

# *The Safer Communities and Neighborhoods Act (SCAN)*

Pathways to Equity 2025 Workshop: Housing Security and Neighborhood Safety

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# SCAN - A Quick Summary

- ▶ Provincial legislation, first introduced in 2004 with revisions and changes over time
- ▶ Currently, an *Act to Amend the Safer Communities and Neighborhoods Act* is going through readings in the legislation that would expand the scope of the legislation to address graffiti and nuisance properties among other things
- ▶ SCAN facilitates anonymous complaints being lodged to the Director about properties where one believes illegal activity may be taking place
- ▶ SCAN has Officers that investigate the complaint, gather evidence, and then may bring a legal action to the Office of Residential Tenancies as an agent of a renter's landlord or bring an action to the Court of King's Bench
- ▶ The resulting judicial consequence can be eviction for renters, and for property owners closing their property for up to 90 days, whereby no one is allowed to enter the property

# Mull over in your brain and heart....

- ▶ Does SCAN make communities safer?
- ▶ If yes, what community?
- ▶ Safer from who?
- ▶ Safer for who?
- ▶ When people are evicted or are being unhoused for up to 90 days, does the neighborhood or community become safer?

# Breakdown of the Legislation - Complaint

## SUBDIVISION I

### Application by Director for Community Safety Order

#### Complaint to director

5(1) A person may make a complaint pursuant to this Part to the director if:

(a) the person believes that:

- (i) a community or neighbourhood is being adversely affected by activities on or near a property in the community or neighbourhood; and
- (ii) the activities indicate that the property is being habitually used for a specified use; or

(b) the person believes that activities on or near a property create a serious and immediate threat to the health, safety and security of one or more occupants of the property or other persons in the community or neighbourhood in which the property is located.

(2) A complaint pursuant to subsection (1) must:

- (a) be made in a form and manner acceptable to the director; and
- (b) contain any other information that the director may require.

2021, c27, s.6.

- (f) “specified use” means, in relation to property, the use of property for:
- (i) the use, consumption, sale, transfer or exchange of a substance mentioned in section 90 of *The Alcohol and Gaming Regulation Act, 1997*, in contravention of that Act and the regulations made pursuant to that Act;
  - (ii) the use, consumption, sale, transfer or exchange of beverage alcohol, as defined in *The Alcohol and Gaming Regulation Act, 1997*, in contravention of that Act and the regulations made pursuant to that Act;
  - (ii.1) the possession, growth, use, consumption, sale, transfer or exchange of cannabis, as defined in *The Cannabis Control (Saskatchewan) Act*, in contravention of that Act and the regulations made pursuant to that Act;
  - (iii) the use or consumption as an intoxicant by any person of an intoxicating substance, or the sale, transfer or exchange of an intoxicating substance if there is a reasonable basis to believe that the recipient will use or consume the substance as an intoxicant, or cause or permit the intoxicating substance to be used or consumed as an intoxicant;
  - (iv) the possession, growth, use, consumption, sale, transfer or exchange of a controlled substance, as defined in the *Controlled Drugs and Substances Act* (Canada), in contravention of that Act;
  - (iv.1) the possession, growth, use, consumption, sale, transfer or exchange of cannabis, as defined in the *Cannabis Act* (Canada), in contravention of that Act;
  - (v) child sexual abuse or activities related to child sexual abuse;
  - (vi) prostitution or activities related to prostitution;
  - (vi.1) the commission or promotion of a criminal organization offence;

## Breakdown of the Legislation - Specified Use

#### Director's actions after receiving complaint

6(1) At any time after receiving a complaint, the director may do any or all of the following:

- (a) investigate the complaint;
  - (b) require the complainant to provide further information;
  - (c) send a warning letter to the owner of the property or its occupant, or to anyone else the director considers appropriate;
  - (d) attempt to resolve the complaint by agreement or informal action;
  - (e) apply to the court for a community safety order;
  - (f) decide not to act on the complaint;
  - (f.1) with the approval of a landlord, serve a demand to vacate, in accordance with any prescribed requirements, that requires any or all persons to vacate the property;
  - (f.2) with the approval of a landlord, commence any proceedings pursuant to *The Residential Tenancies Act, 2006* on behalf of the landlord respecting the property, and represent the landlord in those proceedings;
  - (f.3) post a community safety warning in accordance with any prescribed requirements;
  - (g) take any other action that the director considers appropriate.
- (2) The director shall take reasonable steps to notify the complainant, in the manner determined by the director, if the director decides not to act on a complaint or not to continue acting on a complaint.
- (3) The director is not required to give reasons for any decision made pursuant to this section.

2004, c.S-0.1, s.6; 2021, c27, s.7.

## Breakdown of Legislation - After Receiving Complaint



# Breakdown of Legislation - Community Safety Order

(3) A community safety order may:

- (a) require any or all persons to vacate the property on or before a date specified by the court, and enjoin any or all of them from re-entering or reoccupying it;
- (b) terminate the tenancy agreement or lease of any tenant of the property on the date specified pursuant to clause (a);
- (c) require the director to close the property from use and occupation on a specified date and keep it closed for up to 90 days;
- (d) limit the order to part of the property about which the application was made, or to particular persons;
- (e) make any other provision that the court considers necessary for the effectiveness of the community safety order, including, but not limited to, an order of possession in favour of the respondent.



# Breakdown of Legislation - Commence Proceeding with Landlord Approval

- ▶ *6(1) At any time after receiving a complaint, the director may do any or all of the following:*
  - ▶ *(f.1) with the approval of the landlord, serve a demand to vacate, in accordance with any prescribed requirements, that requires any or all persons to vacate the property*
  - ▶ *(f.2) with the approval of a landlord, commence any proceedings pursuant to The Residential Tenancies Act, 2006 on behalf of the landlord respecting the property, and represent the landlord in those proceedings*

## **Landlord's notice: cause**

**58(1)** Subject to subsection (2), a landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- (e) the tenant or a person permitted on the residential property by the tenant has engaged in a noxious, offensive or illegal activity that:
  - (i) has caused or is likely to cause damage to the landlord's property;
  - (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another tenant or another occupant of the residential property, the landlord or any persons in any adjacent property; or
  - (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another tenant or another occupant of the residential property, the landlord or any persons in any adjacent property;

## DIVISION 4 Closure of Property by Director

### Director may enter property

**26(1)** If a community safety order that includes a provision to close a property is in effect, the director may enter the property without the consent of the owner or occupant to close it and keep it closed.

(2) The director may employ any tradespersons and workers that the director considers necessary to safely and effectively close the property and keep it closed.

(3) The director may take any measures that the director considers necessary to safely and effectively close the property and keep it closed, including:

- (a) ordering any occupants still occupying the property and any other persons at the property to leave it immediately;
- (b) attaching locks, hoarding or other security devices;
- (c) erecting fences;
- (d) changing or terminating utility services; and
- (e) making interior or exterior alterations to the property so that it is not a hazard while it is closed.

(4) The director may, for any purpose that the director considers appropriate, allow others access to property that is closed pursuant to a community safety order.

(5) The director is not responsible, whether at the end of the period of closure or otherwise, for the removal or cost of removal of anything attached to or erected at the property, or the reversal or cost of reversal of anything done to or at the property, to close it or keep it closed.

# Breakdown of Legislation - Closure of Property

# Breakdown of Legislation - Occupants Required to Leave Property

## Occupants required to leave property

**27(1)** If a community safety order requires the director to close a property, all occupants of the property and any other persons at the property shall leave it immediately on request of the director, even if they have not been previously served with the order that requires the director to close the property.

(1.1) If a community safety order requires any or all persons to vacate a property on or before a date specified by the court, those persons shall leave immediately on request of the director, even if they have not been previously served with the order that requires them to vacate the property.

(2) If an occupant of the property and any other persons at the property do not comply with a request to leave, the director may obtain the assistance of a peace officer to remove them from the property.

(3) Subject to any order made pursuant to section 13, after leaving the property and while the community safety order mentioned in subsection (1) or (1.1) is in effect, no occupant or other person who is subject to the community safety order shall enter or occupy the property without the director's consent.

2004, c.S-0.1, s.27; 2021, c27, s.10.

# Breakdown of Legislation - Cost of Closing Property

## **Respondent must pay cost of closing property**

**28(1)** The respondent shall, on demand from the director, pay to the Minister of Finance the cost of closing, securing and keeping the property closed, in the amount certified by the director pursuant to section 29.

**(2)** An amount payable pursuant to subsection (1) is a debt due and owing to the Crown in right of Saskatchewan.

2004, c.S-0.1, s.28.

# “Sarah”

- ▶ Was active in the Regina City Hall Homeless encampment in the summer of 2023
- ▶ Historically struggled with houselessness and substance use disorder
- ▶ In early 2024 she with a support worker received legal advice from PBLS as she was facing eviction by SCAN as an agent of her landlord at the Office of Residential Tenancies for consumption, distribution, etc. of a controlled substance
- ▶ States three tenants of the house, each with friends and family members who visit. She had medical issues herself that caused family members to frequent the property to support her.

# “Ivy”

- ▶ Homeowner in Regina, was terminated from employment about 18 months before the SCAN matter
- ▶ Due to loss of employment was unable to pay the mortgage, was being foreclosed on
- ▶ SCAN initiated process simultaneous to foreclosure
- ▶ CSO was issued Dec 22 stating activities occurring at or near the property give rise to a reasonable inference that it is being habitually used for a specified purpose, namely, on the basis that possession, use, or consumption, sale, transfer or exchange of a controlled substance, as defined in the *Controlled Drugs and Substances Act (Canada)*, in contravention of that Act
- ▶ Her house was boarded up for 90 days, during which time she could not enter, her property insurance was terminated as it required a person to be on the property every few days. During the 90 days, it was boarded up Ivy states her garage caught fire



# Wright v Yukon, 2024 YKSC 41

- ▶ Ms. Wright, her partner, mother and eight children were ordered out of their rented home by SCAN in December 2020 with 5-days notice
- ▶ Ms. Wright and her partner were charged with possession of cocaine for the purposes of trafficking and possession of the proceeds of crime over \$5000. The home they rented was the subject of a police raid associated with the charges
- ▶ The Yukon Supreme Court found the expediency of the eviction unconstitutional as it infringed on the Canadian Charter of Rights and Freedoms s. 7 which guarantees life, liberty and personal security, striking down s 3(2) of Yukon's *SCAN Act*
- ▶ S 3(2) created extraordinary psychological suffering and a risk to a person's health

(2) If the complaint is resolved by agreement or informal action that involves terminating a tenancy agreement or a lease, then despite anything in the lease or tenancy agreement or in any Act

- (a) the landlord of the property may terminate the tenancy agreement or lease by giving five days notice of termination to the tenant stating
  - (i) the effective date of the termination,
  - (ii) that the lease or tenancy agreement is terminated under this Part, and
  - (iii) the specified use that is the reason for the termination under this Part;
- (b) the [Director](#) may, at the request of the landlord, serve the notice of termination; and
- (c) the notice of termination may be served in any manner by which a community safety order may be served.



# An *Act* to Amend *SCAN*

- ▶ Allow SCAN to pursue CSOs against properties with ongoing incidents of graffiti or that are used to store, sell or exchange stolen goods
- ▶ Clarify that if a Court is satisfied that a property is habitually being used for a specific purpose, there is a presumption that the community or neighborhood is adversely affected
- ▶ Failure of the Director to serve a CSO does not impact the validity of the order
- ▶ Expand abilities to deal with nuisance properties which can allow SCAN to apply for an Order to demolish or restore nuisance properties with the associated costs being the property owner's responsibility