prisoners) and the Elizabeth Fry Society (for women prisoners) advocate for prisoners in Canada. They can help you make a complaint.

The John Howard Society of Saskatchewan

1801 Toronto Street

Regina, SK S4P 1M7

Phone: 306.757.6657

Toll Free: 1.888.757.6658

Fax: 306.347.0707

Email: [jhsinfo@sk.johnhoward.ca](mailto:jhsinfo@sk.johnhoward.ca)

Elizabeth Fry Society of Saskatchewan

600-245 3rd Avenue South

Saskatoon, SK S7K 1M4

Phone: (306) 934-4606

Toll Free: 1-888-934-4606

Fax: (306) 652-2933

Email: [info@elizabethfrysask.org](mailto:info@elizabethfrysask.org)

# APPENDIX A Initial Health Assessment Form



Ministry of Justice  
Corrections and Policing  
Custody Services

## INITIAL HEALTH ASSESSMENT

Client Name: \_\_\_\_\_

PHN: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Previous Admission: ☐ Yes ☐ No

Where / When: \_\_\_\_\_

**ALLERGIES:** ☐ None Known ☐ Yes ☐ EpiPen

Reaction: \_\_\_\_\_

☐ Anaphylaxis \_\_\_\_\_

☐ Latex \_\_\_\_\_

☐ Medications \_\_\_\_\_

☐ Food \_\_\_\_\_

☐ Other \_\_\_\_\_

**CURRENT URGENT MEDICAL PROBLEMS:** ☐ None

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Appointment Booked in Community: ☐ Yes ☐ No

\_\_\_\_\_

**MEDICATIONS:** ☐ None ☐ Yes Attach PIP (or list freq amt & last dose)

1.) \_\_\_\_\_

2.) \_\_\_\_\_

3.) \_\_\_\_\_

4.) \_\_\_\_\_

5.) \_\_\_\_\_

6.) \_\_\_\_\_

Methodone: ☐ Yes Prescriber: \_\_\_\_\_

\_\_\_\_\_ mg Pharmacy: \_\_\_\_\_

Date of Last Dose: \_\_\_\_\_

**SUBSTANCE USE & ABUSE:**

☐ None ☐ Past ☐ Current

Amount and Last used: \_\_\_\_\_

\_\_\_\_\_

☐ Alcohol \_\_\_\_\_

☐ Benzos \_\_\_\_\_

☐ Opioids \_\_\_\_\_

☐ Cocaine \_\_\_\_\_

☐ Solvents \_\_\_\_\_

☐ Other \_\_\_\_\_

Withdrawal: ☐ Dehydrated ☐ Tremors

☐ Diarrhea ☐ Nausea ☐ Vomiting

☐ Seizures (past history) ☐ Hallucinations

☐ Bottom Bunk Required

**TREATMENT INITIATED:**

**VITAL SIGNS:** Today's Measured Weight: \_\_\_\_\_

P \_\_\_\_\_ BP \_\_\_\_\_ T \_\_\_\_\_ R \_\_\_\_\_ SaO<sub>2</sub> \_\_\_\_\_ Baseline \_\_\_\_\_

**BODY DIAGRAM:** ☐ N/A

Recent Trauma or Injury:

☐ No

☐ Yes, indicate on diagram



A Abrasion  
B Burn  
C Scabies  
F Fracture  
G Gunshot  
H Hematoma  
I Lice  
L Laceration  
N Needle Marks  
P Pain  
R Rash  
S Splinted (cast)  
O Swelling  
P Sutures  
T Stab Wound  
U Ulceration  
V Cellulitis  
Other \_\_\_\_\_

**Notes:**

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## Initial Health Assessment Form (page 2 of 3)

<b>MUSCULO/SKELETAL:</b> <input type="checkbox"/> None <input type="checkbox"/> Amputations: _____ <input type="checkbox"/> Deformities: _____ <input type="checkbox"/> Decreased ROM <input type="checkbox"/> Wheelchair/Walker/crutches	<b>COMMUNICABLE DISEASES:</b> <input type="checkbox"/> None Known <input type="checkbox"/> Current Symptoms _____ <input type="checkbox"/> HIV _____ <input type="checkbox"/> Hep C _____ <input type="checkbox"/> Hep B _____ <input type="checkbox"/> TB _____ <input type="checkbox"/> STI _____ Other Relevant Results: _____ <input type="checkbox"/> Advised Communicable Disease Testing Available <input type="checkbox"/> Advised of Immunization Options Available
<b>DIABETES:</b> <input type="checkbox"/> None (glucometer _____) <input type="checkbox"/> Type 1 <input type="checkbox"/> Type 2 <input type="checkbox"/> mmo1 <input type="checkbox"/> Insulin <input type="checkbox"/> Oral Meds	<b>PULMONARY:</b> <input type="checkbox"/> None <input type="checkbox"/> Yes <input type="checkbox"/> Asthmatic <input type="checkbox"/> Pneumonia <input type="checkbox"/> Productive cough <input type="checkbox"/> S.O.B. <input type="checkbox"/> COPD
<b>DENTAL:</b> <input type="checkbox"/> None <input type="checkbox"/> Dentures: <input type="checkbox"/> Upper <input type="checkbox"/> Lower <input type="checkbox"/> Abscesses <input type="checkbox"/> Mouth Check <input type="checkbox"/> Protocol Started	<b>NEUROLOGICAL:</b> <input type="checkbox"/> None <input type="checkbox"/> Head Trauma <input type="checkbox"/> Seizures <input type="checkbox"/> Syncope <input type="checkbox"/> CVA <input type="checkbox"/> Disoriented <input type="checkbox"/> Bottom Bunk Requested
<b>G.U./GYNE:</b> <input type="checkbox"/> None <input type="checkbox"/> Dysuria <input type="checkbox"/> Discharge <input type="checkbox"/> Lesions <input type="checkbox"/> Last Pap _____ LMP Date: _____ Comment: _____ <input type="checkbox"/> Pregnant _____ weeks <input type="checkbox"/> Prev. Preg. #/Comment: _____ <input type="checkbox"/> ICON	<b>GI:</b> <input type="checkbox"/> Regular Diet <input type="checkbox"/> Ulcers <input type="checkbox"/> Special Diet <input type="checkbox"/> G.E.R.D.
<b>CARDIOVASCULAR:</b> <input type="checkbox"/> None <input type="checkbox"/> Chest Pain <input type="checkbox"/> Angina <input type="checkbox"/> Arrhythmia <input type="checkbox"/> Hypertension <input type="checkbox"/> Fluid Retention <input type="checkbox"/> Congenital Heart Defects	
<b>Additional Comments – see progress notes too</b> _____ _____ _____ _____ _____ _____ _____ _____ _____	

Client (Print Name / Signature) \_\_\_\_\_

Nursing Staff (Print Name / Signature) \_\_\_\_\_

\_\_\_\_\_

Date of Admission

\_\_\_\_\_

Time

## Initial Health Assessment Form (page 3 of 3)

By signing this document I consent to allow the information in it to be shared with all health care professionals responsible for or involved in my health care and well-being while I am incarcerated or as it pertains to my release from custody and continuation of care upon my release. This includes community health service providers and health workers employed by the Ministry of Justice.

I also consent that information that has been gathered by community health service providers, for example Public Health Services, Mental Health Services, Infectious Diseases among others, can be shared with healthcare professionals employed by the Ministry of Justice (\*see note). The information may also be shared, on a need to know basis, with Ministry of Justice case managers involved in maintaining my health while at a Ministry of Justice facility and for community discharge planning purposes.

I also consent to Ministry of Justice health care professionals contacting external health care providers for the release of pertinent health information to ensure continuity of health care while in custody.

I also consent that the information that has been gathered by the Ministry of Justice or Public Health Services can be used to analyze and assess current and future health service needs of individuals within a correctional facility to ensure quality of care. (\*\*see note)

I understand that my consent is voluntary and I can withdraw my consent at any time. I also understand that withdrawing my consent does not affect past actions. I also understand that all information collected before I withdraw my consent will stay in my file and will be used to assist in my health care.

I understand that if I withdraw my consent I will need to make my wishes known in a letter.

*\*You have the right to ask to see your medical file and to ask for clarification from your health care provider regarding your treatment.*

*\*\*You have the right to ask what types of analysis and assessments were conducted with your personal health information and to request that your information is removed from the analysis and assessment.*

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Client (Print Name)

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Date

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Signature

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Witness

# APPENDIX B Correctional Facility Request Slip

Saskatoon Correctional Centre

## REQUEST SLIP

To: \_\_\_\_\_

Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Year Month Day

Inmate's Name: \_\_\_\_\_ Unit: \_\_\_\_\_ Cell Number \_\_\_\_\_

Nature of Request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# APPENDIX C Correctional Facility Complaint Form



Corrections and Policing

## CORRECTIONAL FACILITY COMPLAINT FORM

This form is to be used for complaints about matters involving the administration of the correctional facility. You are encouraged to resolve this complaint with the unit manager.

Please explain the reason for your complaint and background information:

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(Attach a separate piece of paper if required.)

Have you discussed this complaint with the unit staff or manager? Yes \_\_\_\_\_ No \_\_\_\_\_

Date: \_\_\_\_\_  
Day Month Year Unit Full Name of Inmate (please print)

Staff receiving complaint: \_\_\_\_\_  
Print Name Signature of staff member

Manager Review – Please explain all attempts to resolve this complaint informally. If the complaint cannot be resolved, please explain why

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(Attach a separate piece of paper if required.)

Has this complaint been resolved? Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_

If Yes, Signature of Inmate \_\_\_\_\_

Signature of Manager \_\_\_\_\_

Director: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Director or Designate

Original: Complaints File  
Copies: Inmate  
Program File  
Supervisor



# APPENDIX D Correctional Facility Appeal Form



Corrections and Policing

## CORRECTIONAL Facility – APPEAL FORM

This form is to be used when you disagree with one of the following decisions (check one):

DECISION YOU WISH TO APPEAL	APPEAL TO BE HEARD BY...
<input type="checkbox"/> Director's Decision of a Complaint .....	(Director, Custody Services)
<input type="checkbox"/> Transfer .....	(Director, Custody Services)
<input type="checkbox"/> Inmate Discipline - Loss of Remission and Suspension of Loss of Remission .....	(Appeal Adjudicator)
<input type="checkbox"/> Inmate Discipline other than Loss of Remission ...	(Facility Director)
<input type="checkbox"/> Administrative Segregation .....	(Facility Director)
<input type="checkbox"/> Temporary Absence .....	(Facility Director)
<input type="checkbox"/> Security Assessment - Unit Placement .....	(Facility Director)
<input type="checkbox"/> Risk Assessment .....	(Facility Director)
<input type="checkbox"/> Earned Remission .....	(Facility Director)

Which decision are you appealing and why should the decision be altered? Please provide the details of the situation, including the reason for your appeal and any other relevant information.


Attach a separate piece of paper if required.

How can the situation be fixed?


Attach a separate piece of paper if required.

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Unit: \_\_\_\_\_  
Day Month Year

Full Name of Inmate (Please Print) \_\_\_\_\_

Signature of Inmate \_\_\_\_\_

Staff receiving appeal: \_\_\_\_\_  
Print Name Signature

Director: \_\_\_\_\_ Date: \_\_\_\_\_

Original: Director  
Copies: Inmate, Inmate's File, ADDP, ADDO

# APPENDIX E Complaint Resolution Process in Adult Correctional Facilities (page 1 of 7)



Corrections and Policing

TOPIC: COMPLAINT RESOLUTION PROCESS IN ADULT CORRECTIONAL FACILITIES	
<b>LEGISLATIVE AUTHORITY:</b> <i>The Correctional Services Act, 2012</i> , s. 67; <i>The Correctional Services Regulations, 2013</i> , s. 6(c) (i); s. 48	<b>Authorization:</b> Associate Deputy Minister, Custody, Supervision and Rehabilitation Services <b>Policy Owner:</b> Executive Director, Custody Services
<b>Prepared by:</b> Heather Scriver, 2002 <b>Revised by:</b> Karlie Gurski, 2015	<b>Effective Date:</b> <b>Latest Revisions Effective:</b> January 19, 2015 <b>Scheduled Review Date:</b> January 19, 2016

## SCOPE:

This policy applies to all correctional facilities as defined by section 2 of *The Correctional Services Act, 2012*.

## POLICY OBJECTIVE:

The purpose of this policy is to establish a standardized procedure for a fair review of and response to inmate complaints concerning the administration of the correctional facility for which there is no redress mechanism in *The Correctional Service Act, 2012* and Regulations. The objective of this policy is to ensure that inmate complaints are heard in a manner that is consistent with the duty to act fairly, promotes informal resolution and enhances accountability and responsiveness at every level.

## PRINCIPLES:

- Inmates are entitled to fair treatment and to have access to a timely and efficient complaint procedure.
- Inmates have the right to a means of redress without negative consequences when they are dissatisfied with an action or decision.
- Staff members are responsible to perform their duties in a manner that promotes dynamic security and core correctional practices, including engaging in informal resolution where appropriate.

## DEFINITIONS:

**"Complaint"** means an opportunity for an inmate to request a review of an administrative decision, action or practice.

**"Informal Resolution"** means an alternative to a formal resolution process that is agreed to by the parties and should include consultation, problem-solving and discussion. Informal resolution requires that all parties be satisfied that the issue has been remedied.

**"Resolution"** means that the inmate is satisfied that the problems causing or related to the complaint have been addressed fairly and completely in a manner that brings closure to the complaint.

## STANDARDS:

### 1.0 General

- 1.1 The correctional facility director shall establish a local procedural directive for the investigation, review and tracking of inmate complaints.
- 1.2 The correctional facility director shall implement measures that inform inmates of the

Custody Services Policy Manual	Adult Custody	Programs 0011 Page 1 of 5
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**TOPIC: COMPLAINT RESOLUTION PROCESS IN ADULT CORRECTIONAL FACILITIES**

procedures for making a complaint about the administration of the correctional facility.

- 1.3 The complaint process will be part of the Inmate Orientation Manual presented to inmates upon admission to the facility and shall be explained in a manner that the inmate can understand, making accommodations for inmates with literacy or communication challenges.
- 1.4 Inmates who have literacy challenges, diverse requirements or are otherwise unable to reasonably represent themselves in writing may submit their complaint through an oral recording or obtain the assistance of another person to prepare his or her complaint.
- 1.5 Inmates shall be given a copy of this policy upon request.

**2.0 Informal Resolution of Inmate Complaints**

- 2.1 Informal resolution is the standard method for resolving inmate complaints, with the formal process only being used when it is unreasonable or not possible to resolve the complaint informally.
- 2.2 Whenever possible and appropriate, the staff member receiving a complaint shall attempt to resolve the complaint informally.
- 2.3 If the staff member requests or needs assistance, the correctional facility manager shall help the staff member with:
  - the means to investigate the complaint; and/or
  - the resolution of the complaint.
- 2.4 If the director receives a complaint pursuant to section 4 of this policy, he or she shall ensure that all reasonable efforts are made to resolve the complaint informally.
- 2.5 The complaint is closed if informal resolution is achieved.

**3.0 Complaint Forms**

- 3.1 If a complaint cannot be resolved informally at the Corrections Worker level, an inmate may file a written complaint by completing a *Correctional Facility Complaint Form* (see Appendix "A") and forward the form to the correctional facility manager.
- 3.2 Notwithstanding anything in this policy, an inmate may submit a written complaint to the director in a sealed envelope, which shall be relayed to the director unopened.
- 3.3 The correctional facility manager or designate is responsible for:
  - reviewing the *Correctional Facility Complaint Form*;
  - attempting to resolve the complaint where reasonably possible;
  - completing the Manager Review section of the complaint form; and
  - forwarding all complaint forms to the director.
- 3.4 The correctional facility manager or designate shall complete the review of the inmate's complaint within five business days of receiving the complaint form. A review of the inmate's complaint shall include:
  - reviewing any relevant information;
  - referencing applicable legislation, provincial policies and local procedural directives;

## Complaint Resolution Process in Adult Correctional Facilities (page 3 of 7)

### TOPIC: COMPLAINT RESOLUTION PROCESS IN ADULT CORRECTIONAL FACILITIES

- interviewing the inmate or other relevant persons; and
- notifying the inmate of the decision.

#### 3.5 If the complaint is resolved at the unit level:

- The inmate must sign the complaint form – indicating resolution has been achieved.
- The correctional facility manager and corrections workers shall implement the resolution at the unit level.
- The correctional facility manager shall send the complaint form to the director.
- The director shall sign the complaint form and ensure that a copy is stored.
- The correctional facility manager shall file a copy of the complaint in the inmate's file.

#### 3.6 If the complaint is not resolved at the unit level:

- The correctional facility manager shall document all attempts to resolve the complaint by completing the Manager Review section of the complaint form.
- The correctional facility manager shall forward the complaint form and any supporting documentation to the director.
- Complaints forwarded to the director shall be reviewed and responded to according to section 4.0 of this policy.

#### 4.0 Formal Complaints to the Director

##### 4.1 Upon receiving a written complaint, the director must ensure that:

- complaints have been reviewed at the correctional facility manager level in the appropriate circumstances; and
- all reasonable efforts are made to resolve the complaint informally.

##### 4.2 The director or designate:

- must review any relevant documents and materials;
- may conduct any investigation;
- must make any necessary inquiry; and
- may hold any hearing with any person.

##### 4.3 The director shall make a decision and provide a written response to the inmate, with reasons for the decision, within five business days of receiving the complaint.

##### 4.4 If the director cannot make a decision after five business days, the director must provide the inmate with a status update within five business days.

##### 4.5 The director may prepare the written response to a complaint using Appendix "B".

#### 4.6 Healthcare Complaints

##### 4.6.1 The Nurse Managers of Correctional Centres have been delegated the director's authority to respond to complaints regarding the healthcare of an inmate or health services provided for inmates.

##### 4.6.2 The Nurse Manager shall review healthcare complaints, where applicable, in accordance with section 3.0 and 4.0 of this policy.

##### 4.6.3 A copy of the Nurse Manager's response shall be forwarded to the director.

## Complaint Resolution Process in Adult Correctional Facilities (page 4 of 7)

### TOPIC: COMPLAINT RESOLUTION PROCESS IN ADULT CORRECTIONAL FACILITIES

- 4.6.4 The Director, Health Services shall review complaints that cannot be resolved by the reviewing Nurse Manager (e.g. complaints involving the Nurse Manager).

#### 5.0 **Maintenance and Storage of Inmate Complaints**

- 5.1 The director shall maintain a permanent file of all written materials and correspondence relating to inmate complaints in the correctional facility. This file shall serve as a base for periodic evaluations of complaint processing within the facility and shall be made readily available for review by the Ombudsman or other officials conducting external investigations of complaints launched by inmates.

#### 6.0 **Appeals**

- 6.1 An inmate who is not satisfied with the director's decision regarding a complaint made pursuant to this policy may file an appeal in accordance with *Programs 0011.1: Appeals, Representation and Redress Mechanisms in Adult Correctional Facilities*.

#### **CROSS-REFERENCE:**

*Programs 0011.1 Appeals, Representation and Redress Mechanisms in Adult Correctional Facilities*  
*Security 0033 Investigations in Correctional Facilities*

#### **ACCOUNTABILITY:**

A compliance audit will be conducted every three years by a person designated by the Associate Deputy Minister of Custody, Supervision and Rehabilitation Services. The audit will, at a minimum, assess compliance with all sections that require a recorded task. A report of this audit will be submitted to the Executive Director of Custody Services.

#### **SCHEDULED REVIEW:**

The Legislation, Policy and Planning branch will conduct a review of this policy on the date indicated to ensure significant changes in provincial and federal legislation or overall government direction are reflected in the policy. In addition, all policies are subject to review or revision at any time on an as-needed basis.

#### **AUTHORIZATION:**



Dennis Cooley, Associate Deputy Minister  
Custody, Supervision and Rehabilitation Services

## Complaint Resolution Process in Adult Correctional Facilities (page 5 of 7)



Corrections and Policing

### CORRECTIONAL FACILITY COMPLAINT FORM

This form is to be used for complaints about matters involving the administration of the correctional facility. You are encouraged to resolve this complaint with the unit manager.

Please explain the reason for your complaint and background information:

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(Attach a separate piece of paper if required.)

Have you discussed this complaint with the unit staff or manager? Yes \_\_\_\_\_ No \_\_\_\_\_

Date: \_\_\_\_\_  
Day Month Year Unit Full Name of Inmate (please print)

Staff receiving complaint: \_\_\_\_\_  
Print Name Signature of staff member

Manager Review – Please explain all attempts to resolve this complaint informally. If the complaint cannot be resolved, please explain why

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(Attach a separate piece of paper if required.)

Has this complaint been resolved? Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_

If Yes, Signature of Inmate \_\_\_\_\_

Signature of Manager \_\_\_\_\_

Director: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Director or Designate

Original: Complaints File  
Copies: Inmate  
Program File  
Supervisor



## Complaint Resolution Process in Adult Correctional Facilities (page 6 of 7)



Corrections and Policing

### **Appendix "B"** **(Complaint Response Format)**

**Date:** [Enter date]

**Dear [Inmate's Full Name ],**

I am responding to your complaint received by my office on [Date]. This complaint relates to [summary of the issue(s)]. You have explained your reasons for the complaint as follows:

"[quote directly from Inmate Complaint/Appeal Form]"

You explained the relief requested as:

"[quote directly from Inmate Complaint/Appeal Form]"

[Where applicable, include a summary of the inmate representations].

**Jurisdiction and Standard of Review:** [pick one]

**If you are the director:** As the director of the [insert name of correctional facility], I am authorized to make a decision with respect to this complaint by section 67 of *The Correctional Services Act, 2012* and section 48(2) of *The Correctional Services Regulations, 2013* (Complaints).

**If you are the Acting Director:** As the Acting Director of the [correctional facility], I am authorized to make a decision with respect to this complaint by section 16(3) of *The Correctional Services Act, 2012*.

**If you have been delegated a responsibility by the director or the head of corrections:** I have been delegated the responsibility to make a decision with respect to this complaint by section [8(4) – HOC/ 16(4) – director] of *The Correctional Services Act, 2012*.

It is appropriate in these circumstances to review the decision on a standard of [reasonableness/correctness].

#### **The Facts:**

In this case, I have considered the following information:

- [List all information considered]
- [...]
- [...]

#### **Analysis of the Facts:**

[explain the reasoning of your decision based on the facts reviewed].

#### **The Fairness of the Decision (where applicable):**

I find that the action taken by [staff] [has/has not] complied with the provisions of *The Correctional Services Act, 2012* and *The Correctional Services Regulations, 2013*, and that you [were/were not] afforded procedural fairness based on the principles of administrative law [If "was not", provide reasons].

## Complaint Resolution Process in Adult Correctional Facilities (page 7 of 7)



Corrections and Policing

### Decision:

For the reasons outlined above, I [confirm/revoke/vary] the decision that is the subject of this complaint and [a) offer the relief requested OR b) dismiss the complaint/appeal]. If a) [I trust that by [explain the action to meet the relief], you will be satisfied that this issue has been resolved].  
**[For cases involving Administrative Segregation]:** Please be advised that your next administrative segregation review date is [date]. You may submit representations for the consideration of the administrative segregation review panel through [indicate case worker/ADDP/staff member].

Should you disagree with this response, I encourage you to write to the [indicate next level of redress: either Ombudsman, Head of Corrections, etc.] for a review of this decision.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title



# APPENDIX F Appeals, Representations and Redress Mechanisms in Adult Correctional Facilities

TOPIC: APPEALS, REPRESENTATIONS AND REDRESS MECHANISMS IN ADULT CORRECTIONAL FACILITIES	
<b>LEGISLATIVE AUTHORITY:</b> <i>The Correctional Services Act, 2012</i> , s. 20, 21, 61, 66, 68, 79, 80; <i>The Correctional Services Regulations, 2013</i> , s. 7, 8, 19, 42, 43, 45, 47, 49, 61, 74, 75, 81.	Authorization: Associate Deputy Minister, Custody, Supervision and Rehabilitation Services Policy Owner: Executive Director, Custody Services
Prepared by: Karlie Gurski Revised by:	Effective Date: January 17, 2015 Scheduled Review Date: January 17, 2016

## SCOPE:

This policy applies to all adult correctional facilities as defined by section 2 of *The Correctional Services Act, 2012*.

## POLICY OBJECTIVE:

The purpose of this policy is to establish standards for an inmate appeal framework that provides for different levels of representations, redress, procedural protection and safeguards depending on the liberty interests at stake. The consistent application of this policy will contribute to a safe and fair correctional environment by encouraging resolution at the earliest and most appropriate point, while ensuring that the inmate's right to be heard is maintained at every step during decision making processes that impact the inmate's residual liberties.

## PRINCIPLES:

- Inmates are entitled to be treated fairly, to be heard and to have access to a timely and efficient appeal procedure.
- Inmates have the right to a means of making representations and access to redress without negative consequences when they are adversely affected by an action or a decision.
- When the consequences of a decision are more serious and have a greater impact on an inmate's residual liberties, the inmate shall be provided with higher procedural safeguards and protections.

## DEFINITIONS:

**Appeal:** means an opportunity for the inmate to request a review of a statutory decision. Appeals are only allowed where expressly provided by statute and must be heard by a person in a position of higher rank than the decision maker. Appeals can be made in writing or by an oral recording.

**Appeal Adjudicator:** means an individual, who is not an employee of a correctional facility, appointed by the lieutenant governor in council to hear inmate appeals of decisions involving a discipline sanction of the forfeiture of earned remission.

**Director's Review (CSA Regulations Requirement):** means the director's review of an inmate's written or oral representations concerning a Security Assessment, Risk Assessment or the awarding of earned remission as established by *The Correctional Services Regulations, 2013*. The decision resulting from a director's review cannot be appealed internally; redress options include contacting external agencies (e.g. Ombudsman, Human Rights Commission).

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**Representation - Making representation:** means an opportunity for the inmate to be able to give his or her full account of the circumstances surrounding a pending decision or action, to respond to the decision maker and to explain any other factors that the decision maker may wish to consider before rendering a decision. Making representation differs from an appeal because an appeal is filed after a decision has been made, whereas making representation occurs before a decision has been made and assists to inform the final decision.

**Registrar:** means a staff member of the Custody, Supervision and Rehabilitation Services division of the Ministry of Justice who is responsible for coordinating responses from the appeal adjudicators in a manner that ensures the legislative requirements and timelines are met.

**Residual Liberties:** means that inmates retain all of the rights of free citizens, except for those rights that are limited by incarceration and then, only to the degree that is thereby necessary to maintain the security and order of a correctional facility and to preserve the safety of individuals.

**Right to be Heard:** means giving the inmate adequate notice and an appropriate opportunity to reply to a decision that directly affects the inmate, which includes ensuring that the inmate has reasonable access to the relevant information that is used to make a decision.

**STANDARDS:**

**1.0 General:**

- 1.1 The staff member who notifies the inmate of a decision or a pending decision shall explain the appeal, representation and redress processes for that particular decision to the inmate.
- 1.2 Inmates are entitled to have access to the information that the decision maker uses to arrive at a decision for which there is a regulatory or statutory redress mechanism. A staff member designated by the director shall disclose any relevant information to the inmate prior to giving the inmate an opportunity to prepare his or her representation.
- 1.3 If there are reasonable grounds to believe that a serious safety or security concern may result from disclosing *all relevant information* to the inmate, the decision maker shall provide the inmate with *a gist of the information*.
- 1.4 Inmates shall be given a copy of this policy upon request.

**2.0 Making Representations:**

- 2.1 Inmates have the right to make representations *in person* during the following processes/decisions:
  - Discipline panel; and
  - Transfers.
- 2.2 The inmate may opt to submit written representations for the consideration of the decision maker during the processes set out in 2.1.

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- 2.3 Inmates have the right to make representations in writing or by oral recording for the following processes:
- Administrative Segregation Placements;
  - Notice of Monitoring, Restriction, Censorship or Prohibition of Communication, subject to the limitations outlined in *Programs 0003 Inmate Telephone System*;
  - Security and Risk Assessments;
  - Temporary Absences Panel;
  - The awarding of Earned Remission; and
  - As part of a Legislated *Formal Appeal*.
- 2.4 The inmate's case worker or the ADDP (or designate), as determined by the director, is responsible for ensuring that an inmate's representations are forwarded to the decision making body.
- 2.5 Where an inmate makes representation as part of a panel or a review process, the decision maker shall:
- Fully consider the representations during the decision making process; and
  - Reference the representations in the written decision.
- 3.0 Accommodations for Inmates with Diverse Needs**
- 3.1 Inmates who have literacy challenges, diverse requirements or are otherwise unable to reasonably represent themselves in writing may submit their representations and appeals through an oral recording.
- 3.2 Notwithstanding 3.1, all inmates have the right to appeal a decision or make representation through an oral recording.
- 3.3 An inmate with communication challenges or who is otherwise unable to reasonably represent themselves orally may obtain assistance from another person to prepare his or her representations and appeals either in writing or by oral recording.
- 3.4 An inmate making an oral recording shall be supervised by a staff member. The staff member shall:
- provide the inmate with a fair and timely opportunity to make representation;
  - maintain control of the electronic device at all times;
  - for the purpose of the formal record state: date, time, and inmate name prior to the inmate commencing the oral representation; and
  - ensure the completed representation is accessible to the decision making body in the prescribed time frame.
- 3.5 Oral representation must convey:

## Appeals, Representations and Redress Mechanisms in Adult Correctional Facilities (page 4 of 12)

### TOPIC: APPEALS, REPRESENTATIONS AND REDRESS MECHANISMS IN ADULT CORRECTIONAL FACILITIES

- the inmate's reasons for the disagreement with the decision;
- in case of an appeal, the circumstances and any other relevant particulars of the matter being appealed;
- the reasons why the inmate believes the decision should be set aside or varied; and
- the relief being requested.

#### 4.0 Director's Review

- 4.1 An inmate may make a request for the director to review the inmate's representations regarding:
- Security Assessment;
  - Risk Assessment; and
  - The awarding of earned remission.
- 4.2 An inmate may initiate the request for a director's review by completing a *Correctional Facility Appeal Form* (Appendix "A"). The failure to use the Appeal Form does not invalidate the request.
- 4.3 The director or designate shall, within five business days of receiving the inmate's request:
- review the inmate's representations;
  - either confirm or vary the decision; and
  - notify the inmate of the results of the review.

#### 5.0 INMATE APPEAL FRAMEWORK

- 5.1 An inmate may appeal a decision regarding the following processes within five business days of the decision being made by completing a *Correctional Facility Appeal Form* (Appendix "A"):
- Administrative Segregation
  - Director's decision of a complaint filed under Section 67 of *The CSA 2012*
  - Inmate Discipline
  - Temporary Absence
  - Transfers
- 5.2 Appeal Forms shall be made available to inmates on each unit and at the discipline panel.
- 5.3 As outlined in Appendix "A", appeals must set out:
- The circumstances and any other relevant particulars of the matter being appealed;
  - The reasons why the inmate believes the decision should be set aside or varied; and
  - The relief being requested.
- 5.4 If an inmate files a written appeal in a format other than an Appeal Form (e.g., lined paper,

**TOPIC: APPEALS, REPRESENTATIONS AND REDRESS MECHANISMS IN ADULT CORRECTIONAL FACILITIES**

letter paper, etc.), the decision maker shall hear and respond to the appeal providing the requirements outlined in 5.3 are set out in the inmate's appeal.

**5.5 Appeals Delegated by the Head of Corrections and Appeals to Correctional Facility Directors**

- 5.5.1 The Executive Director, Custody Services, Director, Custody Services and Director, Integrated Custody Services are delegated the responsibility of the head of corrections to hear and respond to appeals of the following decisions:
- Any appeals of a director's decision on a complaint filed under section 67 of *The Correctional Services Act, 2012*; and
  - Appeals regarding transfer decisions.
- 5.5.2 The Executive Director, Offender Services, and the Director, Health Services are delegated the responsibility of the head of corrections to hear and respond to appeals of a director's decision on a complaint that is about the healthcare of the inmate.
- 5.5.3 The correctional facility director shall hear appeals of the following panel decisions:
- Administrative Segregation
  - Discipline (other than forfeiture of earned remission and suspension of forfeiture of earned remission); and
  - Temporary Absences.
- 5.5.4 Sealable envelopes shall be made available for inmates to use for Appeal Forms. Employees shall sign and indicate the date that the Appeal Form was received from the inmate.
- 5.5.5 The respective recipient of the appeal shall review the Appeal Form and ensure that a copy is stored in accordance with section 6.0 of this policy.
- 5.5.6 The recipient shall investigate the circumstances of the appeal and either uphold, vary or overturn the decision.
- 5.5.7 The inmate shall be provided with a written decision regarding the appeal within:
- five business days if the appeal is about a transfer, an unresolved complaint, or a discipline charge (other than a disciplinary sanction involving segregation); or
  - two business days if the appeal involves administrative or disciplinary segregation or a temporary absence.
- 5.5.8 In exceptional circumstances, if it is not reasonably possible to provide the decision within the prescribed timeframes outlined in 5.5.7, the recipient will advise the inmate in writing of the reasons for the delay.
- 5.5.9 The director may delegate the review of and response to an appeal to a deputy director if that staff member was not involved in the original decision.



**TOPIC: APPEALS, REPRESENTATIONS AND REDRESS MECHANISMS IN ADULT CORRECTIONAL FACILITIES**

**5.6 Appeals to the Appeal Adjudicator**

- 5.6.1 The director shall forward all appeals involving the forfeiture of earned remission through a discipline panel sanction, including appeals where the forfeiture of earned remission has been suspended, and the materials listed in 5.6.7, to the registrar within one business day of receiving the inmate's appeal.
- 5.6.2 The registrar shall contact an appeal adjudicator within one business day of receiving the inmate's appeal from the director.
- 5.6.3 Appeal adjudicators shall be contacted in order of location closest to the appellant.
- 5.6.4 The registrar shall contact the appeal adjudicator by phone for acceptance or decline of the investigation and review of the inmate appeal.
- 5.6.5 If declined, the appeal adjudicator shall send an email to the registrar stating his or her decline of the appeal. The registrar shall record the response of decline.
- 5.6.6 If declined, the registrar shall move down the list of adjudicators by following the process of contacting the next adjudicator located closest to the location of the appellant. This process will continue until an adjudicator agrees to hear the appeal.
- 5.6.7 Subject to 5.6.8, the registrar shall send information regarding the appeal to the appeal adjudicator, including:
- The Notice of Charge Report, including the panel's decision;
  - Transcript or Oral Recording of the hearing;
  - Incident Report, if applicable; and
  - The Correctional Facility Appeal Form filled out by the inmate.
- 5.6.8 Where an Incident Report was not used as part of the discipline panel's decision, the director and registrar shall indicate through correspondence that an Incident Report was not used as part of the decision.
- 5.6.9 The registrar shall record the time and date that the information was sent to the appeal adjudicator.
- 5.6.10 The registrar shall inform the appeal adjudicator when the response is due.
- 5.6.11 Subject to 5.6.12, the appeal adjudicator has five business days to investigate and make a decision on an appeal.
- 5.6.12 Where an inmate is about to be released, the appeal adjudicator must hear and decide the appeal before the release date that was in place before the sanction was imposed.
- 5.6.13 The appeal adjudicator may request additional information from the registrar.
- 5.6.14 Following the investigation of the decision, the appeal adjudicator shall prepare a written response to the inmate. A copy of the response shall be submitted to the director through the registrar.

**TOPIC: APPEALS, REPRESENTATIONS AND REDRESS MECHANISMS IN ADULT CORRECTIONAL FACILITIES**

5.6.15 The appeal adjudicator shall mail the inmate a copy of the response.

**6.0 Responding to Appeals**

6.1 At the outset, a decision should state:

- the parties involved;
- the issue(s) being appealed;
- the question to be decided; and
- the authority (i.e., jurisdiction) of the decision maker to decide.

6.2 The findings of fact and credibility should be clearly stated, with reference to the evidence relied upon to support the findings.

6.3 The decision should briefly and fairly summarize the submissions from the inmate (i.e., appeal form and representation(s)) and should not overlook any submissions that are reasonably supported by facts.

6.4 The reasoning for a decision should be set out in a straightforward manner, avoid irrelevant issues and should cite the appropriate legislation and policy. Clear and precise reasons are required for every decision.

6.5 A response to an inmate's appeal or request for a Directors Review shall include the next level of redress available to the inmate [e.g., the head of corrections (Director, Custody Services); the Ombudsman; Judicial Review; other as appropriate].

6.6 The person hearing the appeal may prepare the written response using Appendix "B".

**7.0 Maintenance and Storage of Appeals and Representations**

7.1 The director of a correctional facility shall establish standards for the maintenance and storage of oral recordings on a locally accessible common drive on the Government of Saskatchewan (GOS) network. The electronic files will be subject to retention in accordance with the Operational Records Schedule approved by *The Archives Act, 2004*.

7.2 The director shall maintain a permanent file of all written materials and correspondence relating to inmate appeals and representations in the correctional centre. This file shall serve as a base for periodic evaluations of complaint processing within the centre and shall be made readily available for review by the Ombudsman or other officials conducting external investigations of inmate appeals.

**CROSS-REFERENCE:**

<i>Programs 0003</i>	<i>Inmate Telephone System</i>
<i>Programs 0011</i>	<i>Complaints Resolution Process in Adult Correctional Facilities</i>
<i>Programs 0023</i>	<i>Temporary Absence Program in Adult Correctional Facilities</i>

**TOPIC: APPEALS, REPRESENTATIONS AND REDRESS MECHANISMS IN ADULT CORRECTIONAL FACILITIES**

*Programs 0045 Inmate Discipline in Adult Correctional Facilities*  
*Security 0007 Transfer of Inmates*  
*Security 0041 Administrative Segregation in Adult Correctional Centres*

**ACCOUNTABILITY:**

A compliance audit will be conducted every three years by a person designated by the Associate Deputy Minister of Custody, Supervision and Rehabilitation Services. The audit will, at a minimum, assess compliance with all sections that require a recorded task. A report of this audit will be submitted to the Executive Director of Custody Services.

**SCHEDULED REVIEW:**

The Legislation, Policy and Planning branch will conduct a review at a minimum once every three years to ensure the content reflects any recent provincial, federal legislation changes and or higher court decisions. In addition, all policies are subject to review or revision at any time on an as-needed basis.

**AUTHORIZATION:**



Dennis Cooley, Associate Deputy Minister  
Custody, Supervision and Rehabilitation Services



**APPENDIX "A"**

**CORRECTIONAL Facility – APPEAL FORM**

**This form is to be used when you disagree with one of the following decisions (check one):**

<b>DECISION YOU WISH TO APPEAL</b>	<b>APPEAL TO BE HEARD BY...</b>
€ Director's Decision of a Complaint .....	(Director, Custody Services)
€ Transfer .....	(Director, Custody Services)
€ Inmate Discipline - Loss of Remission and Suspension of Loss of Remission .....	(Appeal Adjudicator)
€ Inmate Discipline other than Loss of Remission ...	(Facility Director)
€ Administrative Segregation .....	(Facility Director)
€ Temporary Absence .....	(Facility Director)
€ Security Assessment - Unit Placement .....	(Facility Director)
€ Risk Assessment .....	(Facility Director)
€ Earned Remission .....	(Facility Director)

**Which decision are you appealing and why should the decision be altered? Please provide the details of the situation, including the reason for your appeal and any other relevant information.**


**Attach a separate piece of paper if required.**

**How can the situation be fixed?**


**Attach a separate piece of paper if required.**

**Appeals, Representations and Redress Mechanisms in Adult Correctional Facilities (page 10 of 12)**



**Corrections and Policing**

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
                    Day                    Month                    Year

Unit: \_\_\_\_\_

\_\_\_\_\_  
Full Name of Inmate (Please Print)

\_\_\_\_\_  
Signature of Inmate

Staff receiving appeal: \_\_\_\_\_  
  Print Name

\_\_\_\_\_  
Signature

Director: \_\_\_\_\_

Date: \_\_\_\_\_

**Original:** Director

**Copies:** Inmate, Inmate's File, ADDP, ADDO



**APPENDIX "B"**

**DECISION ON APPEAL OF [DISCIPLINE/TEMPORARY ABSENCE/ TRANSFER/ADMINISTRATIVE SEGREGATION PLACEMENT/ COMPLAINT/OTHER] PURSUANT TO SECTION [NUMBER] OF THE CORRECTIONAL SERVICES ACT, 2012**

**Date:** [Enter date]

**Dear [Inmate Name (Title and Last Name)],**

I am responding to your [Complaint/Appeal] received by my office on [Date]. This [Appeal/Complaint] relates to [summary of the issue(s)]. You have explained your reasons for the [complaint/appeal] as follows:

"[quote directly from Inmate Complaint/Appeal Form]"

You explained the relief requested as:

"[quote directly from Inmate Complaint/Appeal Form]"

[Where applicable, include a summary of the inmate representations].

**Jurisdiction and Standard of Review:** [pick one]

**If you are the director:** As the director of the [insert name of correctional facility], I am authorized to make a decision with respect to this [complaint/appeal] by section [pick one: 80 of *The Correctional Services Act, 2012* (Discipline); 61 of *The Correctional Services Act, 2012* (Administrative Segregation); 48(2) of *The Correctional Services Regulations, 2013* (Complaints); 66 of *The Correctional Services Act, 2012* (Temporary Absence); 7(3) of *The Correctional Services Regulations, 2013* (Security Assessment); 8(3) of *The Correctional Services Regulations, 2013* (Risk Assessments)].

**If you are the Acting Director:** As the Acting Director of the [correctional facility], I am authorized to make a decision with respect to this [complaint/appeal] by section 16(3) of *The Correctional Services Act, 2012*.

**If you have been delegated a responsibility by the director or the head of corrections:** I have been delegated the responsibility to make a decision with respect to this [complaint/appeal] by section [8(4) – HOC/ 16(4) – director] of *The Correctional Services Act, 2012*.

**If you are an appeal adjudicator:** As an Appeal Adjudicator appointed by Order in Council pursuant to *The Correctional Services Act, 2012*, I am authorized to consider appeals of discipline orders that result in a loss of earned remission.

It is appropriate in these circumstances to review the decision on a standard of [reasonableness/correctness].

**The Facts:**

In this case, I have considered the following information:

- [List all information considered]
- [...]
- [...]

**Analysis of the Facts:**

[explain the reasoning of your decision based on the facts reviewed].



**The Fairness of the Decision (where applicable):**

I find that the action taken by [staff] [has/has not] complied with the provisions of *The Correctional Services Act, 2012* and *The Correctional Services Regulations, 2013*, and that you [were/were not] afforded procedural fairness based on the principles of administrative law [If “was not”, provide reasons].

**Decision:**

For the reasons outlined above, I [confirm/revoke/vary] the decision that is the subject of this [complaint/appeal] and [a) offer the relief requested OR b) dismiss the complaint/appeal]. If a) [I trust that by [explain the action to meet the relief], you will be satisfied that this issue has been resolved].

**[For cases involving Administrative Segregation where the appeal is denied]:** Please be advised that your next administrative segregation review date is [date]. You may submit representations for the consideration of the administrative segregation review panel through [indicate case worker/ADDP/staff member].

Should you disagree with this response, I encourage [inmate/you] to write to the [indicate next level of redress: either Ombudsman, Head of Corrections, etc.] for a review of this decision.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Name and Title: \_\_\_\_\_

# APPENDIX G SK Ombudsman's Complaint Form



**Regina Office**  
 #150 – 2401 Saskatchewan Drive  
 Regina, SK, S4P 4H8  
 Phone: 787-6211  
 Toll Free: 1-800-667-9787  
 Fax: 306-787-9090

**Saskatoon Office**  
 500 – 350 3rd Avenue North  
 Saskatoon, SK S7K 6G7  
 Phone: 933-5500  
 1-800-667-9787  
 Fax: 306-933-8406

## Complaint Form

To send us a complaint by fax or mail, please complete the following:

### Your Name

First Name	
Last Name	

### How to Reach You

Address	
City	
Province/State	
Postal Code / Zip Code	
Phone #	
This is: <input type="checkbox"/> my home phone <input type="checkbox"/> my cell phone <input type="checkbox"/> my work phone <input type="checkbox"/> my pager <input type="checkbox"/> a friend's phone.	
Other Phone#	
This is: <input type="checkbox"/> my home phone <input type="checkbox"/> my cell phone <input type="checkbox"/> my work phone <input type="checkbox"/> my pager <input type="checkbox"/> a friend's phone.	
Fax #	

### Contact Consideration

Which of the phone numbers do you prefer we use?	
Ombudsman Saskatchewan is open from 8:00 - 5:00. When is the best time to contact you?	
Are there any restrictions we should know about when contacting you? (For example, if we can only reach you during certain hours, please let us know.)	
How did you hear about our office?	

## SK Ombudsman's Complaint Form (continued)

### Representation

Are you representing someone else in this complaint? If so, who?	
--	--

### The Complaint

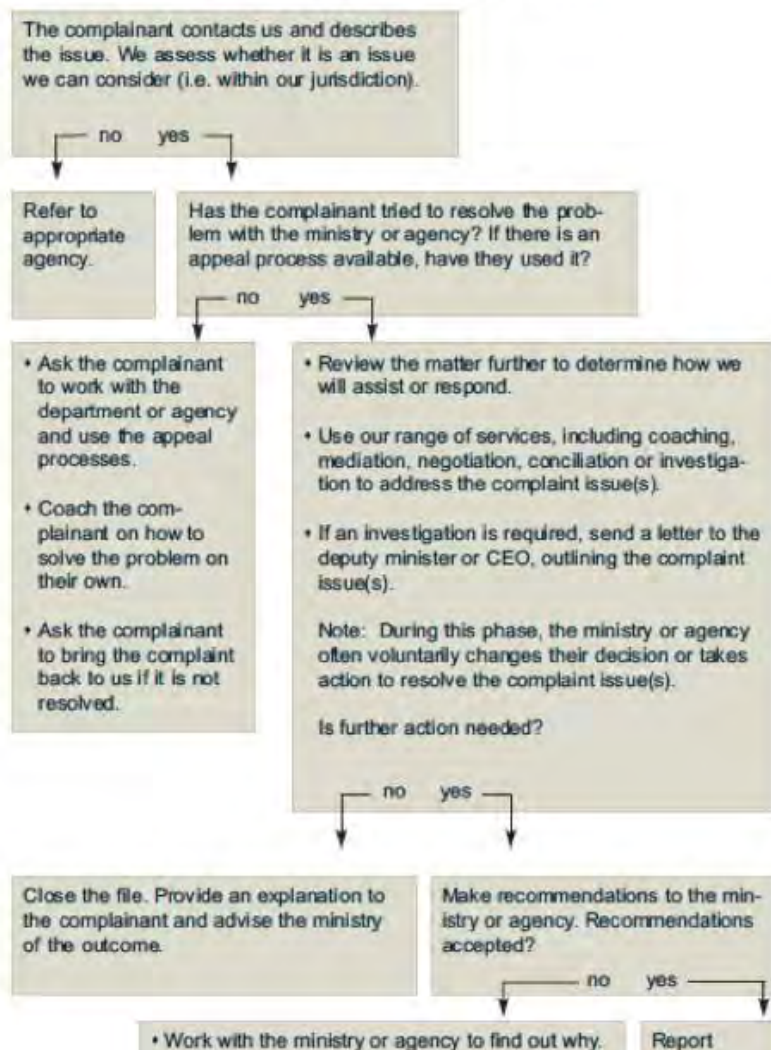
Which ministry, agency, Crown corporation or organization is your question or complaint about?	
Who have you dealt with there? (Please provide names, addresses, phone numbers, etc.)	
In a few words, describe your request for information or complaint.	
Please list any relevant file numbers, claim numbers, account numbers, etc.	
Please list any steps you have taken to resolve the matter. Please include applicable dates.	
Did you file an appeal or request a review? If so when, and what was the outcome?	
Why do you believe the organization's actions were unfair to you?	
What do you hope will happen now that you have contacted the Ombudsman office? What outcome are you seeking?	
If you consider this matter to be urgent, please explain why.	

## APPENDIX H SK Ombudsman's Complaint Process Flow-Chart

### Complaint Flowchart



What happens when we receive a complaint?





# APPENDIX I SK Human Rights Complaint Form



**Saskatoon Office**  
Suite 816, Sturdy Stone Building  
122-3rd Avenue North S7K 2H6  
Phone: (306) 933-5952  
Fax: (306) 933-7863  
Toll free: 1-800-667-9249 (SK only)  
Email: shrc@gov.sk.ca  
www.saskatchewanhumanrights.ca

**Regina Office**  
Suite 320,  
1855 Victoria Avenue S4P 3T2  
Fax: (306) 787-0454  
Toll free: 1-800-667-9249 (SK only)  
Email: shrc@gov.sk.ca  
www.saskatchewanhumanrights.ca

## INTAKE QUESTIONNAIRE

### 1. YOUR CONTACT INFORMATION:

Full Legal Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_ Postal Code \_\_\_\_\_  
Telephone \_\_\_\_\_  
Email address \_\_\_\_\_  
Legal Representative \_\_\_\_\_

### 2. ALTERNATE CONTACT INFORMATION:

Someone who does not live with you but who can contact you and with whom we may discuss your claim.

Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_ Postal Code \_\_\_\_\_  
Telephone \_\_\_\_\_

### 3. ORGANIZATION COMPLAINED ABOUT:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_ Postal Code \_\_\_\_\_  
Telephone \_\_\_\_\_

### 4. INDIVIDUAL COMPLAINED ABOUT:

Give as much information as possible about the person who you feel has discriminated against you.

Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_ Postal Code \_\_\_\_\_  
Telephone \_\_\_\_\_

### 5. IF EMPLOYMENT RELATED:

Position Held: \_\_\_\_\_  
Rate of Pay: \_\_\_\_\_  
First Day Worked: \_\_\_\_\_  
Last Day Worked: \_\_\_\_\_  
Are you represented by a union? \_\_\_\_\_  
If so, which union: \_\_\_\_\_

### 6. PRIOR ACTION:

Have you taken other action (e.g., grievance, legal action, WCB, OH&S, Ombudsman)?

\_\_\_\_\_

If you have already taken other action, explain why you are bringing this complaint forward?

### 7. DISCRIMINATION IS BECAUSE OF:

- ☐ Race / Perceived Race
- ☐ Creed
- ☐ Colour
- ☐ Ancestry
- ☐ Family Status
- ☐ Place of Origin
- ☐ Nationality
- ☐ Receipt of Public Assistance
- ☐ Religion
- ☐ Age (18 or more)
- ☐ Marital Status
- ☐ Disability (mental or physical)
- ☐ Sex (including pregnancy)
- ☐ Sexual Harassment
- ☐ Sexual Orientation



## SK Human Rights Complaint Form (continued)

**PARTICULARS OF COMPLAINT:** Please give details of complaint, including the names of possible witnesses and what they might say. Further details can be provided on a separate sheet.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

How do you think this matter could best be resolved?

---

Please attach documents you feel will support your case (e.g., record of employment, rent receipt, etc.).

I declare the information in this complaint is true to the best of my information and belief. Filing this intake questionnaire confirms my request that the Saskatchewan Human Rights Commission take whatever action is necessary to evaluate or investigate this complaint. I understand this form may be disclosed to the other party. I authorize the Commission to collect and review all relevant information, including personal and health information, which is necessary to conduct its examination of my complaint. I authorize the Commission to disclose the information collected if disclosure is required to conduct its investigation or to allow the other party to fairly respond to my complaint.

Signature of Complainant

Date \_\_\_\_\_

File No.