

Terms of Reference

Purpose of Review

Since the creation of the Office of the Provincial Ombudsman 25 years ago, the Corrections Branch of the Department of Justice has been the source of a large number of complaints. Many of the issues brought to our notice via investigation of these individual complaints have been addressed on an individual basis. While this has been effective in promoting fairness in the delivery of inmate services, its *ad hoc* nature has often limited its effectiveness to those specific complaints. Many of the issues are serious and recurring; their review on an individualized basis cannot give the broad perspective available from a comprehensive review.

With agreement in principle from the Department of Justice, the Provincial Ombudsman's office will undertake a major systemic review of the administration of correctional centres in the province of Saskatchewan. Such an investigation will provide an opportunity for the Corrections branch of the Department of Justice, other major stakeholders, and the Ombudsman to consider recurring and substantive issues from a broad perspective.

In this review, it is not our intention to examine Corrections' operations with a view only to identifying and commenting on shortcomings in the system. Corrections deserves to be commended for its efforts in improving inmate services and conditions of custody and we do not intend, by undertaking or in the course of this review, to diminish its signal accomplishments. Rather, our intention is to use the knowledge and expertise of my office in collaboration with the knowledge and expertise of Corrections to further our common goal of ensuring that inmates are accorded the dignity, respectful treatment and rights to which they are entitled.

That our goals are compatible is evident in the Ombudsman's Mission Statement and Corrections' Guiding Principles.

The Ombudsman's Mission is to promote fairness in the provision of services by the government of Saskatchewan.¹

Two of the principles that guide all programs and services provided by Corrections are

(1) Individuals under criminal court order retain all the rights of a member of society except those necessarily removed or restricted by law, and

(2) Corrections has a duty to act fairly in all decisions made in administering the criminal court order.²

In addition to Corrections playing a principal role in providing information and feedback, we also plan to involve other major stakeholders to ensure that all those affected by our review will have a reasonable opportunity to provide us with their concerns and perspectives. In alphabetical order, the following have been identified as potential stakeholders: Correctional Centre line staff and managers, Correctional Service of Canada, Elders and Chaplains, Elizabeth Fry Society, Health Care Practitioners, Inmate Committees, FSIN, John Howard Society, Métis Nations.

Authority for Review

The authority for the review comes from section 12 (1)(2) of *The Ombudsman and Children's Advocate Act*, which states:

(1) It is the duty of the Ombudsman and he has the power to investigate any decision or recommendation made, including any recommenda-

¹ Provincial Ombudsman, Mission Statement

² Corrections, Strategic Plan, Statement of Principles, p. 5



SPECIAL REPORT

tion made to a minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by a department or agency of the government or by any officer, employee or member thereof in the exercise of any power, duty or function conferred or imposed on him by any Act whereby any person is or may be aggrieved.

(2) The Ombudsman may make an investigation of a matter either on a written complaint made to him by any person or of his own motion and he may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission mentioned in subsection (1).

Scope of Review

The review will focus on specific policies and practices at the Regina, Saskatoon, Prince Albert and Pine Grove Correctional Centres.

Standards of Fairness that will be used for Review

The Ombudsman and Children's Advocate Act.

Section 24 (1) authorizes me to consider any matter using the following criteria:

(a) that a decision, recommendation, act or omission that is the subject matter of the investigation appears to have been.

- (i) contrary to law
- (ii) unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law, a provision of an Act, or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;

- (iii) based in whole or in part on a mistake of law or fact;
- (iv) wrong;

(b) that in making a decision or recommendation, or in doing or omitting an act, a power or right has been exercised:

- (i) for an improper purpose
- (ii) on irrelevant grounds; or
- (iii) on the taking into account of irrelevant considerations, or

(c) that reasons should have been given for a decision, recommendation, act or omission that was the subject matter of the investigation.

An Ombudsman is not restricted to examining decisions with reference to the law only. The Ombudsman is charged with determining if a decision is "fair" - a much broader concept. Consequently, owing to the subject matter of the review, we also will be comparing Corrections policies and practices to inmates' rights as articulated in the United Nations Universal Declaration of Human Rights, with special reference to the Standard Minimum Rules for the Treatment of Prisoners (31 July 1957), the Body of Principles for the Protection of all Persons Under any Form of Detention or Imprisonment (9 December 1988), and the Basic Principles for Prisoners (14 December 1990). Although these agreements have no force in a court of law, Canada is a signatory to the agreements and Corrections can therefore be expected to comply. The Charter of Rights and the federal and provincial Human Rights Acts will also be considered.

Guiding Principles

- + All major stakeholders will be given an opportunity to participate in the review.
- + Corrections is responsible for ensuring that inmates with special needs, such as First Nation and Métis

Terms of Reference

inmates, are accommodated to improve their chances of being successfully reintegrated into society.

- + Corrections is responsible for ensuring that inmates are treated with respect for their dignity and rights.
- + Corrections is responsible for providing a safe and healthy environment for both staff and inmates.
- + Inmates are expected to be responsible for anti-social behaviour, and are responsible for becoming law abiding citizens.
- + Corrections is responsible for ensuring that each inmate receives assistance in rehabilitation and reintegration into society.
- + Correctional Services is responsible for providing an equal level of service to inmates irrespective of geographic location of a facility.
- + The United Nations rules, principles and standards, will be an important guide in determining the fairness of correctional centre services and practices.

General Objectives

- + To establish a collaborative relationship with all major stakeholders to ensure that the review is accepted as meaningful by those interested in the issues and to encourage a process whereby, in the future, substantive issues are addressed in a timely and non-adversarial manner between the Ombudsman and Corrections with the common objective of providing professional and fair treatment for all inmates.
- + To determine the source of recurring and substantive issues that have been the focus of numerous ombudsman investigations with a view to recommending changes to legislation, policy and practice as they pertain to the treatment of inmates to ensure that inmates are treated with the respect and dignity to which they are entitled.
- + To develop a comprehensive set of principles that will guide decision makers.

Specific Objectives

Conditions of Custody

- + Assessment of use of segregation
- + Assessment of discipline process
- + Assessment of living conditions - Remand and Sentenced
- + Assessment of staff's understanding of rule of law, duty to act fairly, and inmate rights
- + Assessment of inmate safety, including drugs and gangs
- + Assessment of bedspace availability and location

Offender Services

- + Assessment of case management system and practices
- + Assessment of correctional centre based programs
- + Assessment of programming for aboriginal inmates
- + Assessment of medical services available to inmates
- + Assessment of inmate property control
- + Assessment of staff training as it relates to provision of inmate services
- + Assessment of incidence of suicide and self injury
- + Assessment of services to remand inmates