Ombudsman Saskatchewan

Promoting Fairness

2019 Annual Report

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Ombudsman Saskatchewan
Promoting Fairness

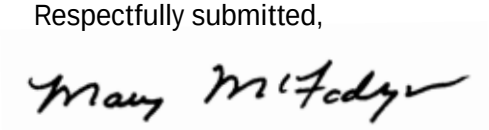
April 2020

The Honourable Mark Docherty
Speaker of the Legislative Assembly
Province of Saskatchewan
Room 129, Legislative Building
2405 Legislative Drive
Regina, Saskatchewan S4S 0B3

Dear Mr. Speaker:

In accordance with subsection 38(1) of *The Ombudsman Act, 2012*, it is my duty and privilege to submit to you the annual report of Ombudsman Saskatchewan for 2019.

Respectfully submitted,



Mary McFadyen Q.C.
OMBUDSMAN

Vision, Mission, Values and **Goals**

Vision

Our vision is that government is always accountable, acts with integrity, and treats people fairly.

Mission

Our mission is to promote and protect fairness and integrity in the design and delivery of government services.

Values

We will demonstrate in our work and workplace:

- fairness, integrity and accountability
- independence and impartiality
- confidentiality
- respect
- competence and consistency

Goals

Our goals are to:

- Provide effective, timely and appropriate service.
- Assess and respond to issues from a system-wide perspective.
- Undertake work that is important to the people of Saskatchewan.
- Demonstrate value to the people of Saskatchewan by making recommendations that are evidence-based, relevant and achievable.
- Be experts on fairness and integrity.
- Educate the public and public servants about fairness and integrity.
- Have a safe, healthy, respectful and supportive work environment.

Mary McFadyen, Q.C.
Ombudsman

Ombudsman's Message

I am pleased to present Ombudsman Saskatchewan's 2019 Annual Report, highlighting our progress and activities during the year.

Under *The Ombudsman Act, 2012*, the Ombudsman's role is to investigate or informally address complaints about matters of government administration, make findings and recommendations, issue reports, and educate the public and public sector employees about administrative fairness and the role of the Ombudsman. We have jurisdiction to review the administrative decision-making processes of provincial ministries, Crown corporations, most provincial and provincially-funded agencies, boards and commissions, publicly-funded health entities, municipalities, and municipal council members. To enable us to carry out our work effectively and impartially without any threat of improper influence, the Legislative Assembly of Saskatchewan has given us wide powers of investigation and has protected our independence and the integrity of our investigation process.

When I look back at 2019, I am proud of the work we do every day. Sometimes, citizens are not able to get a satisfactory resolution or response when they are dealing with a government entity. When they feel that an entity is treating them unfairly or does not understand the problem, it is easy for people to become frustrated. Our Office provides them the opportunity to have an independent and impartial review of their concerns. And, if we find they were treated unfairly, we can help get an appropriate resolution. Everyone should expect fair treatment from government entities who make decisions affecting their daily lives.

We first try to resolve complaints quickly and informally. This often takes only a phone call or two. If a complaint cannot be resolved informally, we can investigate. Based on the formal investigations we completed in 2019, we made 35 formal recommendations to improve the administration of provincial and municipal government entities. In the following pages, you will find summaries of these investigations. We always aim to improve government decision-making processes which in turn, improves and strengthens government services for citizens.

This year, our investigations highlight the importance of administrative fairness in situations where citizens don't often have a strong voice. For example, we investigated how well the Saskatchewan Health Authority ensures that residents in long-term care facilities are charged reasonable medication costs. Some of these residents are unable to look out for themselves and do not always have loved ones available

to help them. Inmates are another group that often have nobody to look out for them – and they do not always get much sympathy from the rest of society. After receiving several complaints, we investigated the fairness of the inmate disciplinary system in Saskatchewan's adult correctional centres. While correctional centres must be able to maintain discipline, they need to follow the law and ensure that all inmates get full and fair hearings.

We continued to get complaints about municipalities. This year, the issues we investigated included exorbitant council member remuneration, how councils give public notice of upcoming decisions that will affect citizens, and tax assessments and notices being incorrect, late or not being received at all. We also continued to take many complaints about council member conflicts of interest and other code of ethics violations. Many of the municipalities we dealt with were unaware that the law requires them to have their own processes for dealing with these complaints; that the Ombudsman's role is not to do their investigations for them, but to remain unbiased and impartial in case we have to review the way they have dealt with their complaints. To address these issues, we provided training to municipalities this past year about how to set up fair complaint review processes. In many cases, we referred code of ethics complaints back to the councils to deal with before we would get involved. In some others, we decided to investigate. For example, we received multiple complaints about council members of the Resort Village of Candle Lake. After investigating, we found that it did not have fair or effective processes for receiving and dealing with complaints under its code of ethics. We made recommendations to help Candle Lake improve its processes so it could address its problems itself. The results of this and other investigations into council member conduct are on our website. We hope by making these cases public, we will help other municipalities understand their role, our role, and what it means to act in the best interests of their communities.

I want thank all of the staff at Ombudsman Saskatchewan for their commitment to excellence - to ensuring the people who contact us have an opportunity to be heard when they feel they have not been treated fairly by a government entity, and helping them get meaningful responses or resolutions to their issues. You can be proud of the work you accomplished this year.

For an interim period in 2019, I also served as the Advocate for Children and Youth. It was an honour to be asked to serve in this role and I greatly appreciated all the support and assistance the Advocate's staff gave me.

Lastly, as I write this, all of us are living through a time of unexpected and extraordinary adversity. To adhere to the best practices outlined by Saskatchewan's Chief Medical Health Officer, my staff and I are currently working remotely to help slow the spread of COVID-19. I really appreciate that we were able to set up our technology to be able to do this very quickly, and that even though we are all practicing physical distancing, we are still able to work together to continue to fulfill our mandates and continue to be accessible to citizens of Saskatchewan. We all need to take care of each other.

Complaints

Why You Should Complain

No government is perfect, but governments that want to serve the public well put safeguards in place to help ensure ordinary people are treated fairly when dealing with its institutions, programs and services. An Ombudsman is one of those safeguards...

People make complaints to our Office for a lot of different reasons, but in general, it is because:

1. They have been personally affected by a provincial government or municipal government or public agency decision that they think is unfair.

2. The problem is administrative in nature – that is, it happened when an organization was carrying out a government program or service.

3. They have not been able to resolve the issue themselves through other available processes.

We also take complaints about municipal council members violating their code of ethics, including allegations of conflicts of interest, which the municipality has not properly addressed.

If you have a complaint about one of these types of issues and you have not been able to resolve it, we encourage you to contact us. Sometimes people are reluctant to speak up or wonder if their complaint will make a difference – but telling us about your complaint is important. Here's why:

WE CAN HELP YOU FIGURE OUT WHETHER YOU HAVE TRIED ALL THE OPTIONS AVAILABLE.
If you haven't, we can refer you to the next steps in the process. If that doesn't work out, we're still here and you can contact us again.

WE ARE FRESH EYES AND EARS ON THE PROBLEM.
We are independent from the government and public institutions under our jurisdiction. We are not involved in their decision-making processes, so we are unbiased and do not have a stake in what already happened. We listen to what people have to say and consider the laws and policies that apply to the situation.

WE CAN SOLVE PROBLEMS INFORMALLY.
Whenever possible, we will talk with you and with public decision-makers to see if there is a quick and effective way to get to the heart of the matter and find a resolution.

WE CAN INVESTIGATE AND MAKE RECOMMENDATIONS WHEN APPROPRIATE.
Some problems cannot be resolved informally and need to be formally investigated. We can access relevant documentation from the

government or public institution, and we do our work confidentially. If we think the government or another public institution acted unfairly, we provide convincing findings and offer well-reasoned recommendations; because our investigations are thorough and thoughtful, our recommendations are usually accepted.

YOUR COMPLAINT CAN HELP OTHER PEOPLE.
People often tell us that the reason they are coming to us is "so this won't happen to anyone else." Sometimes we uncover an unfair practice or a gap in service between government programs or offices. When we convince the government or another public institution to make changes, the improvements can be far-reaching. People may not realize it, but a government program or service could go RIGHT for them because YOU spoke up about your situation.

What about people who don't have a strong voice?

Some of the people who reach out to us are vulnerable or struggle to express themselves. They may feel that the public entity they are dealing with won't listen to their concerns or that the issue they face is too big for them to deal with alone.

While we are not advocates and do not take sides, we often say that we are on the side of what is fair.

Sometimes by simply making informal inquiries, we are able to raise important questions about a government process or the way it is applying laws and policies. Sometimes the fact that we are aware of a situation is enough to cause a public institution to pause and consider whether it is responding to the complainant fairly. Sometimes we uncover the need for changes that will make a difference for many people who may not have been in a good position to raise issues themselves. This year's report contains examples of all these situations.

Social Services

Complaints Received

MINISTRY OF SOCIAL SERVICES	2019	2018	2017
Child & Family Service Delivery	132	149	111
Housing Programs and Finance	66	81	49
Community Living Service Delivery	11	8	11
Income Assistance Services Delivery - Saskatchewan Assured Income for Disability	183	162	170
Income Assistance Services Delivery - Saskatchewan Assistance Program	279	341	394
Income Assistance Services Delivery - Saskatchewan Income Support	75	--	--
Income Assistance Services Delivery - Transitional Employment Allowance	93	91	123
Income Assistance Services Delivery - Income Supplement Programs - Other	34	38	36
Social Services - Other	11	4	12
TOTAL	**884**	**874**	**906**

Case Examples

Early Resolution

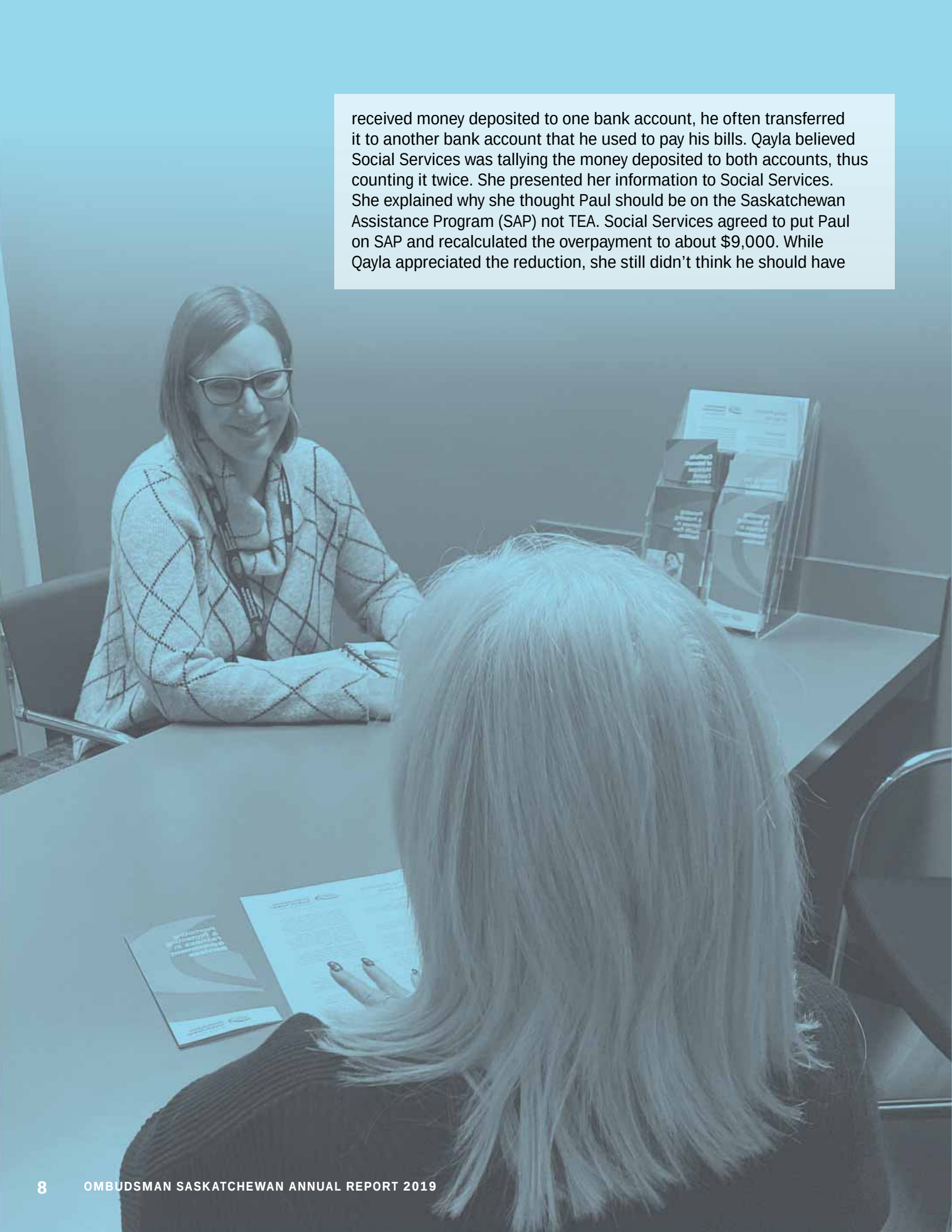
HOW DO WE REVERSE THIS?

Paul's mom, Qayla, called us because she disagreed with a large overpayment that Social Services was charging him. Paul had an acquired brain injury from an accident nearly 20 years earlier and Qayla was acting on his behalf.

Paul was on the Transitional Employment Allowance (TEA) Program. In the spring of 2019, Social Services reviewed his file. It discovered that Qayla and a family friend had been depositing money into his bank account to help him out. Because he had not reported this money as income, Social Services determined that it had overpaid him more than $28,000 over the last four years.

Qayla told us she did not think this was fair because Social Services wasn't giving Paul enough money to pay his bills, which was why she and the family friend had been helping him out. Instead of paying his bills for him, they put money in his account so he could manage his own affairs as much as possible. Qayla said that the money from the friend was a loan, not a gift. So, if Paul also had to pay that money back to Social Services, his debt would be double. As well, when Paul

received money deposited to one bank account, he often transferred it to another bank account that he used to pay his bills. Qayla believed Social Services was tallying the money deposited to both accounts, thus counting it twice. She presented her information to Social Services. She explained why she thought Paul should be on the Saskatchewan Assistance Program (SAP) not TEA. Social Services agreed to put Paul on SAP and recalculated the overpayment to about $9,000. While Qayla appreciated the reduction, she still didn't think he should have



an overpayment at all and appealed, first to the Regional Appeal Committee and then to the Social Services Appeal Board (SSAB). She lost both appeals, then brought the matter to our Office.

We noticed that the SSAB had questioned why Paul had not been considered for the SAP or the Saskatchewan Assured Income for Disability Program (SAID) earlier and that it had commended Qayla and the Ministry for recalculating the amount, but it did not remove the overpayment. Social Services agreed with us that Paul had been on the wrong program for years because he had not told them he had an acquired brain injury, and this was probably due to the injury. If he had been on SAP or SAID, he would have received more money from Social Services and would have been able to pay his bills. Qayla told us she would then not have had to help him out with his finances. While Social Services did not think it was anyone's fault that Paul ended up on the wrong program, it also could not find a way to remove Paul's overpayment and still follow its usual rules. Given this unique situation, we suggested that it seek a Minister's Order to reverse the overpayment. Social Services agreed and the Minister issued the order to reverse the remaining amount.

Early Resolution

SUSPENDED BENEFITS

Parker called us because his Saskatchewan Assured Income for Disability (SAID) benefits had been suspended pending confirmation of his Canada Pension Plan (CPP) benefits. He told us he received notice from Social Services a few months before his 60th birthday that he would have to apply for CPP. He applied, but said he was delayed in dealing with the paperwork because he had undergone surgery.

His online CPP account showed that his estimated CPP benefits would be about $20 per month, but he was still waiting for official notice. Meanwhile, Social Services' deadline had passed and, not knowing how much money Parker would get, Social Services suspended his benefits. Parker's usual SAID benefits were over $1,000 per month. He didn't think it was fair that they were being held on account of about $20.

Social Services explained to us that it usually tries to avoid overpaying during a CPP transition because it would then have to collect the overpayment, which is not easy. In Parker's case, however, Social Services acknowledged that holding more than $1,000 due to an anticipated $20 did not seem reasonable, so it agreed to issue Parker's benefits. He was very happy with this outcome and agreed to submit to Social Services the receipt showing his CPP benefits as soon as he received them.

Early Resolution 

LOOKING FOR AN APPEAL RESPONSE

Prescott got in touch with us because he was denied Saskatchewan Assured Income for Disability (SAID) program benefits.

He was already on the Saskatchewan Assistance Program (SAP) and was receiving some Canada Pension Plan benefits. He didn't think he was receiving enough to make ends meet. He told us his doctor believed he should be on SAID. When he first came to us, we referred him to the appeal process. He appealed, but did not get an appeal decision, so he contacted us again.

At first, Social Services told us Prescott was denied for SAID and had to apply again next year. A supervisor called us back, however, to say that his appeal letter and their response had been found on his file and were supposed to have been sent to him. After Social Services' Ministry Eligibility Review Team followed up with Prescott with a few questions, it approved him for SAID benefits.

Prescott was happy with this response and came back to our Office to thank us.

Early Resolution 

CATCHING UP

Phil attended one of our mobile intake days in northern Saskatchewan. English was not his first language, so a family member translated for him.

Phil told us that he was not getting enough money on the Saskatchewan Assistance Program (SAP). He was living alone in his own home, which he heated with a wood stove. He told us he had run out of wood and his house was cold. He said he applied to Social Services for disability benefits but was told he worked too much to receive them. He said he talked to a supervisor, who told him she couldn't do anything for him.

After we contacted Social Services about Phil's complaint, it reviewed his file and found a calculation error. Social Services determined Phil should have been receiving disability payments since he had applied in 2018. As a result, his monthly payments increased and he was given a cheque for the previous benefits he should have received.

Corrections

Complaints Received

MINISTRY OF CORRECTIONS AND POLICING	2019	2018	2017
Pine Grove Correctional Centre	51	81	104
Prince Albert Correctional Centre	90	87	116
Regina Correctional Centre	172	227	318
Saskatoon Correctional Centre	241	327	261
Saskatchewan Hospital North Battleford (Corrections)	4	--	--
White Birch Female Remand Centre	0	6	8
Whitespruce Provincial Training Centre	2	9	5
Appeal Adjudicators	0	2	0
Adult Corrections - Other	14	26	20
Corrections & Policing - Other	5	2	13
TOTAL	**579**	**767**	**845**

Case Examples

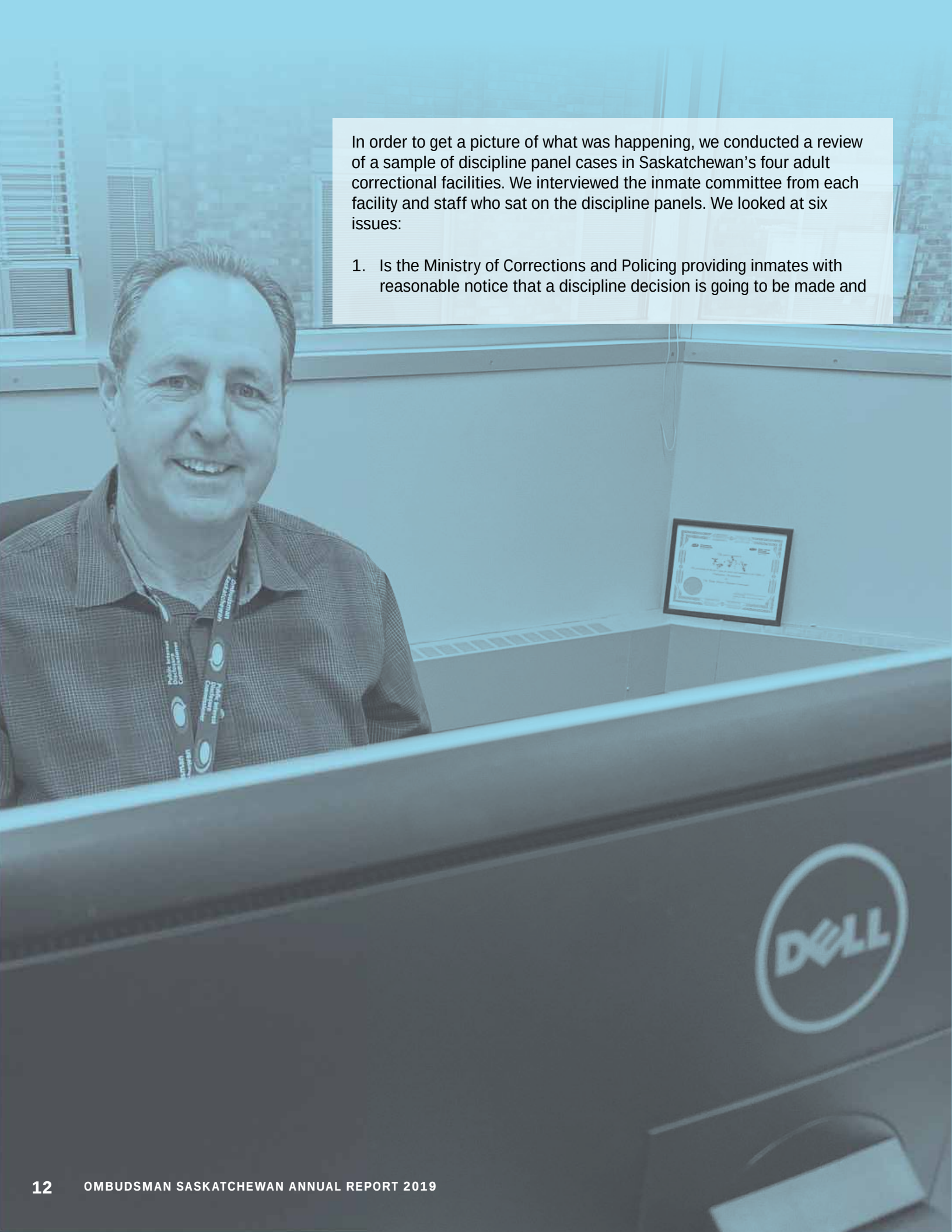
Investigation

INMATE DISCIPLINARY SYSTEM

Correctional centres in Saskatchewan have the authority to establish an inmate disciplinary system. This includes a discipline panel process for determining whether inmates are guilty of various offences such as fighting, trying to escape, throwing things at people, threatening people, or engaging in gang activity. When an inmate is charged, a discipline panel made up of staff members from the facility hears the case, decides whether the inmate is guilty of the disciplinary offence, and if so, what sanctions will be applied.

We received complaints from inmates that the process was unfair and panel members were biased. Specifically, inmates told us:

- they had no notice of the evidence that would be presented at the panel hearing, so they could not prepare a proper defence.
- they were not allowed to call other inmates to provide evidence.
- they were not allowed to question the staff members who witnessed the events leading to the charge.
- the panel members were all correctional facility employees, which created a strong perception of bias.



In order to get a picture of what was happening, we conducted a review of a sample of discipline panel cases in Saskatchewan's four adult correctional facilities. We interviewed the inmate committee from each facility and staff who sat on the discipline panels. We looked at six issues:

1. Is the Ministry of Corrections and Policing providing inmates with reasonable notice that a discipline decision is going to be made and

a reasonable opportunity to review all the information that will be considered by the panel in advance of the hearing?

2. Are discipline panels giving inmates reasonable opportunities to obtain legal advice or representation?
3. Are discipline panels allowing inmates to call their own witnesses and present their own evidence?
4. Are discipline panels constituted to avoid any reasonable apprehension of bias?
5. Is the process for appealing discipline panel decisions being administered fairly?
6. Is the Ministry of Corrections and Policing providing discipline panel members adequate training and support to ensure discipline panels meet the requirements of the Act and Regulations?

The Correctional Services Act, 2012 and its Regulations entitle inmates charged with a disciplinary offence to a full and fair hearing. We found several aspects of the disciplinary system were not being conducted fairly. For example, inmates are entitled to receive a notice of the charge which must describe the conduct that is the subject of the charge and a summary of the evidence. Some of the notices we reviewed did not include sufficient information to allow the inmate to prepare properly for the hearing. Since correctional officers involved in incidents already complete incident reports about them, we found these reports (appropriately redacted) could be included in the summary of evidence portion of the notice provided to inmates. We also found inconsistencies among the correctional centres. For example, some allowed video evidence to be considered, but others avoided relying on video evidence altogether because it was logistically inconvenient. Video evidence is particularly helpful in cases where the facts are in dispute.

We also looked at how panels decide whether to allow hearings to be adjourned so inmates could retain legal counsel. Though panels have been given the discretion to decide when to adjourn hearings, we found that they were applying standard policy rules and not considering what was reasonable. In Prince Albert, for example, inmates do not have access to community legal clinics like they do in Saskatoon and Regina, so they may have more difficulty obtaining legal services. Applying an automatic number of days to adjourn a matter as written in a policy may not always be appropriate. We also found panel chairs were automatically denying requests from inmates to have a fellow inmate assist them in their defence because they were not lawyers, even though the Regulations explicitly give the chair the discretion to decide whether to allow non-lawyer representatives. Since some inmates may

not have been able to effectively represent themselves due to capacity or literacy issues, we found these decisions to be unreasonable.

Inmates have the right to present information relevant to a defence of the charges against them. We found that, as a matter of policy, some panels routinely refused to allow inmates to call other inmates to testify. We were told that this was because they may have been coerced to provide false evidence. We agree that if there is actual evidence that an inmate's information is being coerced, it would be reasonable for a panel not to allow it. However, panels must provide a full and fair hearing, and this requires them to establish and determine the credibility of witnesses. If the panel allows another inmate to testify, it can refuse to accept any information it deems to be irrelevant or untrustworthy. It cannot, however, simply refuse to hear relevant evidence just because it is from another inmate. We also found that the Ministry had not provided panels with any guidance or rules about how to determine if information was relevant or irrelevant.

Panels are comprised of staff from the correctional centre where the charge is laid and the hearing is held. Therefore, it is not uncommon for a panel member to have to choose whether to believe their co-worker (or boss) or the inmate. While there are no doubt practical advantages to all panel members being chosen from the ranks of the staff working day-to-day in each facility, this also increases the opportunity for bias and the appearance of bias.

Inmates have the right to appeal panel decisions. In cases where the inmate was found guilty, the panel can choose from various sanctions, such as a reprimand to cell confinement to additional days behind bars. But because the sanctions are imposed immediately, many inmates told us they did not see the point of appealing. Even if the inmate is successful on appeal, it is practically meaningless because they have already served the sanction.

The inmate disciplinary system is an administrative process meant to maintain control of correctional facilities and to deal with matters expeditiously. It is not a criminal process. Nevertheless, it must meet the requirements imposed by the Legislative Assembly: inmates are entitled to a full and fair hearing and a thorough and objective inquiry into the matters related to the discipline charges laid against them. We believe Corrections staff are genuinely interested in carrying out this mandate. However, their task is made much more difficult when they are made to play the roles of witness, police officer and judge. Panel members all work in the same facility. In this context, ensuring the discipline system is fair and that decision makers are not struggling

with their own bias, whether at an institutional or individual level, is virtually impossible.

Therefore, we recommended:

1. That the Ministry of Corrections and Policing ensure inmates charged with disciplinary offences are provided with all relevant evidence available to the discipline panels – including all written accounts and video of the incident leading to the charge – so they have a reasonable opportunity to make decisions about how to respond to the charge including preparing any defence.

   Status: Accepted

2. That the Ministry of Corrections and Policing ensure discipline panels do not fetter or fail to properly exercise their discretion to consider relevant video evidence based on it being deemed too inconvenient or a standard practice of not reviewing it.

   Status: Accepted

3. That the Ministry of Corrections and Policing develop guidelines to assist discipline panels to effectively exercise their discretion to allow an inmate to retain a lawyer or to approve another person, including another inmate, to assist the inmate to adequately present a defence.

   Status: Accepted

4. That the Ministry of Corrections and Policing develop guidelines to ensure discipline panel chairpersons effectively exercise the discretion to allow inmates to call witnesses – whether staff members or other inmates – so that inmates have an opportunity to fully present relevant information to a defence of the charge.

   Status: Accepted

5. That the Ministry of Corrections and Policing ensure discipline panel chairpersons at each correctional facility are not employed to perform any other duties at the correctional facility and do not report to the director or any other operational manager of the correctional facility.

   Status: Accepted

6. That the Ministry of Corrections and Policing implement a process requiring discipline panel members to, in each case they participate in, either declare they have no bias or declare they have a bias and disclose the nature of the bias.

   Status: Accepted

7. That the Ministry of Corrections and Policing implement a reasonable and fair process for accepting, investigating and resolving allegations of bias made against discipline panel members.

   Status: Accepted

8. The Ministry of Corrections and Policing ensure that, except in cases where a discipline panel finds that doing so would jeopardize the health and safety of any specific inmate or staff member, or would undermine the security of the facility, any sanctions ordered by a discipline panel are suspended until the deadline for an inmate to appeal is up, and, if an inmate initiates an appeal, until a decision on appeal is made.

   Status: Accepted

9. That the Ministry of Corrections and Policing implement an integrated training and assessment program for every disciplinary panel member so that they understand how to carry out all the statutory and regulatory duties and powers they must exercise as panel members, to conduct thorough discipline hearings, and ensure inmates are provided full and fair hearings.

   Status: Accepted

Investigation

MEDICAL HELP

Penny complained that she was not appropriately cared for when she became very ill while in custody at the White Birch Remand Unit. We investigated the treatment and care she received while in the Pine Grove Correctional Centre and in White Birch. We specifically focussed on the details that led to her being admitted to hospital. After interviewing over 40 witnesses and reviewing many documents, we found that, on the day in question:

- She was having significant symptoms but did not tell staff she was feeling ill until about 5:20 p.m. Corrections staff then took her to the onsite clinic where a nurse assessed her, called the physician for advice and, at the physician's direction, made arrangements for her to be taken to the hospital.
- While she waited in her cell to be transferred to the hospital, her condition became worse. She was taken to the clinic again and reassessed by the nurse, who immediately arranged for an ambulance to take her to the hospital. The ambulance was called at 6:20 p.m.

We found that her care and treatment were fair, reasonable, and timely.

Early Resolution

THE APPEAL WORKED

Petra was in custody at the Pine Grove Correctional Centre. She called us, concerned that she might not be allowed to attend her grandmother's funeral. She said her grandmother had raised her and attending the funeral was important to her.

Petra told us the request she made was denied with no reasons given for the decision. A Corrections Team Lead told her it was likely due to her behaviour. She admitted that she had been disciplined for a certain incident, but she did not think it was fair if that was the reason she was not allowed to go to the funeral. She appealed but was worried that she might not receive a decision in time to attend.

As an office of last resort, it was important for us to give Corrections the opportunity to complete its appeal process and reach a final decision – but we were also conscious of the short timeframe. We asked for the final decision to be sent to us as soon as it was ready. As an independent office, we could review the process to see if the facts had been fairly considered and reasons provided. In this case, Petra won her appeal on the basis that the initial decision was unfair and was not in line with policy. She was able to attend her grandmother's funeral.

Early Resolution

INSUFFICIENT PORTIONS

Pete called us because he didn't think his unit was getting enough food. He told us his unit refused their lunch trays and asked the guards to notify the Team Lead.

We called the Team Lead and asked about the amount of food being served. The Team Lead went to the lunchroom and took pictures of the unit's lunch trays, then met with Compass, the private company contracted by Corrections to provide food at correctional centres. Compass agreed the portion sizes were inadequate and agreed to rectify the issue.

After the meeting, we followed up with Pete. He told us the portion sizes were now bigger and there was also better variety. He felt the food had significantly improved and that his complaint was resolved.

Municipalities

Complaints Received

MUNICIPALITIES	2019	2018	2017
Cities	87	114	127
Towns	65	85	97
Villages	62	54	88
Resort Villages	18	24	29
Rural Municipalities	128	145	209
Northern Municipalities	35	21	16
Other / Not Disclosed	8	9	6
TOTAL	**403**	**452**	**572**

Introduction

Since getting jurisdiction over municipalities and their council members four and half years ago, we have focussed on helping administrative staff and council members understand their legislative obligations through public education. One such obligation is the requirement to have their own processes for dealing with code of ethics complaints. We have referred many of these complaints back to municipalities so they could deal with them first. We have also investigated whether the way in which some municipalities dealt with code of ethics complaints was fair and reasonable.

The code of ethics complaints we receive most often are alleged conflicts of interest. We believe council members will almost always take the right steps to deal with their conflicts of interest if they fully understand when they have to avoid participating in council decisions in which they have a conflict of interest. However, many council members are still woefully misinformed about what it means to be in a conflict of interest. Unfortunately, this problem has been compounded by the way the conflict of interest provisions in *The Cities Act*, *The Municipalities Act*, and *The Northern Municipalities Act, 2010* were worded when they were changed in 2015. Many council members still seem to think that the Ombudsman is making up conflict of interest rules – that unless the municipal Acts specifically state that a certain set of circumstances is a conflict of interest, they are free to participate in council decisions even though they actually have a conflict of interest.

For example, after investigating a complaint, we found that two council members of the R.M. of Enniskillen had a conflict of interest in certain matters before council, and did not take steps to deal with the conflict. Initially, we thought that these council members just did not understand what it meant to be in a conflict of interest – and that if they understood, they would do the right thing. Our objective is always to help municipal officials and employees understand their obligations under provincial legislation and to make decisions in the best interest of their communities. However, the R.M. refused to accept our recommendations – which were simply that they get some conflict of interest training and comply with the conflict of interest rules in *The Municipalities Act* in the future. What we did not realize at the time, is that there is still wide-spread misunderstanding and confusion about

what it means to be in a conflict of interest in the municipal sector. This is highlighted by a resolution that passed at SARM's midyear convention in November 2019 by an overwhelming 87.36% majority:

> WHEREAS *The Municipalities Act* section 141.1 states a member of council has a conflict of interest if there is opportunity to further his or her private interest or the private interests of a closely connected person. The definition of a closely connected person in *The Municipalities Act* means an agent, business partner, family or employer of a Member of Council;
>
> WHEREAS the definition in *The Municipalities Act* of family means the spouse and dependent children of a council member. *The Municipalities Act* does not allow the affected individuals to state their case regarding the conflict of interest without being in conflict of interest;
>
> WHEREAS the Saskatchewan Ombudsman has appeared to adopt a "grey area" concept of a conflict of interest;
>
> BE IT RESOLVED that the Saskatchewan Ombudsman be made to adhere to the definition of conflict of interest as it appears in *The Municipalities Act*.

In fairness, we acknowledge that section 141.1 of *The Municipalities Act* has generated a lot of confusion in the municipal sector, as many think it ends there, but that is not what the Act says. After we raised this issue with the Ministry of Government Relations, *The Miscellaneous Municipal Statutes Amendment Act, 2019* was brought forward to the Legislative Assembly to, among other things, make changes to sections 141.1 and 144.2 of *The Municipalities Act* (and to the comparable provisions of *The Cities Act* and *The Northern Municipalities Act, 2010*). These changes should make it clearer that if a council member participates in a council decision to improperly further another person's private interests, whether or not the person meets the definition of "closely-connected person", they still have to follow the rules in the Act to avoid their conflict of interest.

Nevertheless, there is still a lot of work to do to make sure that municipal council members and their staff understand what constitutes a conflict of interest and what they need to do to deal with the conflict.

For all these reasons, we continue to help council members understand their role, our role, and what it means to act in the best interests of their communities.

Case Examples

Previously Published Cases

Previously Published Investigations

Following are brief summaries of several investigations into municipal complaints that were previously published. For more detailed versions of these cases, see the Public Reports section on our website.

RESORT VILLAGE OF CANDLE LAKE

After receiving over 30 complaints about council members of the Resort Village of Candle Lake, we investigated whether it was using effective processes to deal with alleged council member misconduct. During our investigation, we received another 12 allegations of misconduct. Most of the complaints we received were from current council members against each other or their own administrative staff. We found that Candle Lake did not have effective processes in place to identify when a code of ethics complaint was being made, nor how it would fairly assess and address a complaint once it was received. We recommended that Candle Lake first institute fair processes and then take positive steps to effectively address the many issues that have been beleaguering them.

R.M. OF ENNISKILLEN NO.3

We investigated whether two council members had a conflict of interest when they participated in the council's decision to pay one of the council members for clay that was used by the R.M. for a road project. The road was adjacent to the council member's land. We found that in most cases, the council member did take the steps required of him to deal with his conflict of interest. However, we found that he also had a conflict of interest in the discussions council had concerning whether he should be paid any additional money for the clay other than what was set out in the agreement he signed, and that he should not have participated in the council's discussions and decisions about whether the agreement should be released to the public. The council member is no longer on the council, so we did not make any recommendations concerning his conduct. The other council member was the brother-in-law of the council member who was paid for the clay. While we found that he should not have participated in the matters that resulted in his brother-in-law receiving a financial benefit, in our opinion, he did not do so intentionally. We found that his failure to comply with the conflict of interest rules was through honest mistake or inadvertence. We made recommendations aimed at requiring all council members to get training to understand their responsibilities under the conflict of interest rules and that they understand the steps they need to take if they do have a conflict of interest in a matter before council, and that conflicts of interest are properly recorded in meeting minutes.

RESORT VILLAGE OF THE DISTRICT OF KATEPWA

We received a complaint that a council member had a conflict of interest in the council's discussions and decisions related to granting a 25-year lease of the District's former landfill site to the adjacent golf club for a nominal rent of $1 and some in-kind contributions. The council member's father was a member of the golf club and sat on its board. We found the council member had a conflict of interest and should not have participated in the discussions and decisions in the matter. However, we found that the council member had an honest, though incorrect belief, that he could participate in these decisions because of the golf club's status as a non-profit corporation. We recommended that the council arrange for each council member to take training on conflicts of interest and how to deal with them when they arise while carrying out their duties, and that each council member decide – with the benefit of professional advice if necessary – whether they have a conflict of interest in the council's decisions relating to the lease of the former landfill site to the golf club. Since it had not yet made a final decision about the lease, we also recommended that it give reasonable public notice of its intention to further consider whether to sell or lease the former landfill site for less than fair market value or without a public offering, whether to the golf club or to any other person, and an opportunity for interested persons to present their views to it at a public hearing or council meeting.

R.M. OF REDBERRY NO. 435

We investigated whether the R.M. council followed the proper legal process to permanently close an R.M. road. We found that though the council was able to pass the bylaw to permanently close the unmaintained R.M. road, it failed to comply with the public notice requirements in *The Municipalities Act*. Giving public notice would have allowed residents to voice their concerns and to see that council decisions are made in an open and transparent manner. We also investigated whether an R.M. council member had conflicts of interest in matters before council and if so, whether he took the proper steps to deal with them. The matters were related to work that an excavation company did for the R.M. on two projects. We found that the council member had a conflict of interest in certain matters before council, due to his relationship with the excavation company, and did not take all the required steps to deal with the conflict of interest. We recommended the R.M. of Redberry arrange to train its council members and staff about conflicts of interest, that council members comply with the conflict of interest rules in *The Municipalities Act,* and that the R.M. ensure its meeting minutes are accurate and complete in recording these matters.

VILLAGE OF MARGO

We received a complaint that in the 2017 and 2018 tax years, the Village either sent tax assessments and tax notices late, or not at all, and, if sent, that they contained many errors. We found that the Village of Margo contravened *The Municipalities Act* by failing to properly provide the 2017 and 2018 assessment notices and tax notices to property owners. As well, there were errors in calculating the complainant's taxes, and as a result, she was charged arrears and interest when she should not have been. We recommended that the Village hire a qualified municipal tax professional to review and correct all the Village's records for the 2017 and 2018 property assessments, tax notices and tax receipts. We also recommended that it cancel, reduce or refund any arrears or taxes that were the result of it not following timely processes or the result of it sending an incorrect tax notice, and that ratepayers be provided with updated, accurate records, explanations of errors, and information about how it will prevent such errors in the future.

NORTHERN HAMLET OF BLACK POINT (REMUNERATION)

We received a complaint that the council had given themselves an inordinately high remuneration. We found that the council did not comply with the requirements of *The Northern Municipalities Act, 2010*. While councils are free to set the amount of remuneration they feel is appropriate, they are required to give public notice of the meeting when remuneration is going to be discussed. This would have allowed residents to question what municipal work the council members were doing to justify the money they were paying themselves. We recommended that the council adopt a public notice bylaw, repeal the resolutions that increased their remuneration, and that it give public notice of its intention to set the remuneration for its council members.

Municipal Cases Not Previously Published

Investigation

Following are additional summaries of municipal complaints that were investigated but not previously published on our website.

NORTHERN HAMLET OF BLACK POINT (CONFLICT OF INTEREST)

We received a complaint that the mayor of the Northern Hamlet of Black Point was in a conflict of interest when she participated in the council's decision to hire her sister to work at the hamlet office.

The mayor told us the person was actually her cousin, although she acknowledged that she referred to her as her sister in the community.

She felt that since she was not her sister, she did not have to excuse herself from the decision. She also told us that everyone in the community knew of the job opening because the administrator went door to door to drop off the posting, and that her cousin was the only person that showed any interest. She also noted that after the council hires anyone, somebody always complains, even if they didn't apply for the job.

We found that the mayor had a conflict of interest in council's decision to hire her cousin. The decision promoted her cousin's private interests – it gave her a job and salary. A reasonable person would believe that the mayor could not make this decision in an unbiased manner, given their close relationship. As well, given the mayor's comments that all of the hamlet's hiring processes are the subject of complaints, she should have known that there would be a perception in the community that she could not be impartial or be seen to be impartial in making this decision.

In cases like this, we would have recommended that council itself decide whether to take steps to enforce the disqualification, as we believe councils should decide how to deal with council members who fail to properly declare and deal with conflicts of interest. The council then is accountable to its voters for its decision. However, in this case we could not make a recommendation because two of the three council members had a conflict of interest in the matter, as the cousin was now a council member. That would have left only one member of council to consider and vote on our recommendation.

There are provisions in *The Northern Municipalities Act*, *2010* for councils who lose quorum as a result of declarations of conflicts of interest to apply to the courts to allow the council to make the decision. However, in this case, the council would need to apply to the court for an order empowering it to discuss and vote on whether to accept our recommendation. In our view, this was untenable, since two members of council would also be in a conflict of interest in the decision to apply to the court. Therefore, we decided there is no reasonable recommendation we could make that the Black Point council could consider and implement. This is an issue in small communities across Saskatchewan, which we have raised with the Ministry of Government Relations.

Investigation

TOWN OF BIRCH HILLS

A condominium corporation made a complaint to us that the Town of Birch Hills was improperly invoicing it for water utility services.

The 23-unit condominium was built in 2010. The Town's chief administrative officer told us that during construction, the Town and the developer discussed whether to install a water meter in every unit or one

meter for the whole building – and decided on one meter with a two-inch line for the whole building.

The Town's water and sewer bylaw provided for a minimum monthly rate of $40 to be paid by the "consumer whose water service has been turned on...whether or not any water is consumed," plus an additional rate for all water more than 12 cubic meters used in the month. The Town charged the condominium corporation the minimum $40 water charge for each of the 23 units for a total of $920 per month.

Beginning in May 2017, the condominium corporation repeatedly contacted the Town about its concern that it was not being billed according to the bylaw. It argued that it was the Town's only customer, since it was the only one billed and there was only one meter installed, so it should not be charged the $40 minimum for each unit. In its responses, the Town said that it was planning to create a new water and sewer bylaw, but that it wanted to wait until it upgraded its water plant. The condominium corporation's letters pointed out that it understood the Town was waiting to make these changes, but asked that it simply be billed in accordance with the existing bylaw. It pointed out that it was not being treated the same way as the other multi-unit buildings. The Town's position was that these other buildings had only three or four units each, and that the larger line was necessary to serve this condominium's 23 units.

Meanwhile, the condominium corporation had emailed the Saskatchewan Municipal Board (SMB) to ask whether it was being billed correctly according to the Town's existing water bylaw. The SMB responded that the rates it approved (in the existing bylaw) do not mention anything about the classification of users, that the rates should be applied to everyone in the same fashion, and that if the Town intended to change its bylaw, it would have to submit it to the SMB for approval.

At its September 26, 2018 meeting, in response to the latest of the condominium corporation's letters, the council passed a resolution that multi-unit residential dwellings with more than 4 units be charged the minimum fee for water & sewer less a $10 discount per month per unit. The Town then emailed the SMB to ask whether it had the authority to pass a reduced rate for the condominium corporation by resolution until it could write it into the new bylaw once it was drafted. The SMB replied, "As a municipality you only have the legislative authority to pass water and sewer bylaws. You need to get our approval for those rates to be effective. If your council intends to change water and sewer rates, you can always do that by passing a new bylaw (amending or repealing the previous bylaw)."

We found that:

- By agreeing with the developer to install one large meter for the whole building, the Town acted contrary to its bylaw. It should have either amended the bylaw or required the installation of meters for every unit so each unit owner could apply for service.
- The Town could not legitimately charge each unit holder the minimum water rate because it has no service contract with them and no individual meters for them. Therefore, it had no way to determine what each of them should pay as required by its bylaw. The Town was charging the condominium corporation $40/month/unit, as though it has entered into 23 individual service contracts with 23 separate customers, none of whom ever used more than 12 m^3 a month, when in fact, the condominium corporation is a single customer that consistently used more than 12 m^3 a month.
- The purpose of a base rate is ostensibly to defray the Town's costs and risks on a per-customer basis: installing/maintaining the service connection, issuing bills, and collecting/processing payments. Since, the Town had one service connection to one meter for the whole building, and issued one invoice to one customer, the condominium corporation was paying the Town for costs and risks the Town did not have.
- The Town was aware that its bylaw did not allow it to charge the way it had been. Even if the condominium corporation had agreed to different billing, *The Municipalities Act* dictates that the Town can only change water rates by passing a valid bylaw with rates approved by the SMB. This meant the resolution the Town passed on September 26, 2018 to charge the condominium corporation differently also did not comply with the Act.
- The Town held an unreasonable position: that it needed to wait until after its new water plant was constructed, or for provincial regulations to change, before it could amend its bylaw to address the condominium corporation's concerns. Given that it had been overcharging the condominium corporation in contravention of its bylaw and *The Municipalities Act,* the Town should have properly amended its bylaw as soon as it became aware of its mistake.

As a result, we recommended:

1. The Town of Birch Hills immediately refund the condominium corporation the difference between what it has paid the Town for water services since October 10, 2017 and what it should have paid had the Town invoiced it in accordance with its water and sewer bylaw (Bylaw No. 04/15).

   Status: Accepted

2. The Town of Birch Hills immediately start billing the condominium corporation and all other water service customers only in accordance with its current authority under Bylaw No. 04/15 until it amends, or repeals and replaces Bylaw No. 04/15.

   Status: Accepted

Health

Complaints Received

HEALTH ORGANIZATIONS	2019	2018	2017
MINISTRY OF HEALTH			
Drug Plan and Extended Benefits	10	18	12
Health Other	11	15	13
TOTAL - MINISTRY OF HEALTH	21	33	25
eHEALTH SASKATCHEWAN	14	8	9
SASKATCHEWAN CANCER AGENCY	1	2	3
SASKATCHEWAN HEALTH AUTHORITY*	141	111	79
OTHER HEALTH ENTITIES	16	19	55
TOTAL	**193**	**173**	**171**

*Numbers from 2017 represent the total of the previous regional health authorities.

Case Examples

Investigation

A CAPTIVE MARKET

When Perry and Paula's father moved into a long-term care facility run by the former Saskatoon Regional Health Authority, they noticed that his medication costs increased substantially. For example, when he lived on his own and got his medications from his local pharmacy, he was paying 86 cents for 28 calcium carbonate tablets. But, he was paying $13.38 for 34 tablets from the pharmacy that was contracted by the Authority to provide services to residents of the facility. His total monthly medication costs used to be $45.40/month. In the first 3 full months in long-term care, his average costs were $113.31/month.

Perry and Paula raised the issue with the Authority and were not satisfied with the response, so they contacted our Office. We investigated whether the Authority was reasonably managing the prices that the pharmacies on contract were charging residents in long-term care facilities.

For safety reasons, staff of special-care homes (aka long-term care facilities) will not dispense medications (prescription or over-the-counter) to residents unless they are purchased from the pharmacy holding the pharmacy services contract for the facility. While families are technically free to purchase medication from any pharmacy, if they do not use the facility's pharmacy, then they must privately arrange to have the resident's medications given to them. Since this would be impractical or prohibitively expensive for most residents, it means that all residents of a special-care home have no reasonable option other than to buy all their medications from the pharmacy contracted with the facility. So, the Authority's pharmacies have a 'captive' market.

We learned that the Authority had undertaken a thorough review in response to the concerns Perry and Paula raised and, as a result, made some changes to its Contract to Provide Pharmacy Services template. These changes were aimed at making sure residents were charged consistent prices no matter which facility they were in. However, they

did not address the underlying issue of making sure residents were charged competitive dispensing fees or mark-ups for medications, whether prescription or over-the-counter.

The Authority has a responsibility to ensure that, since long-term care residents are captive consumers of these products and services, they are paying competitive prices. This responsibility is reflected, in part, in Title 7.2 (*Prescription Drug Plan*) of the Ministry's May 2016 revision of the *Program Guidelines for Special Care Homes*, which states:

> Resident cost for prescription drugs shall be in keeping with what is set out in the Saskatchewan Drug Plan and the Saskatchewan Seniors' Drug Plan.
>
> Regional health authorities shall support residents through pharmacy contracts that provide residents with the least possible additional charge for medication administration services.
>
> Based on Policy 6.10 Supply Charges residents shall not pay for compliance packaging for medications.

When we asked why the Request for Proposals (RFP) for pharmacy services did not include an evaluation of the prices for drugs and dispensing fees pharmacists would charge residents, or why the resulting service contracts did not include a schedule of prices, we were told that the health authority could not dictate or negotiate dispensing fees because the prices were governed by agreements between the Ministry and pharmacy proprietors.

The pharmacy proprietor agreements that the Ministry enters into are provided for in section 5 of *The Prescription Drugs Act*. It states that the Minister of Health may enter into agreements with pharmacy proprietors.

The standard proprietor agreement establishes the *maximum* amount pharmacies may charge Saskatchewan residents for prescription drugs. It is clear that pharmacies are free to charge their customers less than the maximum amount for drugs covered by the Plan, but if they do, they cannot seek payment from the Ministry for more than what they charge specific customers. The agreement also says if a pharmacy enters into any other agreement to supply prescription drugs to Saskatchewan residents (for example, the pharmacy services agreements with the former authority) at lower prices, similarly it may only charge the Ministry the lower prices for the services provided under the agreement. Lastly, it should be noted that the proprietor agreement does not address over-the-counter medications at all.

Since the Ministry's proprietor agreement only provides for the maximum amount a pharmacy can charge, it clearly contemplates a pharmacy charging its customers less than the maximum, and does not deal with over-the-counter medications. Therefore, we found that, contrary to what we were told, the Authority was able to ensure its RFP process required pharmacies to compete with each other and be evaluated on the prices they propose to charge residents. It was also able to incorporate the fees and charges submitted during the RFP process into the agreements. By not doing so, we found that the Authority was not meeting the requirement under the *Guidelines* that it support residents by making contracts that provide the least possible additional charge for medication administrative services.

This finding is further supported by the fact that the former Prince Albert Parkland Regional Health Authority conducted an RFP for pharmacy services in which each pharmacy was required to submit what it would charge for dispensing prescription medications and the fees it would charge for dispensing/packaging over-the-counter medications. The resulting contracts specified what the pharmacies would charge residents based on their actual costs plus a fee. (Residents do not pay the retail mark-up on items charged this way.)

In our view, since the Ministry's *Guidelines* requires the Authority (and all affiliates) to ensure its pharmacy service providers in special-care homes charge the least additional fees possible, and since residents of special-care homes have no reasonable alternative but to buy all their medications from the contracted pharmacy in their facility, it is fair to expect the Authority to ensure all long-term care facilities obtain pharmacy services through effective procurement processes that encourage pharmacy proprietors through competition with one another, to offer and contractually agree to provide residents with prescription and over-the-counter medications, along with all related services at the lowest prices available in the competitive market.

As a result of our investigation, we made the following recommendations:

1. The Saskatchewan Health Authority develop and implement a standard Request for Proposal for the competitive procurement of pharmacy services in long-term care facilities in Saskatchewan that includes the evaluation of proposals based on the total prices, fees and charges competing pharmacies will charge residents if they are selected to enter into a pharmacy services contract.

   Status: Accepted

2. The Saskatchewan Health Authority develop and implement a standard pharmacy services agreement that includes the total prices, fees and charges that the pharmacies who enter into the agreement will charge residents of Authority-run long-term care homes and affiliate-run long-term care homes if any affiliate opts to use the standard agreement.

   Status: Accepted

Early Resolution

SORTING OUT LONG-TERM CARE FEES

Pauline's husband, Quincy, had been a long-term care resident for about seven months. She called us because she didn't think it was fair that a delay in income testing meant they would have to pay a large catch-up bill for his past monthly fees.

She said she submitted their financial records before he was admitted and was told that it would take a couple of months to complete the income testing and set a monthly rate. In the meantime, they were charged the minimum monthly rate. A couple of months later, Quincy was transferred to another facility, which continued to charge him the minimum rate.

Pauline told us she didn't hear anything about the results of the income test until seven months after Quincy was admitted. At that point, the Saskatchewan Health Authority (SHA) called to let her know that, based on their income tax statements, Quincy's monthly rate had been set at the maximum amount. This was about $1,650 per month more than they had been paying. In addition, they would have to pay $11,550 to make up for having underpaid for the last seven months.

Pauline didn't disagree with the new monthly rate, but she wanted to know why the income testing had taken so long and didn't think she should have to pay all the back fees. She went to her local MLA, who contacted the Ministry of Health (which is responsible for income testing). They didn't receive a response, so they referred her to our Office.

We contacted the Quality of Care Coordinator (QCC) for Pauline's area, who looked into her concerns. The Ministry of Health told her the delay had been partly due to a backlog and partly because the SHA had missed sending a piece of paperwork to the Ministry. The QCC agreed that Pauline had not been treated fairly, so the SHA sent her a letter of apology and reduced the back fees by about half.

We suggested to the QCC that this would be a good case to use as a discussion point between the SHA and the Ministry of Health. For example, policy states that when financial information is missing, they are to charge the maximum monthly fee – the opposite of what happened to Pauline. While following the policy would have avoided the need to charge her a large catch-up bill, the QCC pointed out it would also mean that it would have to charge some people who could not afford to pay the maximum fees until their income had been tested. We acknowledged that these are issues that need to be discussed and resolved. We also encouraged the Ministry of Health and the SHA to discuss the way information is shared and to provide updates to people who are waiting for the results of income testing.

Early Resolution

DID SHE UNDERSTAND?

Pat contacted us because she disagreed with a bill she received after a hospital stay. She had been living in a personal care home before being admitted to hospital, where she was in ICU for six days. She was then transferred to a medicine ward, where she remained for another 18 days. During this time, she was assessed for long-term care, was declined, requested an appeal, and was declined again. Also during this time, she signed an Alternate Level of Care (ALC) form, which authorized the Saskatchewan Health Authority (SHA) to charge her a daily rate designed for people who are taking up a hospital bed when they have no medical reason to be there.

After returning to the personal care home, Pat received her bill but without any explanation of the charges. When she called to ask about it, the SHA explained the charges and acknowledged that the costs had been incorrectly calculated based on too many days, that they ought to have been for only the last five days when she was waiting for the results of the appeal.

Pat told us she had signed something, but couldn't remember what it was or whether anyone explained it to her. She said she would have left the hospital earlier if she knew she was being charged. She didn't think it was fair to be asked to sign the form when she had recently left ICU and didn't feel well. She thought the SHA should have notified her next-of-kin to help deal with the situation.

The SHA told us that Pat was not very sick and that she would certainly have been aware of the charges. The SHA's Quality of Care Coordinator office had completed its review and did not plan to take any further action.

We considered the chart from Pat's hospital stay. It documented other conversations she had with staff, but there was nothing to show that she had been made aware of the charges related to the ALC form. We consulted with a senior leader and suggested that the SHA reconsider the decision to charge her because:

- It would be reasonable to assume that a person who recently left the ICU would not be feeling well and may not understand what she was signing.
- Given her age and that she was ill, it would be reasonable to involve her next-of-kin and make him aware of the charges.
- Although the physician's notes indicate no new medical concerns, they do not say that she was ready for discharge.
- There were no chart notes or any other documentation from any staff to indicate further discussion that charges were going to be implemented.

The SHA told us it has tried to apply a consistent approach to these types of charges across the former health regions. While we agreed that charging for non-necessary hospital stays is a way to help manage healthcare resources, we pointed out that the process needs to be fair. Other than the signed form, there was no evidence that anyone had explained the charges to Pat or her next-of-kin. The SHA agreed to withdraw the charges.

Crown Corporations

Complaints Received

CROWN CORPORATIONS	2019	2018	2017
FINANCIAL & CONSUMER AFFAIRS AUTHORITY	1	0	3
GLOBAL TRANSPORTATION HUB AUTHORITY	0	0	1
SASKATCHEWAN CROP INSURANCE CORPORATION	6	6	6
SASKATCHEWAN GOVERNMENT INSURANCE			
Auto Fund	60	39	52
Claims Division - Auto Claims	68	64	63
Claims Division - No Fault Insurance	32	41	35
Claims Division - Other / SGI Canada	31	39	16
Other	13	21	9
TOTAL - SGI	204	204	175
SASKATCHEWAN LIQUOR AND GAMING AUTHORITY	3	5	2
SASKATCHEWAN PUBLIC SAFETY AGENCY	0	1	0
SASKATCHEWAN RESEARCH COUNCIL	1	0	0
SASKATCHEWAN TRANSPORTATION COMPANY	0	0	1
SASKENERGY	34	46	48
SASKPOWER	134	135	100
SASKTEL	37	42	32
WATER SECURITY AGENCY	6	13	19
TOTAL	**426**	**452**	**387**

Case Examples

Early Resolution

GETTING RECONNECTED

Pearl called us because she felt SaskEnergy should not have disconnected her natural gas.

She was on a payment plan to catch up a past debt to SaskEnergy and needed to make a payment by a certain date. She told us she had been ill, so asked her niece to make the payment for her – but she was disconnected. She said she called SaskEnergy to find out what happened and learned that her niece's bank had used the wrong account number. SaskEnergy corrected the error and put the payment on Pearl's account but told her it would not reconnect her gas until she paid a reconnect fee and made the final payment on her payment plan, which was due the following Thursday.

We contacted SaskEnergy to inquire about what happened and to determine Pearl's reconnection options. SaskEnergy confirmed that the bank had used the wrong account number but told us it was unclear whether it was the bank's mistake or Pearl's mistake. SaskEnergy agreed with us that it would be reasonable to waive the reconnect fee and, while SaskEnergy would have preferred to receive the final payment before reconnecting, it decided to uphold the previous agreement in which Pearl could pay by the following Thursday. SaskEnergy worked with Pearl to reconnect her services the same day.

Early Resolution

DELAYS IN SORTING OUT A COMPLAINT

Pearson contacted us because he had filed a complaint with SaskPower and felt he was having unreasonable delays in getting it resolved. He told us he had called seven or eight times over the course of three months, that SaskPower was slow to call back and when he did get a call, he had to keep repeating his story and answering the same questions each time. He told us it felt like he was getting the run-around.

We contacted SaskPower to see what was happening with Pearson's complaint and were told that they were still working on it. SaskPower contacted Pearson and he kept in touch with us from time to time to let us know how it was going. In the end, SaskPower accepted his claim.

Pearson called us back to say thanks. Even though he had negotiated the resolution himself, he felt it would have taken much longer to resolve the problem if he had not contacted our Office.

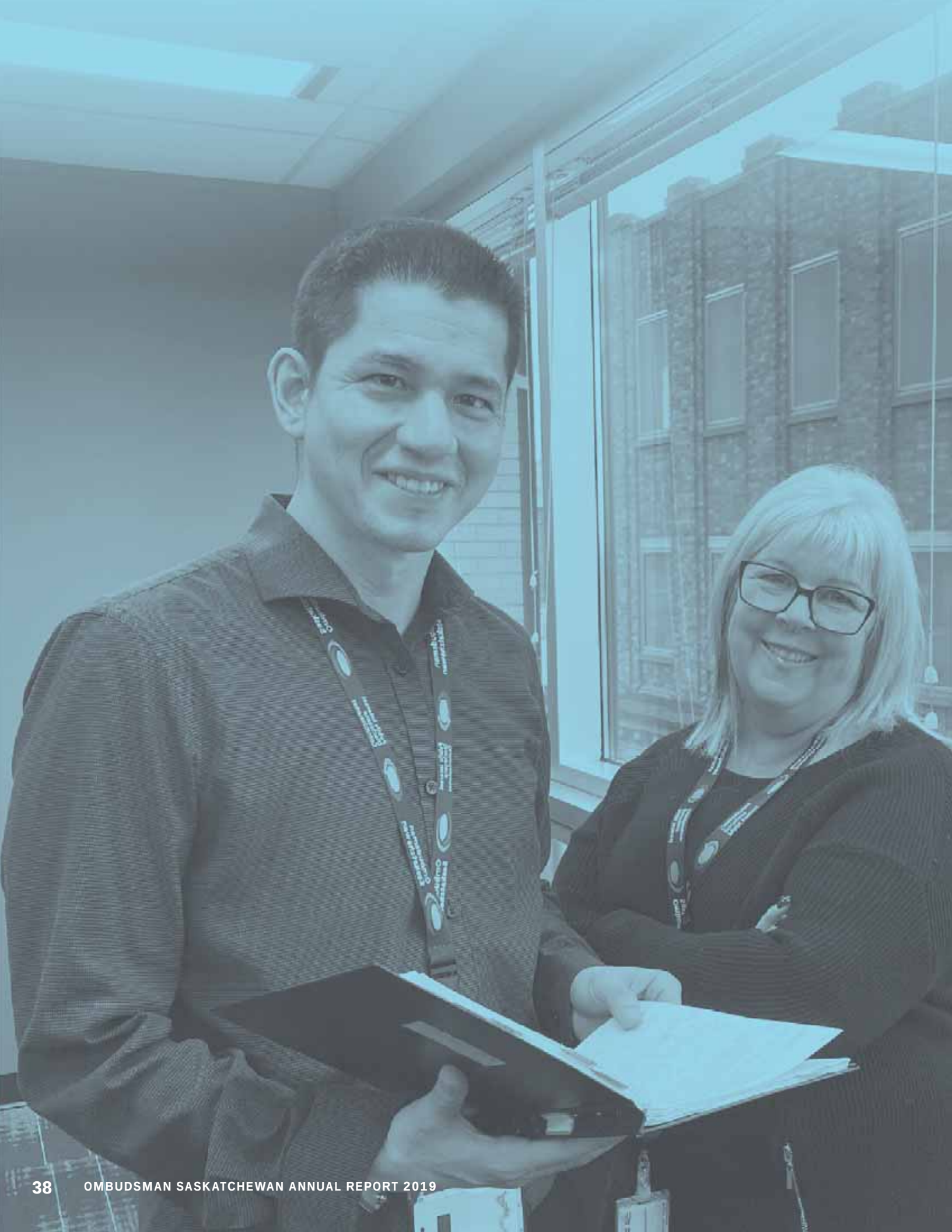
Other Ministries and Entities

Complaints Received

MINISTRIES	2019	2018	2017
ADVANCED EDUCATION	7	11	6
AGRICULTURE	7	11	3
CENTRAL SERVICES	3	0	0
EDUCATION	3	1	6
ENERGY AND RESOURCES	0	1	3
ENVIRONMENT	14	5	17
FINANCE	8	5	2
GOVERNMENT RELATIONS	6	5	8
HIGHWAYS AND INFRASTRUCTURE	12	10	7
IMMIGRATION AND CAREER TRAINING	7	1	1
JUSTICE			
Court Services	10	10	8
Maintenance Enforcement Branch	23	29	38
Public Guardian and Trustee	21	15	28
Office of the Public Registry Administration	2	1	1
Office of Residential Tenancies / Provincial Mediation Board	107	64	50
Justice - Other	22	21	25
TOTAL - JUSTICE	185	140	150
LABOUR RELATIONS AND WORKPLACE SAFETY	24	24	10
PARKS, CULTURE AND SPORT	5	4	4
MINISTRY NOT DISCLOSED	0	1	0

BOARDS	2019	2018	2017
HIGHWAY TRAFFIC BOARD	8	10	5
LABOUR RELATIONS BOARD	1	1	2
SASKATCHEWAN MUNICIPAL BOARD	3	1	2
SASKATCHEWAN PENSION PLAN BOARD	0	1	0
SASKATCHEWAN SOCIAL SERVICES APPEAL BOARD	5	3	6
SURFACE RIGHTS ARBITRATION BOARD	0	0	1
WORKERS' COMPENSATION BOARD	76	90	87
COMMISSIONS			
APPRENTICESHIP AND TRADES CERTIFICATION COMMISSION	3	0	0
AUTOMOBILE INJURY APPEAL COMMISSION	2	3	3
PROVINCIAL CAPITAL COMMISSION	2	2	0
PUBLIC SERVICE COMMISSION	2	2	1
SASKATCHEWAN HUMAN RIGHTS COMMISSION	14	11	15
SASKATCHEWAN LEGAL AID COMMISSION	42	46	59
SASKATCHEWAN PUBLIC COMPLAINTS COMMISSION	7	5	13
AGENCIES AND OTHER ORGANIZATIONS			
ANIMAL PROTECTION SERVICES OF SASKATCHEWAN	0	2	1
PRAIRIE AGRICULTURE MACHINERY INSTITUTE (PAMI)	1	0	0
SASKATCHEWAN ASSESSMENT MANAGEMENT AGENCY	0	6	2
SASKATCHEWAN EMPLOYMENT ACT ADJUDICATORS	2	1	0
SASKATCHEWAN POLYTECHNIC	3	3	3
TOTAL: OTHER MINISTRIES AND ENTITIES*	**452**	**406**	**417**

**NOTE: Ministries and other government entities about whom we received no complaints in the last three years are not listed in this table.*



Case Examples

OUT OF TIME II

Olivia contacted our Office because she believed she had been waiting too long for an appeal decision from an adjudicator under *The Saskatchewan Employment Act (SEA)*.

Olivia was terminated by her employer in 2013. She complained to the Occupational Health and Safety branch of the Ministry of Labour Relations and Workplace Safety. On October 9, 2013, an occupational health officer issued a notice of contravention stating that her termination was a discriminatory action that contravened what was then *The Occupational Health and Safety Act, 1993* and ordered her reinstatement. Her employer appealed. On November 13, 2013, Olivia was notified that the appeal would go to adjudication.

On February 26, 2014, the adjudicator suspended the Notice of Contravention, which meant that Olivia was not reinstated to her position pending the outcome of the appeal. He heard the appeal on September 9, 2016. When he had still not rendered a decision by April 25, 2019, Olivia brought her complaint to our Office.

We found that the sole issue was the adjudicator's failure to render a decision as required by the SEA. The adjudicator told us the decision would be ready within two months. When it wasn't, he then said he would need an additional month, so we made a recommendation that the decision be delivered in a month, by December 27, 2019, but that deadline also passed.

This extraordinary delay in rendering a decision is extremely unfair to Olivia and her employer.

A longer version of this report is available in the Public Reports section of our website.

As of the date of printing this Annual Report, the adjudicator had still not delivered a decision.

This is not the first complaint about an adjudicator we have received. In 2018, we had a similar complaint. The adjudicator in that case had still not rendered her decision at the time of printing this Annual Report.

On November 27, 2019, Bill 200 - *The Saskatchewan Employment Amendment Act, 2019* received first reading in the Legislature. Some of the proposed amendments would allow either party, the Director

of Occupational Health and Safety, or the Director of Employment Standards, to apply to the Saskatchewan Labour Relations Board if the deadline for rendering a decision has not been met. The Board could then direct an adjudicator to provide a decision or set aside the adjudicator's selection and direct that another adjudicator be selected to hear the appeal. These amendments should make the process fairer and easier for employees who find themselves in the same situation as our two complainants.

Investigation 

WAS THE MINISTRY OF ADVANCED EDUCATION FAIR TO A PRIVATE VOCATIONAL SCHOOL?

We received a complaint from a private vocational school operator about the way the Ministry of Advanced Education treated the school, the way it handled students' complaints about the school, and its decision to put conditions on the school's certificate of registration.

Private vocational schools can charge and collect fees directly from students. In Saskatchewan, all private vocational schools must be registered and operate in accordance with *The Private Vocational Schools Regulation Act, 1995.*

We investigated whether the Ministry addressed the students' complaints fairly and in accordance with the Act, the Regulations and its policies, and whether it was reasonable for the Ministry to put a condition on the school's certificate of registration that a comprehensive review of all its programs be completed.

The Ministry received a formal complaint from a student who discontinued the program and wanted their fees refunded. It then received further complaints from other students about the inadequacy and lack of in-class instruction.

In most cases, if the Ministry receives a complaint directly from a student, it refers the student back to the school, unless it involves a breach of the Act or the Regulations. But since the first student had already raised the issue with the school operator without it being resolved, we found it was reasonable for the Ministry to have not referred the student back to deal with the operator. We found that the Ministry acted fairly and reasonably: it had followed the Act, the Regulations and its policies when it accepted the student's complaint, informed the complainant about it, and asked her to respond to the complaint by providing supporting documentation.

The school operator also complained that the Ministry did not calculate the refund owed to the student according to the Act and Regulations,

and that it calculated it too high. However, we found that the Ministry's calculation of the refund was generous to the school operator to the point of being unfair to the student. The Ministry's approach to calculating the student's refund involved characterizing the way in which the school had provided the student with training as acceptable even though it was not in keeping with the school's approved programs and was, therefore, contrary to the Act, the Regulations and its own policies.

The Ministry also imposed a number of new terms on the school's annual certificate of registration, which the complainant felt were not appropriate. One of the terms was a full program review, which the school operator felt was unnecessary. While we found it was fair and reasonable for the Ministry to take steps to ensure the school operator complied with the Act and the Regulations – specifically, that she issue the first student's refund as required – it was not reasonable for the Ministry to do this by imposing a term on the school's certificate prohibiting the school from enrolling any students in any program until the matter of the student's refund was resolved. We made the following recommendations:

1. The Ministry of Advanced Education develop guidelines for the internal dispute resolution processes that Category I private vocational schools must establish pursuant to section 29 of *The Private Vocational Schools Regulations, 2014.*

   Status: Accepted

2. The Ministry of Advanced Education ensure it gives procedurally fair opportunities to be heard that fully comply with section 16 of *The Private Vocational Schools Regulation Act, 1995*, including providing operators/applicants:

   a. an opportunity to be heard before making the decision to which the opportunity relates, unless subsection 16(2) applies; and

   b. a reasonable opportunity to review all the information it intends to use to make the decision and to submit new or alternative information for consideration by the decision maker.

   Status: Accepted

3. The Ministry of Advanced Education describe the process it will use to provide operators/applicants an opportunity to be heard in a policy document that is widely available to all applicants, operators and students.

   Status: Accepted

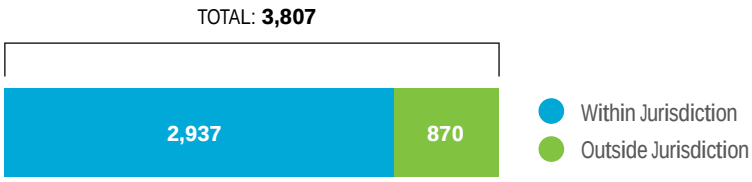
Statistics

Receiving Complaints

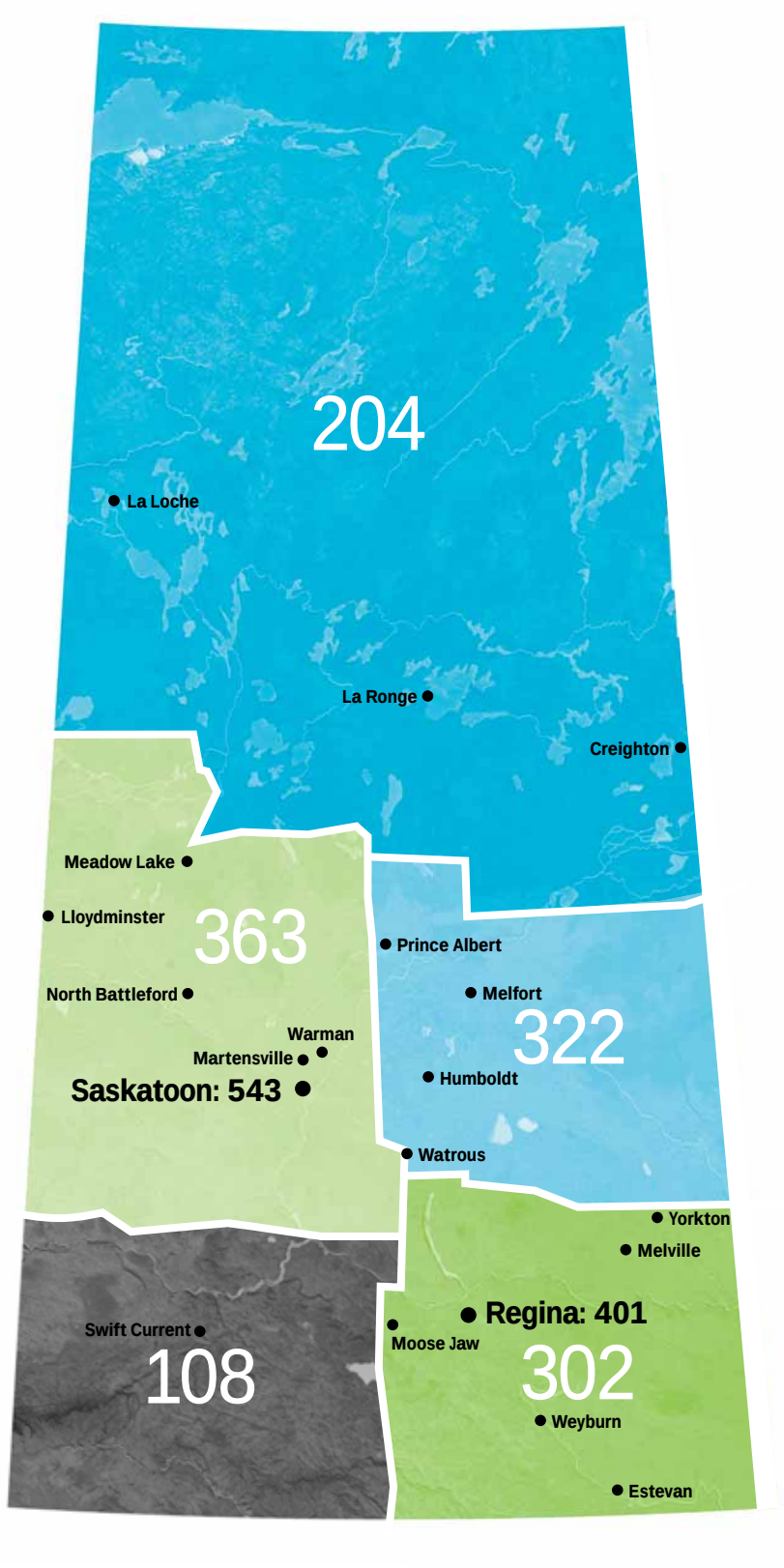
Most complaints we receive fall within our jurisdiction, but a significant number do not. In those instances, we take the time to redirect the person to the most appropriate office or service.

In 2019, we received 3,807 complaints: 2,937 that were within jurisdiction and 870 that were not.

COMPLAINTS RECEIVED



COMPLAINTS BY REGION



This map provides an overview of the complaints we received within our jurisdiction, separated into five regions, plus Regina and Saskatoon. Complaints received from inmates in correctional centres have been counted separately since they do not necessarily represent the home communities of those complainants.

Regions & Larger Cities

North	204
West Central	363
East Central	322
Southwest	108
Southeast	302
Regina	401
Saskatoon	543

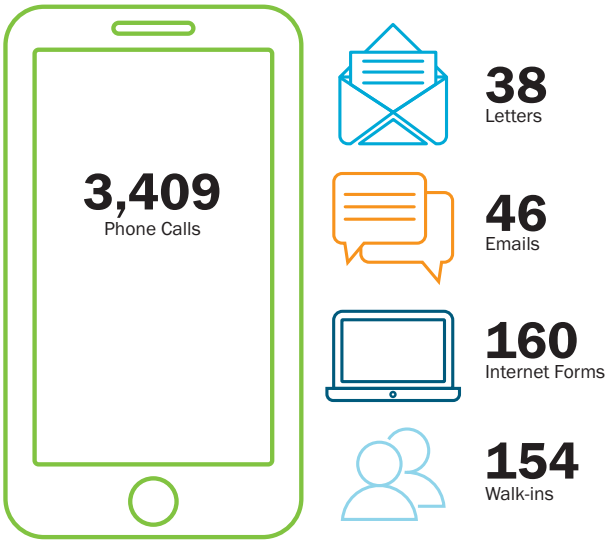
Other Locations

Correctional Centres	560
Out of Province	57
Unknown	77

TOTAL Complaints

TOTAL	2,937

HOW COMPLAINTS WERE RECEIVED



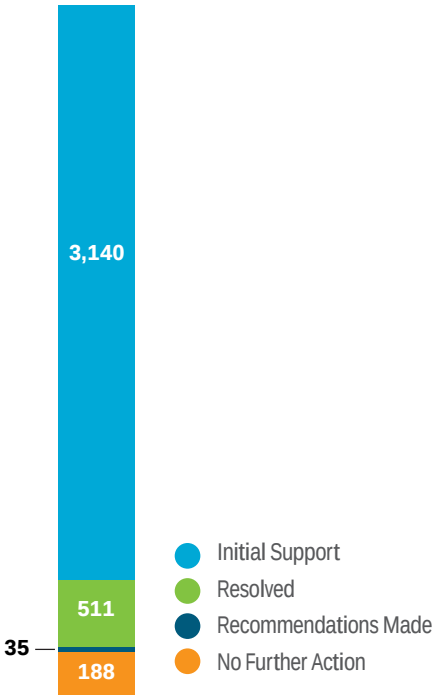
COMPLAINTS RECEIVED OUTSIDE JURISDICTION

TOPIC	COMPLAINTS RECEIVED
Consumer / Private Company	213
Courts/Legal	55
Education	23
Federal Government	153
First Nations Government	20
Health Entities Outside Our Jurisdiction	27
Private Landlord/Tenant	87
Private Matter	73
Professional	84
RCMP	41
Other	94
TOTALS	**870**

Closing Complaints

Each complaint is unique and there are many possible outcomes. However, we have grouped outcomes into the four categories defined below. Please note that not all complaints are closed in the year they are received, so the number received in a year will not necessarily be the same as the number closed. Also, some complaints contain multiple issues, each of which may be closed with a different outcome.

COMPLAINT OUTCOMES



Initial Support
We provided basic support, such as a referral to an appeal process, an advocacy service, or an internal complaints process. At this stage, we encourage people to call us back if their attempts to resolve the matter do not work out.

Resolved
These complaints were resolved in some manner. For example, an appropriate remedy may have been reached or a better explanation provided for a decision.

Recommendations Made
This represents the total number of recommendations made on closed files.

No Further Action
There was no further action required on these files. For example: there was no reason to request the government entity to act, there was no appropriate remedy available, or the complainant discontinued contact with our Office.

TIME TO PROCESS CASES

The time it takes to complete and close a case varies, depending on the circumstances and the amount of work required. Many can be closed within a few days, while others may take several months. Overall, our goal is to complete most cases within six months.

	TARGET	ACTUAL
Files Closed Within 90 Days	90%	95%
Files Closed Within 180 Days	95%	98%

Public Education and Outreach

Throughout the year, we reach out to the public and to public sector employees in a variety of ways. Here is a list of our outreach activities for 2019.

Mobile Intake

Mobile intake is an opportunity to reach out to local communities - to let people know about the kinds of concerns they can bring to us and to take their complaints in person. In 2019, we travelled to three northern communities: La Loche, Buffalo Narrows and Île-à-la-Crosse.

On a lighter note: In addition to our work in the communities, we also saw several bears (from a safe vantage point).

Presentations & Booths

It is important for us to reach out to the public, to let them know about the role of our Office and when they may wish to contact us. We often do this by accepting invitations to speak to community groups, classrooms and older adult groups. It is also important for municipal council members, administrators and employees to be aware of our role and where it fits in relation to their own responsibilities. In addition to making presentations, we also take our booth to community events so people can stop by and talk with us. In 2019, we made 19 presentations and attended 10 events with our booth.

Corrections Orientation

It is important for correctional staff to understand the role of the Ombudsman and the importance of their own role in treating inmates fairly. We are regularly invited to participate in classes and orientation sessions for new correctional officers, probation officers and facility youth workers. In 2019, we participated in 14 orientation sessions and classes.

“Fine Art of Fairness” Workshops

Our “Fine Art of Fairness” workshops are intended to help public sector employees and municipal council members better understand the role of the Ombudsman and to make decisions fairly and communicate them well. In 2019, we conducted seven workshops.

Presentations Within our Sector

In addition to making presentations to the public and to public sector employees, we are also invited, upon occasion, to provide presentations or training to other ombudsman or legislative offices. In 2019, we continued to participate with the Forum of Canadian Ombudsman in its “Essentials for Ombuds” training series.

Staff and Budget

Regina Office

Leila Dueck
Director of Communications

Karin Dupeyron
Complaints Analyst

Stacey Giroux
Executive Administrative Assistant

Jennifer Hall
Assistant Ombudsman

Yinka Jarikre
Assistant Ombudsman

Pat Lyon
Assistant Ombudsman

Stephanie Pashapouri
Complaints Analyst

Nicole Protz
Complaints Analyst

Will Sutherland
Assistant Ombudsman

Greg Sykes
General Counsel

Laurie Taylor
Administrative Assistant

Harry Walker
Complaints Analyst

Saskatoon Office

Christy Bell
Assistant Ombudsman

Renée Gavigan
Deputy Ombudsman

Adrienne Jacques
Complaints Analyst

Ryan Kennedy
Executive Administrative Assistant

Lindsay Mitchell
Assistant Ombudsman

Sherry Pelletier
Assistant Ombudsman

Shelley Rissling
Administrative Assistant

Andrea Smandych
Manager of Administration

Niki Smith
Complaints Analyst

Kathy Upton
Complaints Analyst

Rob Walton
Assistant Ombudsman

	2017–2018 AUDITED FINANCIAL STATEMENT*	2018–2019 AUDITED FINANCIAL STATEMENT*	2019–2020 BUDGET**
REVENUE			
General Revenue Fund Appropriation	**$3,247,142**	**$3,039,627**	**$4,149,000**
Miscellaneous	**$5**	**-**	**-**
TOTAL REVENUE	**$3,247,147**	**$3,039,627**	**$4,149,000**
EXPENSES			
Salaries & Benefits	**$2,471,940**	**$2,345,487**	**$3,075,000**
Office Space & Equipment Rental	**$327,950**	**$310,409**	**$414,000**
Communication	**$63,770**	**$61,019**	**$33,400**
Miscellaneous Services	**$100,081**	**$98,040**	**$106,300**
Office Supplies & Expenses	**$14,311**	**$17,916**	**$22,600**
Advertising, Promotion & Events	**$101,309**	**$60,424**	**$82,200**
Travel	**$56,539**	**$57,047**	**$60,700**
Amortization	**$70,446**	**$18,824**	**0**
Dues & Fees	**$55,378**	**$15,204**	**$28,500**
Repairs & Maintenance	**$31,669**	**$51,524**	**$326,300**
Capital Asset Acquisitions	**-**	**-**	**-**
Loss on Disposal of Capital Assets	**-**	**-**	**-**
TOTAL EXPENSES	**$3,293,393**	**$3,035,894**	**$4,149,000**
ANNUAL (DEFICIT) SURPLUS	**($46,246)**	**$3,733**	**-**

*These columns are based on our audited financial statements, which follow our fiscal year (April - March) and our annual report follows the calendar year. The audited financial statements are available on our website at www.ombudsman.sk.ca.

**Due to the timing of this report, 2019–2020 numbers reflect the budgeted amount rather than the actual.