FEB 14 2023
CITY CLERK'S OFFICE SASKATOON

Monday, February 13, 2023

To: His Worship the Mayor and Members of City Council

This letter is in regard to an ever increasing number of incidents of indecent exposure taking place in City of Saskatoon public facilities, namely swimming pool change rooms, which have been made public through social media, word of mouth, and John Gormley's talk show.

I am aware of the city's policy on this issue as quoted by councillor David Kirton in a February 3, 2023 Western Standard News article. "A naked man can stay in the girl's changing room because our society is changing to allow a person to choose a change room based on their gender identity regardless of physical appearance." I have talked on the phone about this issue to my councillor, Sarina Gersher, and to Zach Jeffries, who is on the Diversity, Equity & Inclusion Advisory Committee. I also emailed Michelle Wolfe, site administrator for Harry Bailey, Lakewood, and Lawson indoor swimming pools. The response from all of these city employees has been "to reach out to a staff member who will help find a comfortable change room environment that suits your needs."

This response does not seem to suit the majority of Saskatoon residents who want to see a change to this city policy, including myself. I have started a petition to ask for "Privacy For All Patrons of Saskatoon Public Facilities," and have distributed copies to be signed among various sectors of the city's population. I have also talked to Sargeant Christopher Murphy, lead investigator at the Saskatoon Police Station, who encourages everyone who feels they have experienced incidents of indecent exposure in public swimming pool change rooms to call the police and file a police report.

Will city council also stand up for children's and women's rights in addition to "accommodating the transgender members of our community" by addressing this letter and accompanying petition on Wednesday, February 22, 2023 at the Public Hearing council meeting?

Thank you for your attention on this matter. On behalf of the residents who signed the petition, I look forward to hearing your response.

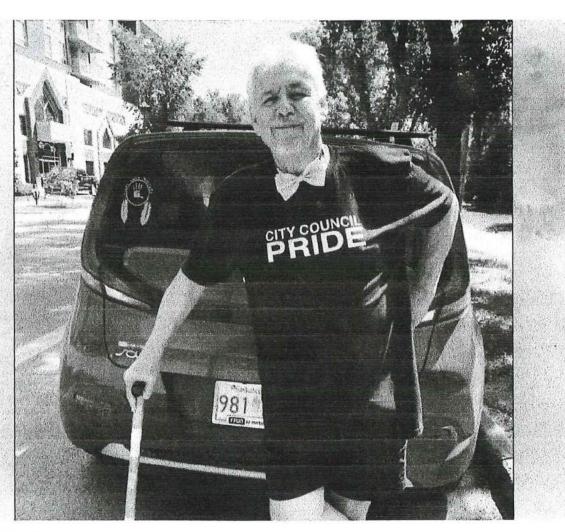
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https://www.westernstandard.news/news/saskatoon-councillor-breaks-city-s-silence-on-the-naked-man-in-the-little-girls-changing/article_6ae68fc4-a403-11ed-b7fb-2f091235c205.html

FEATURED

Saskatoon councillor breaks city's silence on the 'naked man' in the little girls changing room

By Christopher Oldcorn Feb 3, 2023



"As the concerns involve operations of a municipal recreation facility, this would be most appropriately addressed by the municipality responsible."

READ MORE Protests launched against naked man in the little girls changing room in Saskatoon pool

Kirton said "the City must follow the Code in implementing our policy" and it obligates "the city to accommodate transgender members of our community."

Saskatoon has "undertaken significant work to provide more change room privacy options than ever before," according to Kirton.

Kirton said that "upgrades such as privacy curtains and separate changing areas provide all patrons with a variety of privacy options" which are meant to "help all users of leisure facilities be as comfortable as possible."

Kirton told the concerned parent to "reach out to a staff member, they will help you find a comfortable change room environment that suits your needs."



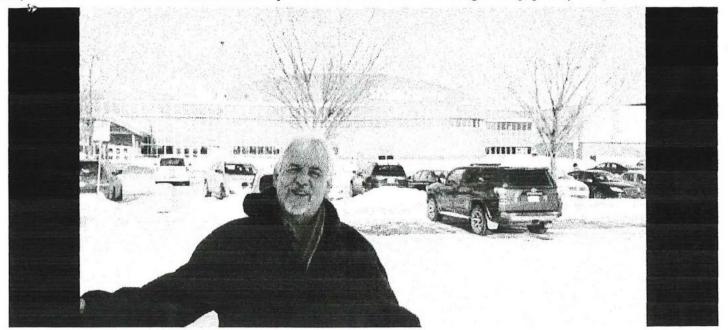


Image courtesy of Facebook

In the email, Kirton does not say how the city accommodates parents who do not want a naked man walking around the changing room in front of their young daughters.

Kirton claimed that there was only one "alleged incident at Shaw Centre last Friday, January 27, regarding an individual who identifies as female using the women's change room."

Kirton did not reference the *Western Standard* story about the naked man and last Saturday's protest outside of Saskatoon City Hall but said there were some "social media" posts.

"The City's understanding of what occurred is substantively different than what has been reported on social media," said Kirton.

"We have no reason to believe any inappropriate behaviour occurred."

Kirton encourages anyone with concerns about inappropriate behaviour to report it.

"We encourage patrons to report any inappropriate behaviour they personally experience to facility staff," said Kirton.

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				[Warning: This email originated outside our email system. Do not click links or open attachments unless you recognithe sender and know the content is safe.]	ize
				Hi Michelle,	
				It is my understanding that you are the site administrator for Harry Bailey, Lawson Heights, and Lakewood indoor swimming pools. I was told that you did not have a contact number and I could reach you by email. I am unsure as to why that is the case.	0
				I had listened to the John Gormley Show today on 650 CKOM on the topic of a naked male in the women's change roo and later received an expected phone call from Sarina Gersher also regarding that same issue. My question to her will does the public swim centre staff keep a record of reported incidents related to this topic?" She replied that she would hope so.	as
				My reason for contacting you is to request the number of related incidents that have been reported since September 2020 and under what circumstances. I know of one incident in particular at Harry Bailey that was reported to you an your response was "to find alternate change rooms if you are uncomfortable." That seems to be the consensus of mother city council members.	nd
				I appreciate your time and effort in this endeavor.	
				A concerned citizen and grandmother	
	4		*	Lorraine Fajt	1

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X	➢ Sent Items	Cc: Bogad, Christine; Hauta, Jody
0	© Snoozed	Good afternoon Lorraine,
88	Deleted Items	The City is responsible for creating safe spaces for everyone, with the understanding our society is changing. We understand why there are questions about our policy that allows a person to choose a change room based on their gender identity regardless of
	☐ Archive	physical appearance.
		Gender identity is a protected right under the Saskatchewan Human Rights Code. The City is following the Code in implementing our policy.
	Conversation	To help all users of leisure facilities be as comfortable as possible, the City has undertaken significant work to provide more change room privacy options than ever before. Upgrades such as privacy curtains and separate changing areas (universal change rooms)
	Create new fol	provide all patrons with a variety of privacy options. Please reach out to a staff member, they will help you find a comfortable change room environment that suits your needs.
	→ Groups	The City is aware of the alleged incident at Shaw Centre last Thursday, January 26 regarding an individual who identifies as female using the women's change room. The City's understanding of what occurred is substantively different than what has been reported
	New group	on social media, and we have no reason to believe any inappropriate behavior occurred. We encourage patrons to report any inappropriate behaviour they personally experience to facility staff. The City focuses on inappropriate behaviour and not simply use of the change room. Safety has remained of the utmost importance to us, and we have dealt with any complaints on a case-by-case basis.
		There will always be ways the City can improve our services, and we are proud of the improvements made to both our policy and our infrastructure. These changes will help ensure all patrons have access to public or private change room facilities to suit their
		individual needs. We understand that this is a divisive issue, and makes some people uncomfortable, but given that this is a protected right in the Saskatchewan Human Rights Code we are doing our best to balance the needs of all our patrons.
		Regards,
		Michelle Wolfe tel 306.976.1696 Recreation Services Manager
		Recreation and Community Development Department, Community Services Division City of Saskatoon 222 3rd Avenue North Saskatoon, SK S7K 0J5
		Treaty 6 Territory & Homeland of the Métis Michelle,wolfe@saskatoon.ca
		www.saskatoon.ca
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		If you receive this email in error, please do not review, distribute or copy the information. Please contact the sender and delete the message and any attachments

From: Lorraine Fajt

Sent: Tuesday, February 7, 2023 1:26 PM

To: Wolfe, Michelle <Michelle.Wolfe@saskatoon.ca>

Subject: Re: Privacy for all patrons at Saskatoon public facilities

[Warning: This email originated outside our email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Hi Michelle,

Notwithstanding the reference in the heading to "luring", the offence can be committed in circumstances that do not actually involve luring a young person to engage in sexual activity Where communication with a young person is for the purpose of committing a child pomography offence, it was irrelevant that no in-person encounter was contemplated. Additionally, the lack of a "sexual purpose" on the part of the accused was irrelevant if the accused engaged in the prohibited conduct with the intent to facilitate a designated offence: R. v. McSween (2020), 388 C.C.C. (3d) 153 (Ont. C.A.), leave to appeal to S.C.C. refused 2020 CarswellOnt 18370.

Text messaging via cellular telephones satisfies the actus reus of communicating "by means of a computer system": R. v. Woodward (2011), 276 C.C.C. (3d) 86 (Ont. C.A.).

This provision is constitutionally valid. Properly interpreted, it does not violate ss. 7 or 11(d) of the Charter. Subsections (3) and (4) do not create reverse onuses or shift the burden to prove the accused's belief in the complainant's age away from the Crown, nor do they present a risk of convicting the morally innocent: R. v. Ghotra (2016), 334 C.C.C. (3d) 222 (Ont. S.C.J.).

AGREEMENT OR ARRANGEMENT — SEXUAL OFFENCE AGAINST CHILD / Punishment / Presumption / No defence / No defence.

172.2 (1) Every person commits an offence who, by a means of telecommunication. agrees with a person, or makes an arrangement with a person, to commit an offence

- (a) under subsection 153(1), section 155, 163.1, 170, 171 or 279.011 or subsection 279.02(2), 279.03(2), 286.1(2), 286.2(2) or 286.3(2) with respect to another. person who is, or who the accused believes is, under the age of 18 years;
- (b) under section 151 or 152, subsection 160(3) or 173(2) or section 271, 272, 273 or 280 with respect to another person who is, or who the accused believes is, under the age of 16 years; or
- (c) under section 281 with respect to another person who is, or who the accused believes is, under the age of 14 years.
- (2) Every person who commits an offence under subsection (1)
 - (a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term. of one year; or
 - (b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.
- (3) Evidence that the person referred to in paragraph (1)(a), (b) or (c) was represented to the accused as being under the age of 18, 16 or 14 years, as the case may be, is, in the absence of evidence to the contrary, proof that the accused believed that the person was under that age.
- (4) It is not a defence to a charge under paragraph (1)(a), (b) or (c) that the accused believed that the person referred to in that paragraph was at least 18, 16 or 14 years of age, as the case may be, unless the accused took reasonable steps to ascertain the age of the person.
- (5) It is not a defence to a charge under paragraph (1)(a), (b) or (c)
 - (a) that the person with whom the accused agreed or made an arrangement was a peace officer or a person acting under the direction of a peace officer; or
 - (b) that, if the person with whom the accused agreed or made an arrangement was a peace officer or a person acting under the direction of a peace officer, the person referred to in paragraph (1)(a), (b) or (c) did not exist. 2012, c. 1, s. 23; 2014, c. 25, s. 10; 2015, c. 23, s. 12.

CROSS-REFERENCES

Related offences are offences in relation to child pornography, s. 163.1, making sexually explicit material available to children for the purpose of facilitating sexual offences in relation to children under s. 171.1, and child luring in s. 172.1 Section 164.2 provides that a court that convicts a person of an offence under this section may order that any thing, other than real property, be forfeited to the Crown if the court is satisfied that the thing was used in the commission of the offence and is the property of the offender, another person who was a passy to the offence or a person who acquired the thing from such a person in circumstances giving rise to a reasonable inference that it was transferred to avoid a forfeiture order. This offence is a signated offence for the purposes of s. 752. For further Cross-References, see notes under s. 1721.

SYNOPSIS

This section creates an offence of agreeing with a person or making anarrangement with a person by means of telecommunications to commit various sexual affences. Paragraphs (1)(a), (b) and (c) set out the various sexual offences depending on the use of the child. The offence is committed if the person was under the particular age specified or if the accused believed the person to be under that age. Subsection (3) sets up a rebuttable presumption that the accused believed the person was under the relevant age if there is evidence that the person was represented to the accused as being under that age. Under subsec. (4), it is no defence that the accused believed that the person was over the relevant age unless the accused took reasonable steps to ascertain the age of the person. It is also no defence that the person with whom the accused agreed or made the arrangement was a peace officer or someone acting under the direction of a peace officer or that the "victim" did not exist, if the person with whom the accused agreed or made an arrangement was a peace officer or acting under the direction of a peace officer. The offence is punishable by 14 years' imprisonment and a minimum punishment of one year imprisonment where the Crown proceeds by indictment and by two years less a day imprisonment and a minimum punishment of six months where the Crown proceeds by way of summary conviction.

Disorderly Conduct

INDECENT ACTS / Exposure.

173. (1) Everyone who wilfully does an indecent act in a public place in the presence one or more persons, or in any place with intent to insult or offend my person,

- (a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than two years; or
- (b) is guilty of an offence punishable on summary conviction.
- (2) Every person who, in any place, for a sexual purpose, exposes his or her genital organs to a person who is under the age of 16 years
 - (a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than two years and to a minimum punishment of imprisonment for a term of 90 days; or
- (b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than six months and to a minimum punishment of imprisonment for a term of 30 days. R.S., c. C-34, s. 169; R.S.C. 1985, c. 19 (3rd Supp.), s. 7; 2008, c. 6, s. 54(h); 2010, c. 17, s. 2; 2012, c. 1, s. 23; 2019, c. 25, s. 58.

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CROSS-REFERENCES

The term "public place" is defined in s. 150. Age is determined by reference to s. 30 of the Interpretation Act, R.S.C. c. I-21. Section 658 provides means of proving the age of a child or young person. The defence of mistake as to the age of the victim is set out in s. 150.1(4). A limited

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MARTIN'S CRIMINAL CODE, 2023

CROSS-REFERENCES

The term "public place" is defined in s. 150. Attorney General is defined in s. 2. Section 583(s) provides that a count in an indictment is not insufficient by reason only that it does not state the the required consent has been obtained. Related offences are: s. 163(2)(b), publicly exhibiting as indecent show; s. 167, immoral theatrical performance; s. 173, wilfully doing an indecent at 1. 175(1)(b), exposing an indecent exhibition.

The trial of this offence is conducted by a summary conviction court pursuant to Part XXVII.

The punishment for the offence is then as set out in s. 787 and the limitation period is set out if 786(2). Release pending trial is determined by s. 515, although the accused is eligible for release by a peace officer under s. 496, 497 or by the officer in charge under s. 498.

SYNOPSIS

This section prohibits nudity in a public place, or a place which is exposed to the public, end if the accused is on private property. The accused may rely upon a lawful excuse for behaviour.

Section 174(2) expands the usual definition of nudity to include being clothed so as to offend against public decency or order. In the absence of any greater specificity as division offends public decency the courts have resorted to the standard used for obscenity, namely contemporary Canadian standards of tolerance.

By virtue of subsec. (3), no one may be prosecuted for this summary conviction offence unless the Attorney General consents.

ANNOTATIONS

Application of provision – Where the accused is completely naked in a public place without lawful excuse the offence under this section is committed whether or not the nudity offends against public decency or order. Subsection (2) covers the situation where the accused it partially clothed, by creating the legal fiction that such a person is "nude" when clad is to offend public decency or order, but this subsection does not import the requirement of proof of offence against public decency or order where the accused is totally naked: R. v. Verrelli, [1978] 2 S.C.R. 838, 40 C.C.C. (2d) 273, 85 D.L.R. (3d) 1 (9:0).

Notwithstanding the provision in s. 167 of the Code for the separate offence of appearing in an immoral or indecent performance in a theatre, an accused may be charged under this section since "public place" includes a theatre: R. v. McCutcheon (1977), 40 C.C.C. (20) 555, 1 C.R. (3d) 39 (Oue, C.A.).

This offence is not aimed at conduct such as swimming nude at an isolated beach, where the accused misjudges the loneliness of the beach: R. v. Benolkin (1977), 36 CCC (2d) 206 (Sask. O.B.).

The mere fact that a female dancer is nude does not mean that her performance cannot keep time that her performance cannot keep time that the performance cannot keep time to be accused. The trial judge much however, make this factual assessment in each case and a finding by the trial judge that the accused's dancing offended against public decency and order does not determine the issued lawful excuse: R. v. Zikman (1990), 56 C.C.C. (3d) 430, 37 O.A.C. 277 (C.A.).

Offending against public decency or order (subsec. (2)) – The requirement of offending against public decency or order in subsec. (2) applies where the accused is partially, after against public decency or order in subsec. (2) applies where the accused is partially, after against public decency or order in subsec. (2) applies where the accused is partially, after against public decency or nude is not required. (2) applies where the accused is partially, after against public decency or nude is not required. (2) applies where the accused is partially, after against public decency or order nude is not required. (2) applies where the accused is partially, after against public decency or order nude is not public decency or order nude is not public decency or order nude is not public decency or order in subsect. (2) applies where the accused is partially, after against public decency or order in subsect. (2) applies where the accused is partially, after against public decency or nude is not public decency or nude is nude is

Although the accused is partially clad so that subsec. (2) applies, the Crown mode adduce evidence as to what offends public decency. Rather, the trial judge may make finding that the manner of dress did offend public decency without such evidence. Sidey (1980), 52 C.C.C. (2d) 257 (Ont. C.A.).

The test of public decency in subsec. (2) is one of the community standard of tolerance to for the actions of the accused in the circumstances in which they occur: R. v. Giambalvo 1982, 70 C.C.C. (2d) 324, 39 O.R. (2d) 588 (C.A.).

Inarrey General's consent (subsec. 3) – In exercising the power under subsec. (3) the farrey General is under no duty that can be enforced by the courts to act fairly and is not muid to afford the accused a hearing before deciding whether or not to consent to the mectulon: R. v. Warren (1981), 61 C.C.C. (2d) 65, 22 C.R. (3d) 58 (Ont. H.C.J.).

The consent required by subsec. (3) may be endorsed on the face of the information and if the initial manner need not recite particulars of the charge: R. v. Willard (1984), 15 C.C.C. 353 350 (Ont. H.C.J.).

QUING DISTURBANCE, INDECENT EXHIBITION, LOFTERING, ETC. / Evidence of

175 (1) Every one who

no gains

- (a) not being in a dwelling-house, causes a disturbance in or near a public place,
- (f) by lighting, screaming, shouting, swearing, singing or using insulting or
 - (il) by being drunk, or
- ((ii) by impeding or molesting other persons,
- (i) exposes or exhibits an indecent exhibition in a public place.
- (c) follers in a public place and in any way obstructs persons who are in that place,
- (d) disturbs the peace and quiet of the occupants of a dwelling-house by discharging firearms or by other disorderly conduct in a public place or who, not being an occupant of a dwelling-house comprised in a particular building or structure, disturbs the peace and quiet of the occupants of a dwelling-house comprised in the building or structure by discharging firearms or by other disorderly conduct in any part of a building or structure to which, at the time of such conduct, the occupants of two or more dwelling-houses comprised in the building or structure have access as of right or by invitation, express or implied.

fully of an offence punishable on summary conviction.

In the absence of other evidence, or by way of corroboration of other evidence, a summary conviction court may infer from the evidence of a peace officer relating to the modust of a person or persons, whether ascertained or not, that a disturbance excibed in paragraph (1)(a) or (d) or an obstruction described in paragraph (1)(c) was timed or occurred. R.S., c. C-34, s. 171; 1972, c. 13, s. 11; 1974-75-76, c. 93, s. 9; 1997, c.

CROSS-REFERENCES

The terms "dwelling house" and "peace officer" are defined in s. 2, "public place" in s. 150. Section 84 contains a definition of "firearm" for Part III which, however, may be a useful strate for this section. Related offences are: ss. 63 to 69, offences in relation to unlawful and cottal assemblies: s. 163(2)(b), exhibiting an indecent show; s. 167, indecent theatrical reformances: s. 173, wilfully doing indecent act; s. 174, public nudity; s. 180, common nuisance. Section 30 and 31 authorize the use of force to prevent a breach of the peace and arrest for breach the peace. The offence of discharging a firearm with intent is in s. 244.

The trial of this offence of discharging a firearm with intent is in s. 277.

The prinishment for the offence is conducted by a summary conviction court pursuant to Part XXVII.

The prinishment for the offence is then as set out in s. 787 and the limitation period is set out in s.

Release pending trial is determined by s. 515, although the accused is eligible for release a peace officer under s. 496, 497 or by the officer in charge under s. 498.

Petition summary and background	City Hall is refusing to address concerns of parents/guardians whose children have experienced exposure in change rooms of public swimming pools in the city of Saskatoon.
Action petitioned for	We, the residents and taxpayers of Saskatoon, petition the mayor and city council members to take immediate action to mandate biological sex only change rooms and provide gender neutral change rooms and/or washrooms.

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Petition summary and background	City Hall is refusing to address concerns of parents/guardians whose children have experienced exposure in change rooms of public swimming pools in the city of Saskatoon.
Action petitioned for	We, the residents and taxpayers of Saskatoon, petition the mayor and city council members to take immediate action to mandate biological sex only change rooms and provide gender neutral change rooms and/or washrooms.

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Petition summary and background	City Hall is refusing to address concerns of parents/guardians whose children have experienced exposure in change rooms of public swimming pools in the city of Saskatoon.
Action petitioned for	We, the residents and taxpayers of Saskatoon, petition the mayor and city council members to take immediate action to mandate biological sex only change rooms and provide gender neutral change rooms and/or washrooms.

Printed Name	Signature	Address	Comment	Date
Ashley Rennebero		Skuce Pl.		Feb 13/2623
Laura Goertz		Anderson Cr.		Feb 13/23
Sijetlana Kara		Hamplon cir		Feb.13/23
Donis Finnit	P.C.	lerore dr.		Feb 13/23
Bobbi-Jo Beard	uen	aveyn		Feb13/2
leser Grentle		Arton Cres.		Peb 13/2
Steven Kunt		Summers Pl.		Feb 13/23
R. Locke		Heal Ave		Feb 13/23
Jenny Jehr		1st Are N Marte	would SK	Jeb 13/23
Victoria Gracy		Fairlight Dr 54M		Feb 13/23
Tronia but	n	Tucker Cresent		Fd013/a3
Sarah Parzel		5th Ave North		Feb13/23

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Printed Name	Signature	Address	Comment	Date
Store Dockser	\	fisher cres.		2/11/23
Amber Froese	2	Hague		2/11/23
Andrew Froesi	e	Hague		2/11/23
DEREK SIMPSO	M	SASKATOON -		FEB. 11/23
Shelley Cyr		Saskatoen	*	Feb 11/23
Andrew Pros	HE	SASKATIOON.	ALL NOT TAKIN	I FOR FEB 11/2 ?
Shuran Li	í	Saskatoon	THE THE ST	Feb. 11,20
Bill Burly		Saslation		F45 13/23
Kotharina Falk		Rosetown		Feb 13/23
A. Howlett		Rosetown		Feb 13/2: