# MANITOBA OMBUDSMAN

2005 Annual Report
Access and Privacy

Rapport Annuel 2005
Accès à l'information et
protection de la vie privée

Ombudsman Manitoba

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March 31, 2006

The Honourable George Hickes
Speaker of the Legislative Assembly
Province of Manitoba
Room 244 Legislative Building
Winnipeg MB R3C 0V8

Dear Mr. Speaker:

In accordance with subsections 58(1) and 37(1) of *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act* respectively, I am pleased to submit the eighth Annual Report of the Manitoba Ombudsman under these statutes, for the calendar year January 1, 2005 to December 31, 2005.

Yours truly,

Original signed by

Irene A. Hamilton
Manitoba Ombudsman

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# A MESSAGE FROM THE OMBUDSMAN

It is my pleasure to report on the activities of the office for the year 2005. Since my appointment as Ombudsman effective March 31, 2005, my colleagues and I have been making significant changes within our office. I am confident that these changes will allow us to improve our service and be of greater assistance to those who interact with us.

We know that external communication is vital to the work that we do. In order for the public to seek the assistance of the Ombudsman, they need to know about us, what we do and where we are. This annual report is a first step in communicating more effectively with the public. The report is designed to demonstrate what the outcome of our work is and how it relates to the legislative mandate that we have. We are printing a significantly reduced number of copies of the annual report but are distributing it widely in CD format so that we may reach as many people as possible, while keeping costs and paper use to a minimum. We have an annual report committee always on the look out for new and different ideas about the report, including how to make it more informative and accessible. We would appreciate your feedback.

I believe that it is important to meet face-to-face with the individuals responsible for decision making in government. By the end of the year, I had met with each departmental executive management committee in the Manitoba government, but one. I also met with senior officials in the City of Winnipeg. I hope to expand this contact to include municipal officials across the province, as well as other public bodies and trustees, in order to develop a better understanding of our roles in the democratic exercise in which we are all involved.

The office itself is undergoing change. A challenge commented on in the past was the need for additional resources to do the work. We have made changes that will allow for an assessment of what is needed to complete our work effectively and within reasonable time frames. We have also reallocated management positions within the office to enhance our investigation, and research and education capacity. The organizational chart included in this report demonstrates where our resources were allocated on December 31, 2005.

Internal communication is important in any organization and this has been formalized in our office through regularly scheduled meetings for all staff, the two divisions of the office, the management team and the operational teams. An administrative manual had been drafted and was finalized and published before the summer. It is an excellent tool to confirm office policies and procedures, and also serves as a valuable education piece for new employees joining the office. To enhance the vitality of the document, it is updated and amended by regular newsletters containing new information.

On a personal note I would like to thank the dedicated people with whom I work for their tremendous assistance to me over the past months, and their dedication to the important work that they do for the people of Manitoba.

# THE OFFICE OF THE OMBUDSMAN

### ABOUT THE OMBUDSMAN'S OFFICE

The Ombudsman is an independent officer of the Legislative Assembly with broad powers to conduct investigations under *The Ombudsman Act*, and *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*.

The structure of the Office reflects its two operational divisions:

- **Access and Privacy Division**, which investigates information access and privacy complaints and reviews compliance under *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*.
- **Ombudsman Division**, which investigates complaints under *The Ombudsman Act* concerning any act, decision, recommendation or omission related to a matter of administration, by any department or agency of the provincial government or a municipal government.

More information about the Ombudsman's Office can be found on our web site at www.ombudsman.mb.ca.

A copy of the Acts mentioned above can be found on the statutory publications web site at www.gov.mb.ca/chc/statpub/.

### MANITOBA'S ACCESS AND PRIVACY LEGISLATION

Public sector access and privacy laws in Canada and around the world are based on two fundamental principles. Manitoba's access and privacy legislation incorporates these principles:

- the right of access to information maintained by public institutions including information about oneself, subject to limited and specific exceptions; and,
- the obligation of public institutions to protect the privacy of personal information collected, maintained, used and disclosed.

***The Freedom of Information and Protection of Privacy Act* (FIPPA)**

FIPPA came into force on May 4, 1998, and initially applied only to provincial government departments and agencies. It was extended to the City of Winnipeg, a local public body, on August 31, 1998. Since April 3, 2000, all local public bodies, which include educational bodies, health care bodies and local government bodies, have been subject to FIPPA.

The Act governs access to general information and personal information held by public bodies and sets out requirements that must be followed to protect the privacy of personal information contained in the records they maintain.

**Public bodies** include:

- provincial government departments, offices of the ministers of government, the Executive Council Office, and agencies including certain boards, commissions or other bodies;
- local government bodies such as the City of Winnipeg, municipalities, local government districts, planning districts and conservation districts;
- educational bodies such as school divisions, universities and colleges; and
- health care bodies such as hospitals and regional health authorities.

***The Personal Health Information Act* (PHIA)**

PHIA came into force on December 11, 1997. PHIA provides individuals the right of access to their own personal health information held by trustees and requires trustees to protect the privacy of personal health information contained in their records.

**Trustees** include:

- public bodies as defined under FIPPA;
- health professionals such as doctors, dentists, physiotherapists and chiropractors;
- health care facilities such as hospitals, medical clinics, personal care homes, community health centres and laboratories; and
- health services agencies that provide health care under an agreement with a trustee.

## OMBUDSMAN'S DUTIES UNDER THE LEGISLATION

FIPPA and PHIA provide for an independent review of the access and privacy decisions of public bodies and trustees by the Manitoba Ombudsman. The Access and Privacy Division of the Ombudsman's Office conducts investigations of complaints and reviews of compliance with FIPPA and PHIA.

### Complaints

Complaints under Part 5 of FIPPA or PHIA may be made if, for example, a person believes a public body or trustee:

- has not responded to the request for access within the legislated time limit;
- has refused access to recorded information that was requested;
- has charged an unreasonable or unauthorized fee related to the access request;
- has refused to correct the personal or personal health information as was requested; or
- has collected, used or disclosed personal or personal health information that is believed to be contrary to privacy protections of FIPPA or PHIA.

Additionally, the Ombudsman may initiate an investigation or review any matter respecting FIPPA and PHIA where there are reasonable grounds to do so.

### Reviews

Part 4 of FIPPA and PHIA set out other powers and duties of the Ombudsman in addition to the investigation of complaints relating to access and privacy. These include the powers and duties:

- to conduct investigations and audits and make recommendations to monitor and ensure compliance with the Acts;
- to inform the public about the Acts and to receive comments from the public about the Acts;
- to comment on the implications for access to information or for the protection of privacy of proposed legislative schemes or programs of public bodies and practices of trustees;
- to comment on the implications for protection of privacy of using or disclosing personal and personal health information for record linkage or using information technology in the collection, storage, use or transfer of such information.

Investigations and reviews are conducted in private and as informally as possible. Nevertheless, the Ombudsman has all the powers and protections of a commissioner under Part V of *The Manitoba Evidence Act* when conducting investigations under FIPPA and PHIA. The Ombudsman may exercise this legislated power to summon witnesses and to take evidence under oath.

## BUDGET AND STAFFING

### Budget for 2005/2006

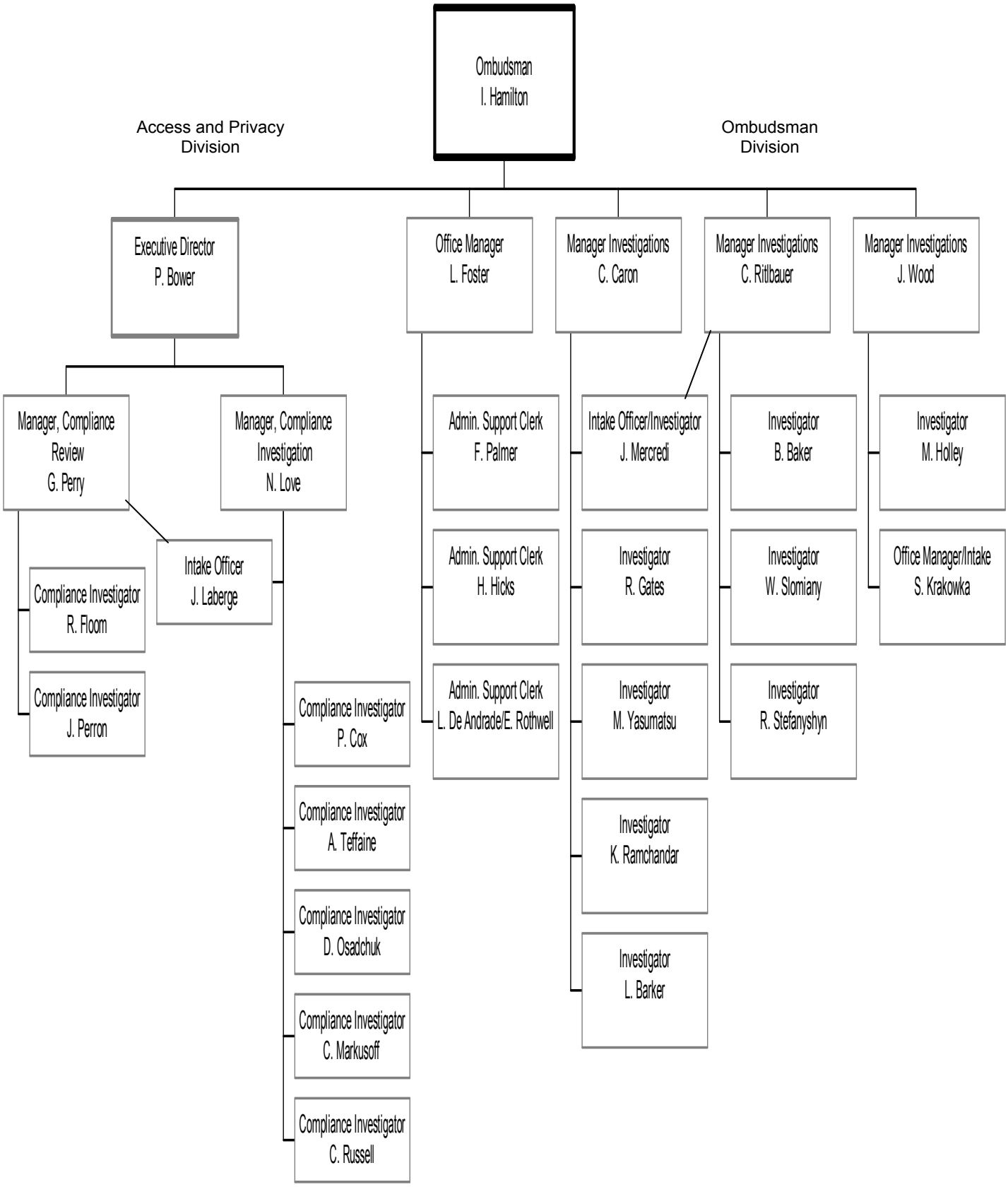
Our budget of $2,476,900 for salaries and other expenditures is broken down as follows:

| | |
|---|---|
| Total salaries and employee benefits for 29.5 positions | $2,019,700 |
| (the following are the positions allocated by division) | |
| ▪ 11 Access and Privacy Division | |
| ▪ 13 Ombudsman Division | |
| ▪ 4.5 Administration | |
| Other expenditures | $ 457,200 |

### Staffing

Please see the organizational chart on the following page.

## ORGANIZATIONAL CHART



## OVERVIEW OF 2005

The Access and Privacy Division opened 242 new cases in 2005 under *The Freedom of Information and Protection of Privacy Act* (FIPPA) and *The Personal Health Information Act* (PHIA), a decrease from the 369 cases opened the previous year. The cases opened included complaints made under Part 5 of FIPPA and PHIA (226), and matters initiated by our office under Part 4 of FIPPA and PHIA (16). Of the new complaints, 112 originated from Winnipeg (50%), 93 originated from 19 other communities in Manitoba (41%), and 21 originated from 11 communities in 5 other provinces (9%).

There were 214 cases carried over from 2004, bringing the caseload in 2005 to 456 cases. The Caseload Chart in the Statistical Information section provides a comparison of our caseload on an annual basis since 1998. We closed 350 of the 456 cases and carried over the remaining 106 cases to 2006. The decrease in the volume of cases opened last year contributed to the highest number of file closures in a year in the Division, which has significantly reduced our backlog.

During the year, staff also responded to approximately 620 inquiries from the public about access and privacy matters. These inquiries related to questions or concerns about FIPPA and PHIA. We were mostly asked to provide information on the rights of individuals, the obligations of public bodies and trustees and the application of the legislation to particular situations. Where non-jurisdictional issues were raised, we referred individuals to appropriate organizations.

In 2005, the Access and Privacy Division participated in a variety of presentations, panels and workshops on various topics, including the role and function of the Ombudsman's Office, understanding access to information and the protection of privacy, information technology and issues facing the Canadian privacy commissioners' community. In these diverse presentations, our audience was made up of the public, government officials, senior managers and executives from outside Manitoba and members of the Canadian information and privacy commissioners' offices. The Division also gave joint presentations with our Ombudsman Division colleagues to particular government departments and organizations on administrative and access and privacy issues specific to those offices.

An issue of particular interest at this time is the information management of electronic records. For example, email and new wireless technology pose enormous challenges to privacy and access to information on an everyday basis. To gain a better understanding of how government is addressing these issues, we met with Manitoba Information and Communications Technologies and Manitoba Health.

Technology is an issue which, among other privacy and access considerations, will be discussed in an upcoming event being arranged by Manitoba Culture, Heritage and Tourism, the Department responsible for the administration of FIPPA. In 2005, our office provided human and financial resources to assist in organizing the conference, "Privacy in the Public Sector: Challenges and Solutions," to be held in Winnipeg, May 4, 2006. Associated workshops on managing access requests under FIPPA and implementing privacy in organizations will follow on May 5. Staff from our office will be participating in the conference and are presenting a workshop.

Outreach through our web site continued in 2005, although there were no new case summaries posted. An office committee was struck to redesign our web site to make it more up-to-date, timelier and easier to use. The committee is assessing layout, content and the effectiveness of our web site. We expect changes to be operational in 2006, but the work of the web site committee will be ongoing.

Since mid-2001, the Access and Privacy Division of the office has been organized as two teams, the Compliance Investigation Group responsible for investigating complaints under Part 5 of FIPPA and PHIA, and the Compliance Review Group responsible for reviews under Part 4 of the Acts. This continued to be the situation in 2005.

Effective January 1, 2006, the roles of the two teams have changed so that each team has responsibility under Parts 4 and 5 of the Acts, but the teams are assigned to particular public bodies and trustees. The intent of this reorganization is to have a more balanced allocation of staff and work flow in the two groups. It will also be an opportunity to foster stronger relationships between our office and the entities with which we deal on FIPPA and PHIA matters.

# ACCESS MATTERS

One of the purposes of FIPPA and PHIA is to allow a right of access to records held by public bodies and trustees, subject to the limited and specific exceptions set out in these Acts.

When a request for access is made under FIPPA or PHIA, the requestor has a right of complaint to the Ombudsman about any decision, act or failure to act that relates to the request. The types of access complaints that may be made include: no response to the request within the prescribed 30-day time limit, an extension of the time limit for responding under FIPPA, the amount of fees being charged, a refusal of access to all or part of the requested records, a refusal to make a correction to personal or personal health information, and other procedural aspects relating to the access request.

### OVERVIEW OF ACCESS COMPLAINTS OPENED IN 2005

In 2005, 192 new complaints about access matters were opened under Part 5 of FIPPA and PHIA. The following chart provides a breakdown of the access complaints.

| Type of Access Complaint | Total | FIPPA | PHIA |
|---|---|---|---|
| No Response | 73 | 71 | 2 |
| Extension | 3 | 3 | NA* |
| Fees | 5 | 5 | - |
| Refused Access | 105 | 104 | 1 |
| Other | 6 | 6 | - |
| **Total** | **192** | **189** | **3** |

*NA: Not Applicable as extensions cannot be taken under PHIA

### OVERVIEW OF ACCESS COMPLAINTS CLOSED IN 2005

During 2005, 269 complaints under Part 5 of FIPPA and PHIA about access matters were closed. The following chart provides a breakdown of the dispositions of these access complaints.

| Type of Access Complaint | FIPPA | PHIA | Total | Declined or Discon-tinued | Supported in part or whole | Not Supported |
|---|---|---|---|---|---|---|
| Refused Access | 169 | 9 | 178 | 44 | 37 | 97 |
| No Response | 49 | 3 | 52 | 9 | 41 | 2 |
| Fees | 12 | 0 | 12 | 1 | 4 | 7 |
| Extension | 3 | 0 | 3 | - | 2 | 1 |
| Other | 10 | 2 | 12 | 5 | 3 | 4 |
| Non-jurisdictional | 0 | 12 | 12 | 12 | - | - |
| **Total** | **243** | **26** | **269** | **71** | **87** | **111** |

### UPDATE ON COMPLIANCE WITH SECTION 12 OF FIPPA

In our previous Annual Report, we outlined the findings of our *Evaluation of Compliance with Section 12 of FIPPA*, released in June 2005. That evaluation reviewed a sample of 268 response letters where access was refused in whole or in part, and it determined that 44 of those letters or 16% contained all of the mandatory elements required by section 12(1)(c) of FIPPA. When access is refused, a public body must inform an applicant of the basis for the refusal, contact information for an employee who can answer the applicant's questions about the refusal, and that a complaint can be made to the Ombudsman about the refusal.

Following the release of our evaluation findings, we wrote to and met with a number of public bodies to review our findings on section 12 compliance. We also informed them of the policy we implemented in July 2005. We will now review the contents of response letters received by us during an investigation, and return any response letters that do not contain all the elements required by the Act to the public body for revision. A revised response is required to be sent to the complainant, and copied to our office, within 14 days.

In our update review conducted between July 1 and December 31, 2005, we received 49 response letters where access was refused in whole or in part. Although this is a much smaller sample than the earlier study, we noted significant improvements in the responses, particularly in providing reasons for the refusal and the title and phone number of an officer or employee of the public body who can answer the applicant's questions about the refusal.

The following provides a comparison of our findings from our report released in June 2005 (based on 268 response letters from 2002, 2003 and the first half of 2004) with the review of 49 response letters from July 1 to December 31, 2005. The recent findings are indicated first and the previous findings are shown in parentheses with the percentages rounded.

Our evaluation of 49 (268) response letters by public bodies where access was refused in whole or in part determined that 38 (44) letters or 78% (16%) contained all of the mandatory elements required by section 12(1)(c) of FIPPA.

When access was refused based on a determination that the record does not exist or cannot be located, the Act requires that the public body's response letter inform the applicant of four elements of information. There were 3 (72) response letters in this category. Of these, 3 (19) letters or 100% (26%) complied with the requirement to include the four elements of information.

When access was refused based on a determination that exceptions to disclosure apply to the existing record, the Act requires that the public body's response letter inform the applicant of five elements of information. There were 46 (196) response letters in this category. Of these, 35 (25) letters or 76% (13%) complied with the requirement to include the five elements of information. For each of the five required elements, the applicant was informed of:

- the reasons for the refusal, 89% (34%)
- the specific provision of FIPPA on which the refusal is based, 89% (88%)
- the title of an officer or employee of the public body who can answer the applicant's questions about the refusal, 91% (40%)

- the business telephone number of an officer or employee of the public body who can answer the applicant's questions about the refusal, 93% (40%)
- that the applicant may make a complaint to the Ombudsman about the refusal, 96% (96%)

We also compared the rate of compliance by provincial departments and agencies (PDAs) to that of local public bodies (LPBs). There were 36 (183) letters by PDAs and 32 (33) of those letters or 89% (18%) complied with section 12(1)(c). Of the 13 (85) letters by LPBs, 6 (11) letters or 46% (13%) were compliant.

# PRIVACY MATTERS

To help protect information privacy, FIPPA and PHIA set out rules concerning the collection, retention, use, disclosure, security and destruction of recorded personal and personal health information held by public bodies and trustees.

Individuals have a right of complaint to the Ombudsman if they believe that a public body under FIPPA or a trustee under PHIA has not complied with the Acts and that as a result their privacy has been breached. The types of complaints that may be made include the collection, use or disclosure of personal information under FIPPA or personal health information under PHIA.

### OVERVIEW OF PRIVACY COMPLAINTS OPENED IN 2005

In 2005, 34 new complaints about privacy matters were opened under Part 5 of FIPPA and PHIA. The following chart provides a breakdown of the privacy complaints.

| Type of Privacy Complaint | Total | FIPPA | PHIA |
|---|---|---|---|
| Collection | 10 | 7 | 3 |
| Use | 6 | 4 | 2 |
| Disclosure | 17 | 14 | 3 |
| Security | 1 | - | 1 |
| **Total** | **34** | **25** | **9** |

### OVERVIEW OF PRIVACY COMPLAINTS CLOSED IN 2005

During 2005, 56 privacy complaints under Part 5 of FIPPA and PHIA were closed. The following chart provides a breakdown of the dispositions of these privacy complaints.

| Type of Privacy Complaint | FIPPA | PHIA | Total | Declined or Discontinued | Supported in part or whole | Not Supported |
|---|---|---|---|---|---|---|
| Collection | 6 | 10 | 16 | 10 | 4 | 2 |
| Use | 7 | 2 | 9 | 5 | 3 | 1 |
| Disclosure | 17 | 11 | 28 | 15 | 2 | 11 |
| Security | 2 | 1 | 3 | - | 1 | 2 |
| **Total** | **32** | **24** | **56** | **30** | **10** | **16** |

### PROCEDURES CONCERNING PRIVACY COMPLAINTS

We have noted that individuals making privacy complaints to our office often do so without first contacting the public body or trustee to attempt to address their privacy concerns. In many cases, individuals are unable to provide our office with basic details concerning their complaints, such as a description of the information involved and what was done with that information. Where individuals can provide details, they usually want to know the public body's or trustee's reason for the collection, use or disclosure of their personal or personal health information.

We have a general expectation that, prior to making a complaint to our office, an individual will first contact the public body or trustee to obtain an explanation and request corrective action, if appropriate. Where an individual has not done this, we have implemented a procedure to refer complainants back to the public body or trustee. We also assist complainants in identifying a person in the public body or trustee, with whom they can address their concern. If the individual knows the name of the person who handled their information, that person may be best able to explain what they did with the information and why they did it. In other circumstances, we provide the individual with the contact information for the privacy personnel in the public body or trustee.

Taking this step provides an individual with the opportunity to have their concerns responded to directly by the public body or trustee. It also provides the public body or trustee an opportunity to address and resolve the privacy concerns raised.

In the event that individuals are not satisfied with the explanation provided or actions taken in response to their privacy concerns, a complaint can then be made to our office. It is our experience that a complaint made to our office subsequent to an individual's contact with the public body or trustee is more focused and detailed.

# OMBUDSMAN'S RECOMMENDATIONS MADE IN 2005

The Ombudsman may make any recommendations to a public body or trustee that she considers to be appropriate about a complaint. If a report contains recommendations, the public body must respond in writing to the Ombudsman within 15 days under FIPPA, and a trustee must respond within 14 days under PHIA. The response must indicate that either the recommendations are accepted and the action to be taken to implement them, or the reasons why action will not be taken to implement the recommendations. Our office then notifies the complainant about the public body's or trustee's response to the recommendations.

In 2005, the Ombudsman made recommendations in seven cases, all under *The Freedom of Information and Protection of Privacy Act* (FIPPA). Six cases concerned access to information complaints and one case related to a privacy complaint.

### USE OF PERSONAL INFORMATION ON AN APPLICATION FOR ACCESS FORM

*FIPPA sets out rules to protect individuals against unauthorized use of their personal information by public bodies. Use of personal information by a public body must be authorized, limited to the minimum amount of information necessary to accomplish the purpose for which it is used and limited to only those who need to know the information to carry out that purpose [sections 42 and 43]. This complaint related to the use of personal information on a FIPPA application for access form by a public body during the processing of the access request. Each year hundreds of access applications are handled province-wide by public bodies. The complaint highlights the important principle that applicants are entitled to exercise their rights to access information under FIPPA with an expectation that their personal information will only be shared on a need-to-know basis.*

An individual complained to our office that on three FIPPA applications to the City of Winnipeg the complainant's identity was revealed by the City Clerk's Department to the Office of the Mayor. The complainant alleged that this was an inappropriate use of personal information and was a breach of privacy under FIPPA.

Our investigation indicated that the City Clerk's Department, in its role as FIPPA Coordinator for the City, received the access requests and forwarded them to the Planning, Property and Development Department as it was most likely to have responsive records. Copies of the requests were also sent to the Office of the Mayor as it was believed this office could also potentially hold responsive records.

It is our view that "need to know" means that employees of the public body should have only as much personal information as is necessary in order to properly perform their responsibilities, including those under FIPPA. In processing an Application for Access, a need-to-know situation would exist when the search for records cannot be undertaken and/or the access decision cannot be made without knowing the identity of the requester.

The City advised that it is necessary to provide the department with the identity and contact information of the requestor in the event that the department may need to clarify the request. In our opinion, it was reasonable for the City Clerk's Department to send the request to Planning, Property and Development Department. This department was identified as the main area where the records were held and it would need to know the identity and contact information of the applicant as it would be responsible for providing a written response to the requester. However, the Office of the Mayor could have searched for records and advised the Planning, Property and Development Department of its access decision without having the knowledge of the applicant's identity.

The Ombudsman made a recommendation that the City of Winnipeg ensure that the personal information of an applicant contained on an application for access is provided only to those who need to know the information in order to carry out a search for records and make an access decision. The City accepted the recommendation and agreed to implement changes in its FIPPA process.

### THREE CASES OF FAILURE TO RESPOND TO A REQUEST IN 30 DAYS

*When requesting a record under FIPPA, an applicant must submit an application for access form to the public body s/he believes has custody or control of the record. Upon determining that the public body holds the records requested, the public body must provide a written*

*response to the applicant within 30 days of receiving the request, notwithstanding an extension as permitted by the Act. If the head of the public body does not respond within the time period it is treated as a decision to refuse access to the record [subsection 11(2)].*

Our office received two complaints of no response from one applicant on August 26, 2005. The applicant had requested access to records held by Manitoba Conservation in the spring of 2005.

Our office made several unsuccessful inquiries with the Department over a two-month period. When the Department responded to our inquiries, it advised a response to the applicant's requests would be forthcoming.

Ninety days after receiving the complaint of no response, the Ombudsman recommended that Manitoba Conservation respond immediately to the two access applications, and that it provide copies of the responses to our office. Manitoba Conservation responded to the recommendations and provided responses to the applicant.

In another case, an applicant filed an access request in April 2005 with Manitoba Conservation for a large number of natural resource records. The Department acknowledged the records that would respond to the request and suggested that the applicant withdraw the FIPPA application in favour of entering into a research agreement. The applicant agreed and withdrew the application. Two months after withdrawing the access request, the applicant had not received the research agreement and re-filed the initial access request with Manitoba Conservation.

Our office received the no response complaint in the fall of 2005. Our investigation revealed that despite the access application being re-filed, the Department intended to pursue the initial option of the research agreement. The Department believed the complaint could be resolved by way of a research agreement and advised that the research agreement had been drafted and would be provided to the applicant.

We had noted to the Department that a research agreement is a process that occurs outside of FIPPA. A public body may enter into a research agreement where access to a large

volume of records is sought for research purposes. However, the potential research agreement does not negate the public body's responsibility to respond to an access request under FIPPA.

Six months after re-filing the access request, the Department still had not provided the applicant with a response, nor had it provided the applicant with the research agreement. The Ombudsman made a recommendation that Manitoba Conservation respond immediately to the access application and provide a copy of the response to our office. Manitoba Conservation failed to provide the Ombudsman with a response to the recommendation within the 15 day time limit set out in the Act.

***FEE ESTIMATE COMPLAINT***

*Under FIPPA, an applicant may be required to pay fees to the public body to cover some of the costs incurred in responding to the application. FIPPA regulations provide for fees associated with time spent searching and preparing records in excess of 2 hours, as well as fees for copying and delivery services. If an applicant is required to pay fees, the head of the public body is required to provide an applicant with a fee estimate prior to providing the services. [subsection 82(1) and (2)]*

A FIPPA applicant complained to our office that the fee estimate issued by Manitoba Hydro was unreasonable. Our investigation of the complaint related to the method Manitoba Hydro applied in calculating the fee estimate.

The applicant had requested access to studies and other information pertaining to issues of energy as referenced in Manitoba Hydro's 1996 Power Resource Plan. As the records requested were voluminous, Manitoba Hydro estimated that 2,519 hours of search and preparation time were required in order to respond to the application. Manitoba Hydro based its estimate on the time spent retrieving, reviewing and severing information contained in over 1000 storage boxes.

FIPPA regulations [clause 4(3)(c)] specify that time spent reviewing any relevant record to determine whether any of the exceptions to disclosure apply, prior to any severing of the record, shall not be included in search and preparation and cannot be charged to the applicant. Our finding was that the fee estimate included tasks that do not come within

the search and preparation activities permitted by FIPPA. Therefore, the fee estimate provided under section 82 of FIPPA was not in accordance with the Act.

During the course of our investigation, the applicant revised the access application limiting the scope of the request, which would change the amount of fees initially assessed. The Ombudsman made a recommendation to Manitoba Hydro to provide an estimate of costs as soon as possible to the applicant relating to the revised access application. Manitoba Hydro accepted the recommendation and provided the applicant with a revised fee estimate.

### WAIVER OF FEES IN A MATTER OF PUBLIC INTEREST CONCERNING PUBLIC HEALTH OR SAFETY OR THE ENVIRONMENT

*When an applicant is required to pay fees, the applicant may request a waiver of fees. The applicant must provide the public body with reasons why the fees should be waived. FIPPA regulation subsection 9(1) outlines the grounds upon which the fees can be waived. These are in cases where the fees impose an unreasonable financial hardship on the applicant, or when the request for access is to one's own personal information, or where the records relate to a matter of public interest concerning the public health or safety or the environment. The head of the public body must be satisfied that the grounds for a fee waiver have been met, and even then the head still has the discretion to decide whether to grant a fee waiver, or reduce the fees.*

The individual who complained about Manitoba Hydro's fee estimate also made a complaint to our office that Manitoba Hydro's decision to deny a request for a fee waiver was unreasonable. Our investigation of the complaint related to whether Manitoba Hydro was reasonable in its exercise of discretion.

At the time of filing an access application the applicant had requested a waiver of fees. The applicant did not set out the reasons for the request in writing, but did provide Manitoba Hydro with documentation in support of the position that the requested records relate to a matter of public interest concerning public health, safety or the environment. Manitoba Hydro considered the grounds set out in the regulations in relation to the documentation provided by the applicant and the position of the public body. It concluded that environmental

considerations were not discernable, and that interests presented by the applicant were more reflective of private or special interests as opposed to a perceived public interest. Manitoba Hydro claimed that the applicant would need to demonstrate an intention to spread the information to the public in order for the waiver of fees to be considered in the public interest.

It is our view that in order for the head of the public body to consider a waiver of fees under clause 9(1)(c) the records requested must relate to a matter of public interest, in this case, concerning the environment. The applicant requested access to reports about Manitoba Hydro's energy reliability, the province's coal supply and the availability of energy imports from other areas in case of a drought. The documentation submitted by the applicant to Manitoba Hydro and the further discussions between the two parties, detail the applicant's views about the impact of hydro development on the environment. We also noted Manitoba Hydro distributes information to Manitobans and others about the relationship of hydro development to the environment. This issue has been the subject of public discussion and debate, specifically with regard to hydro development in Northern Manitoba.

In our opinion, Manitoba Hydro's exercise of discretion was not reasonable. The large volumes of literature and public discussions on this issue indicate that the interests presented by the applicant are not special or private interests. They are public interests that extend to not only people who reside in hydro development areas, but to a larger group of Manitobans and people who reside outside of this province.

The Ombudsman made a recommendation to Manitoba Hydro, in conjunction with the recommendation about a fee estimate, to waive the fees for search, preparation, copying and delivery services that it may require the applicant to pay under subsection 82(5) of FIPPA. Manitoba Hydro responded to the recommendation but upheld its initial decision to deny a waiver of fees.

### REFUSAL OF ACCESS TO THIRD-PARTY INFORMATION

*The right of access to a record under FIPPA is subject to the limited and specific exceptions to disclosure set out in the Act. Some of the exceptions to disclosure are mandatory, while*

*others are discretionary. Information concerning the business interests of a third party [section 18] and personal information of a third party [section 17] are protected by mandatory exceptions to disclosure.*

A FIPPA applicant complained to our office about a refusal of access to information held by Manitoba Labour and Immigration (Pension Commission). The applicant had requested access to the name of each pension plan registered with the Commission and the name and address for the administrator of each plan. The Commission provided the applicant with access to some of the records where consent for release had previously been obtained from the pension plan administrator, but denied access to others where there was no consent. The Pension Commission believed releasing the remaining records would reveal third-party business information that was provided to the Commission on a confidential basis.

Concerning the applicability of the exceptions cited under clauses 18(1)(b) and (c), the first requirement is to consider the nature of the information at issue. If the information does not reveal any one of the categories of the information specified, then the exception cannot apply.

The Pension Commission was of the opinion that the release of the information would reveal commercial, financial, and possibly labour relations information. The Commission stated that in its opinion, commerce involves all aspects of the business and the requested information relates to matters of finance. The Commission was of the belief that the records would also relate to matters of labour relations as pension plans are negotiated and the terms are part of the collective bargaining process.

Commercial information relates to the buying and selling or exchange of merchandise or services, for example product price lists, or marketing and advertising plans and other similar information related to the commercial operation of a business or organization. Financial information refers to money and its use or distribution such as profit and loss data, and overhead and operating expenses. Labour relations information is usually information that is related to collective bargaining such as the bargaining positions of an employer and a union engaged in collective bargaining process or the maintenance of a contract.

Based on our considerations, it was our view that the withheld information did not reveal commercial, financial or labour relations information. Accordingly, the cited exceptions under section 18 cannot apply.

During our investigation, the Commission had advised our office it was also relying on exceptions to disclosure under section 17 concerning personal information of a third party. It was clarified that the complainant did not want access to any plans that identified an individual by name or position.

FIPPA defines personal information as recorded information about an identifiable individual. It was our view that the names and addresses of plan administrators did not constitute the personal information of individuals because the information identifies the person who holds a position, that is, administrators of a pension plan, and does not reveal personal information about the administrators as individuals. Our investigation found no basis for the application of section 17 exceptions to disclosure.

Our investigation concluded that the information at issue was not subject to any of the exceptions cited by the Commission. The Ombudsman recommended that the Pension Commission release the name of each registered pension plan, but not the names of any registered plans that identify an individual by name or position, and that it release the name and address of the administrator of each registered pension plan. The Pension Commission accepted the recommendations and released the information.

## NO COURT DECISIONS IN 2005

The Court may become involved in FIPPA or PHIA matters where there is an appeal of an access refusal or a prosecution of an offence under the Acts.

An access applicant may appeal a refusal of access under FIPPA or PHIA to the Manitoba Court of Queen's Bench, where the Ombudsman has not supported the complaint, or if a public body or trustee has not acted on the Ombudsman's recommendation to release the records. Under both Acts, the Ombudsman can also appeal a refusal of access to the Court in place of the applicant and with the applicant's consent. However, in appealing under FIPPA, the Ombudsman must be of the opinion that the decision raises a significant issue of statutory interpretation or an appeal is otherwise clearly in the public interest.

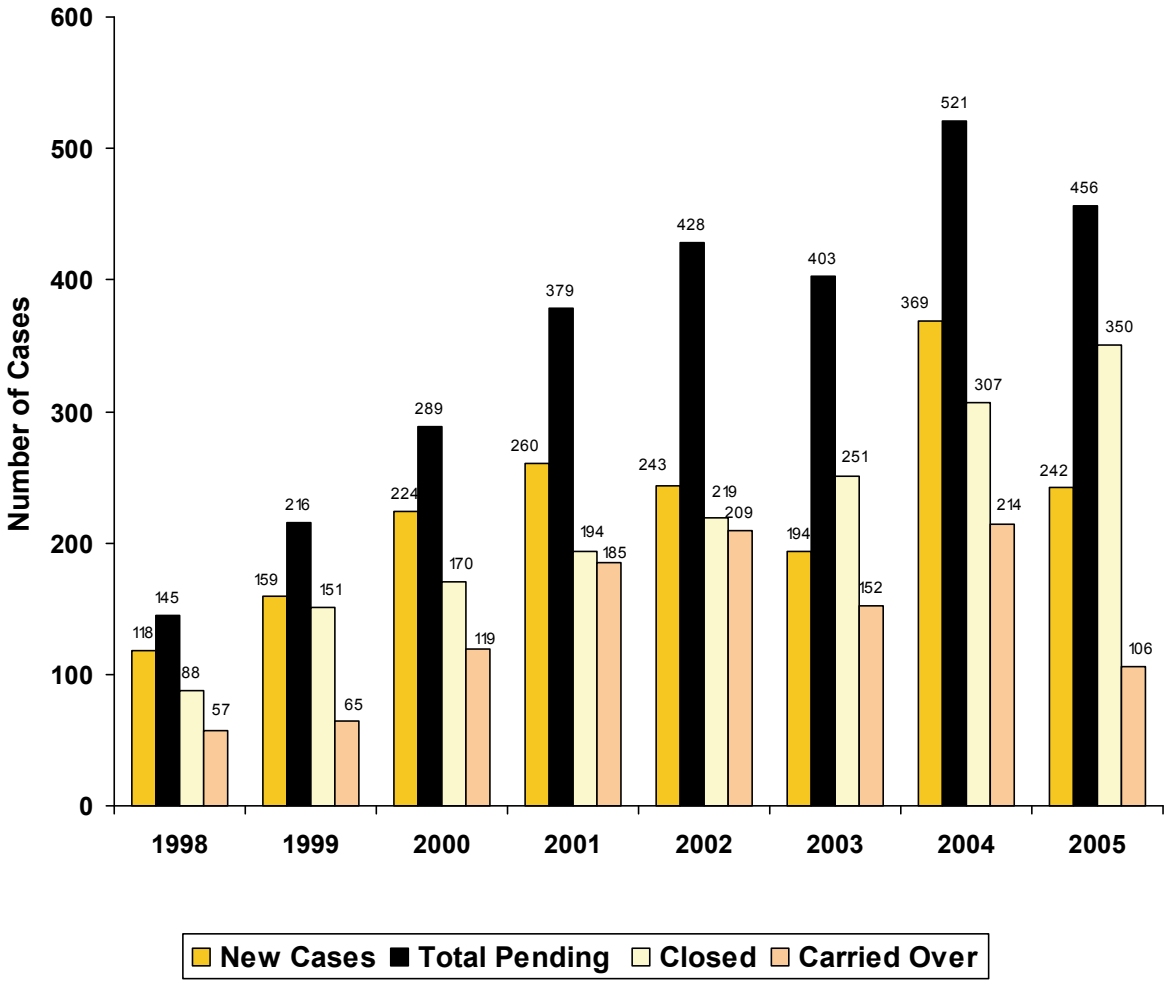
The Ombudsman may disclose to the Minister of Justice and Attorney General information relating to the commission of an offence under FIPPA or PHIA, or any other enactment of Manitoba or Canada, if the Ombudsman considers there is reason to believe an offence has been committed. Manitoba Justice determines whether any charges are pursued through prosecution in Court.

There were no Court decisions under FIPPA or PHIA in 2005. Further, our office was not advised of any Court matters being initiated this year under the legislation. This is the third consecutive year where there have been no access appeals. Since 1998, the Court of Queen's Bench in Manitoba has ruled on four access appeals under FIPPA and none under PHIA. There has been only one privacy prosecution to date launched under PHIA. For details on these cases please consult our website or previous annual reports.

# STATISTICAL INFORMATION

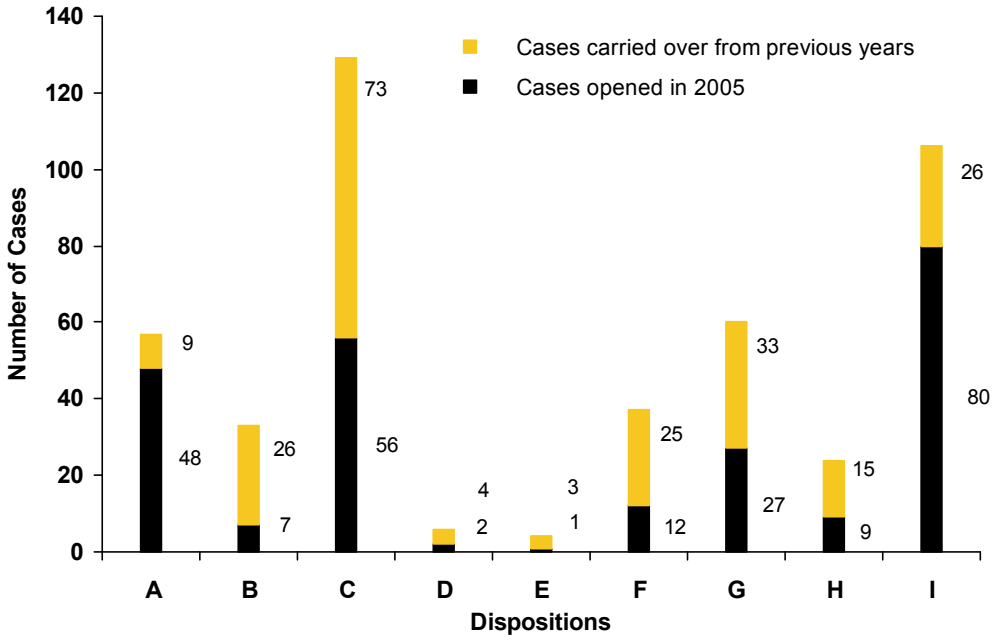
### CASELOAD CHART

Two hundred and forty-two access and privacy cases were opened by our office in 2005. Of these, 162 were closed and 80 were carried forward to 2006. Our office also closed 125 cases from 2004, 15 from 2003, 25 from 2002, 21 from 2001, 1 from 2000 and 1 from 1998. In total, 350 cases were closed in 2005.



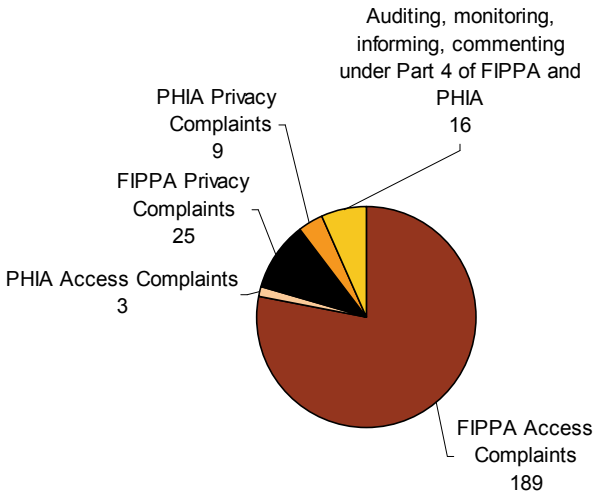
## CASES AND DISPOSITIONS IN 2005

The dispositions of the 456 access and privacy cases investigated in 2005 are shown below. The categories of dispositions, labeled A to I on the bar graph used throughout this Annual Report, are also explained below.

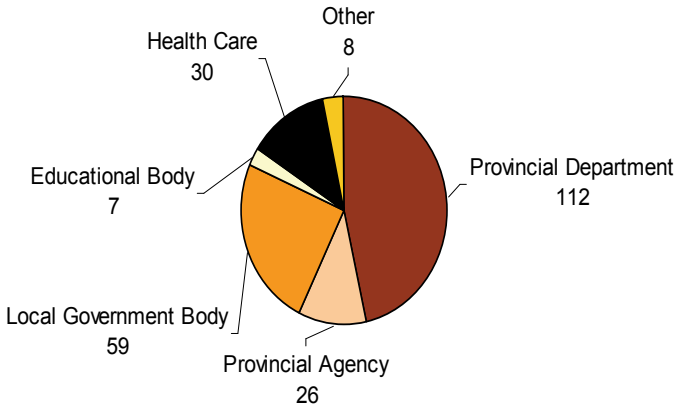



**A = Supported**
Complaint fully supported because the decision was not compliant with the legislation.
**B = Partly Supported**
Complaint partly supported because the decision was partly compliant with the legislation.
**C = Not Supported**
Complaint not supported at all.
**D = Recommendation Made**
All or part of complaint supported and recommendation made after informal procedures prove unsuccessful.
**E = Discontinued by Ombudsman**
Investigation of complaint stopped before finding is made.
**F = Discontinued by Client**
Investigation of complaint stopped before finding is made.
**G = Declined**
Upon making enquiries, complaint not accepted for investigation by Ombudsman, usually for reason of non-jurisdiction or premature complaint.
**H = Completed**
Cases conducted since 2002, under Part 4 of *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act* where the task of auditing, monitoring, informing, or commenting has been concluded.
**I = Pending**
Complaint still under investigation as of January 1, 2006.

## TYPES OF CASES OPENED IN 2005




## DISTRIBUTION OF CASES OPENED IN 2005



## CASES IN 2005 BY ACT, PUBLIC BODY/TRUSTEE AND DISPOSITION

This chart shows the disposition of the 456 access and privacy cases investigated in 2005 under Part 4 and 5 of *The Freedom of Information and Protection of Privacy Act*, *The Personal Health Information Act* and *The Ombudsman Act*.

| Act / Department or Category | Carried over into 2005 | New cases in 2005 | Total cases in 2005 | Pending at Dec. 31, 2005 | Declined | Discontinued Client | Discontinued Ombudsman | Not Supported | Partly Supported | Supported | Recommendation | Completed |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| ***Part 5 of The Freedom of Information and Protection of Privacy Act* (FIPPA)** | | | | | | | | | | | | |
| **PUBLIC BODY** | | | | | | | | | | | | |
| **Provincial Department** | **52** | **104** | **156** | | | | | | | | | |
| Agriculture, Food & Rural Initiatives | 2* | 4 | **6** | 1 | - | - | - | **2** | **1** | **2** | - | - |
| Conservation | 4 | 18 | **22** | 13 | - | - | - | **3** | **1** | **2** | **2** | **1** |
| Consumer & Corporate Affairs | 2 | 0 | **2** | - | - | - | **1** | - | **1** | - | - | - |
| Culture, Heritage & Tourism | 1 | 1 | **2** | 1 | - | - | - | **1** | - | - | - | - |
| Energy Science & Technology | 3 | 0 | **3** | 1 | - | **1** | - | **1** | - | - | - | - |
| Family Services & Housing | 6 | 14 | **20** | 6 | **3** | **4** | - | **3** | **1** | **3** | - | - |
| Finance | 4 | 4 | **8** | 2 | **1** | **1** | - | **4** | - | - | - | - |
| Health | 5 | 8 | **13** | 2 | - | **1** | - | **4** | **3** | **3** | - | - |
| Industry, Economic Development & Mines | 4** | 18 | **22** | 1 | - | **2** | - | **18** | **1** | - | - | - |
| Intergovernmental Affairs & Trade | 2 | 2 | **4** | 1 | - | **1** | - | - | **1** | **1** | - | - |
| Justice | 14 | 15 | **29** | 5 | **2** | **8** | - | **7** | **3** | **4** | - | - |
| Labour & Immigration | 3 | 1 | **4** | 1 | - | - | - | **1** | **1** | - | **1** | - |
| Transportation & Government Services | 2 | 4 | **6** | 3 | - | - | - | **2** | **1** | - | - | - |
| Water Stewardship | 0 | 15 | **15** | 11 | - | - | - | - | - | **4** | - | - |
| **Crown Corporation and Government Agency** | **48** | **19** | **67** | | | | | | | | | |
| Boxing Commission | 9 | 0 | **9** | 8 | - | - | - | - | - | - | - | **1** |
| Child & Family Services of Western Manitoba | 0 | 2 | **2** | - | - | - | - | **2** | - | - | - | - |
| Dakota Ojibway Child & Family | 1 | 0 | **1** | 1 | - | - | - | - | - | - | - | - |
| Floodway Expansion Authority | 0 | 2 | **2** | - | - | - | - | - | - | **2** | - | - |
| Housing & Renewal Corporation | 1 | 0 | **1** | - | - | - | - | **1** | - | - | - | - |
| Legal Aid Services | 3 | 1 | **4** | 1 | - | **2** | - | - | - | **1** | - | - |
| Liquor Control Commission | 1 | 0 | **1** | - | - | - | - | **1** | - | - | - | - |
| Lotteries Corporation | 1 | 0 | **1** | - | - | **1** | - | - | - | - | - | - |
| Manitoba Hydro | 4 | 1 | **5** | - | - | - | - | **1** | **1** | **1** | **2** | - |
| Manitoba Public Insurance | 25 | 9 | **34** | 6 | - | **2** | - | **21** | **3** | **2** | - | - |
| Sport Manitoba | 1 | 0 | **1** | - | - | **1** | - | - | - | - | - | - |
| Workers Compensation Board | 2 | 4 | **6** | 1 | **1** | - | - | **3** | - | **1** | - | - |
| **LOCAL PUBLIC BODY** | | | | | | | | | | | | |
| **Local Government Body** | **31** | **59** | **90** | | | | | | | | | |
| City of Brandon | 2 | 0 | **2** | - | - | - | - | **2** | - | - | - | - |

## CASES IN 2005 BY ACT, PUBLIC BODY/TRUSTEE AND DISPOSITION

| Act / Department or Category | Carried over into 2005 | New cases in 2005 | Total cases in 2005 | Pending at Dec. 31, 2005 | Declined | Discontinued Client | Discontinued Ombudsman | Not Supported | Partly Supported | Supported | Recommendation | Completed |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| City of Winnipeg | 26 | 31 | **57** | 13 | **6** | **10** | - | **16** | **9** | **2** | **1** | - |
| Town of Lac du Bonnet | 1 | 1 | **2** | - | - | - | - | - | - | **2** | - | - |
| R.M. of Alexander | 0 | 3 | **3** | - | - | - | - | **3** | - | - | - | - |
| R.M. of Archie | 0 | 21 | **21** | - | **6** | **1** | - | **14** | - | - | - | - |
| R.M. of Dauphin | 0 | 1 | **1** | 1 | - | - | - | - | - | - | - | - |
| R.M. of East St. Paul | 1 | 0 | **1** | - | - | - | - | - | - | **1** | - | - |
| R.M. of La Broquerie | 0 | 1 | **1** | - | - | - | - | - | - | **1** | - | - |
| R.M. of Springfield | 1 | 0 | **1** | - | - | - | - | - | - | **1** | - | - |
| R.M. of St. Clements | 0 | 1 | **1** | - | - | - | - | **1** | - | - | - | - |
| **Educational Body** | **13** | **7** | **20** | | | | | | | | | |
| Brandon School Division | 2 | 1 | **3** | - | - | - | - | - | **2** | - | - | **1** |
| Division scholaire francomanitobaine | 2 | 0 | **2** | - | - | - | - | **2** | - | - | - | - |
| Evergreen School Division | 0 | 1 | **1** | 1 | - | - | - | - | - | - | - | - |
| River East Transcona School Division | 0 | 1 | **1** | 1 | - | - | - | - | - | - | - | - |
| University of Manitoba | 8 | 4 | **12** | 3 | **1** | - | **1** | **3** | **2** | **2** | - | - |
| University of Winnipeg | 1 | 0 | **1** | - | - | - | - | **1** | - | - | - | - |
| **Health Care Body** | **3** | **15** | **18** | | | | | | | | | |
| Winnipeg Regional Health Authority | 3 | 0 | **3** | - | - | - | - | **3** | - | - | - | - |
| Seven Oaks General Hospital | 0 | 15 | **15** | 1 | - | - | - | - | - | **14** | - | - |
| **Non-Jurisdictional** | **0** | **5** | **5** | | | | | | | | | |
| Non-jurisdictional | 0 | 5 | **5** | - | **5** | - | - | - | - | - | - | - |
| ***Part 5 of The Personal Health Information Act* (PHIA)** | | | | | | | | | | | | |
| **Provincial Department** | **4** | **0** | **4** | | | | | | | | | |
| Health | 3 | 0 | **3** | - | - | - | - | **2** | **1** | - | - | - |
| Transportation & Government Services | 1 | 0 | **1** | - | - | - | - | **1** | - | - | - | - |
| **Crown Corporation and Government Agency** | **2** | **6** | **8** | | | | | | | | | |
| Addictions Foundation of Manitoba | 1 | 0 | **1** | - | - | - | - | - | - | **1** | - | - |
| CancerCare | 0 | 1 | **1** | - | - | - | - | - | - | **1** | - | - |
| Manitoba Hydro | 0 | 1 | **1** | - | - | - | - | - | - | **1** | - | - |
| Manitoba Public Insurance | 1 | 1 | **2** | - | - | - | - | - | **1** | **1** | - | - |
| Workers Compensation Board | 0 | 3 | **3** | 2 | - | - | - | **1** | - | - | - | - |
| **LOCAL PUBLIC BODY** | | | | | | | | | | | | |
| **Local Government Body** | **5** | **0** | **5** | | | | | | | | | |
| City of Winnipeg | 4 | 0 | **4** | 3 | - | - | - | **1** | - | - | - | - |
| Brandon School Division | 1 | 0 | **1** | 1 | - | - | - | - | - | - | - | - |

## CASES IN 2005 BY ACT, PUBLIC BODY/TRUSTEE AND DISPOSITION

| Act / Department or Category | Carried over into 2005 | New cases in 2005 | Total cases in 2005 | Pending at Dec. 31, 2005 | Declined | Discontinued Client | Discontinued Ombudsman | Not Supported | Partly Supported | Supported | Recommendation | Completed |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Health Care Facility** | **2** | **5** | **7** | | | | | | | | | |
| Brandon Regional Health Authority | 0 | 1 | **1** | - | - | 1 | - | - | - | - | - | - |
| Burntwood Regional Health Authority | 0 | 2 | **2** | - | - | - | - | 1 | - | 1 | - | - |
| Winnipeg Regional Health Authority | 0 | 1 | **1** | - | - | - | - | 1 | - | - | - | - |
| Assiniboine Clinic | 0 | 1 | **1** | - | - | - | - | - | - | 1 | - | - |
| Seven Oaks General Hospital | 2 | 0 | **2** | 2 | - | - | - | - | - | - | - | - |
| **Health Professional** | **3** | **5** | **8** | | | | | | | | | |
| Physician | 3 | 3 | **6** | 3 | **1** | **1** | - | - | - | **1** | - | - |
| Psychologist | 0 | 1 | **1** | - | **1** | - | - | - | - | - | - | - |
| Dentist | 0 | 1 | **1** | - | - | - | - | - | - | **1** | - | - |
| **Non-Jurisdictional** | **32** | **1** | **33** | | | | | | | | | |
| Non-jurisdictional | 32 | 1 | **33** | - | **33** | - | - | - | - | - | - | - |
| ***Part 4 under FIPPA and PHIA*** | | | | | | | | | | | | |
| **PUBLIC BODY** | | | | | | | | | | | | |
| **Provincial Department** | **7** | **6** | **13** | | | | | | | | | |
| Conservation | 2 | 0 | **2** | - | - | - | - | - | - | - | - | **2** |
| Consumer & Corporate Affairs | 1 | 0 | **1** | - | - | - | - | - | - | - | - | **1** |
| Education, Citizenship & Youth | 0 | 1 | **1** | 1 | - | - | - | - | - | - | - | - |
| Family Services & Housing | 0 | 1 | **1** | 1 | - | - | - | - | - | - | - | - |
| Finance | 1 | 1 | **2** | - | - | - | **1** | - | - | - | - | **1** |
| Health | 1 | 0 | **1** | - | - | - | - | - | - | - | - | **1** |
| Justice | 0 | 1 | **1** | - | - | - | - | - | - | - | - | **1** |
| Transportation & Government Services | 2 | 2 | **4** | 1 | - | - | - | - | - | - | - | **3** |
| **Crown Corporation and Government Agency** | **2** | **1** | **3** | | | | | | | | | |
| Manitoba Lotteries | 0 | 1 | **1** | 1 | - | - | - | - | - | - | - | - |
| Manitoba Public Insurance | 1 | 0 | **1** | - | - | - | - | - | - | - | - | **1** |
| Workers Compensation Board | 1 | 0 | **1** | - | - | - | - | - | - | - | - | **1** |
| **LOCAL PUBLIC BODY** | | | | | | | | | | | | |
| **Local Government Body** | **4** | **0** | **4** | | | | | | | | | |
| City of Brandon | 2 | 0 | **2** | 1 | - | - | - | **1** | - | - | - | - |
| City of Winnipeg | 2 | 0 | **2** | 1 | - | - | - | - | - | - | - | **1** |
| **Educational Body** | **1** | **0** | **1** | | | | | | | | | |
| Brandon School Division | 1 | 0 | **1** | 1 | - | - | - | - | - | - | - | - |
| **Health Professional** | **2** | **0** | **2** | | | | | | | | | |
| Dietician | 1 | 0 | **1** | - | - | - | - | - | - | - | - | **1** |
| Physician | 1 | 0 | **1** | - | - | - | - | - | - | - | - | **1** |

## CASES IN 2005 BY ACT, PUBLIC BODY/TRUSTEE AND DISPOSITION

| Act / Department or Category | Carried over into 2005 | New cases in 2005 | Total cases in 2005 | Pending at Dec. 31, 2005 | Declined | Discontinued Client | Discontinued Ombudsman | Not Supported | Partly Supported | Supported | Recommendation | Completed |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Health Care Facility** | **1** | **1** | **2** | | | | | | | | | |
| Crossing Medical Clinic | 0 | 1 | **1** | 1 | - | - | - | - | - | - | - | - |
| Health Sciences Centre | 1 | 0 | **1** | - | - | - | **1** | - | - | - | - | - |
| **Informing the Public** | **0** | **8** | **8** | | | | | | | | | |
| Informing the Public | 0 | 8 | **8** | 2 | - | - | - | - | - | - | - | **6** |
| ***The Ombudsman Act*** | | | | | | | | | | | | |
| **Cases under *The Ombudsman* Act** | **2** | **0** | **2** | | | | | | | | | |
| Education, Training & Youth | 1 | 0 | **1** | - | - | - | - | - | - | - | - | **1** |
| Workers Compensation Board | 1 | 0 | **1** | - | - | - | - | **1** | - | - | - | - |
| **Total** | **214** | **242** | **456** | **106** | **60** | **37** | **4** | **129** | **33** | **57** | **6+** | **24** |

*The name of the department was previously Agriculture and Food.
**The name of the department was previously Industry, Trade and Mines.
+ One additional recommendation was made in 2005 but the file was pending at December 31, 2005.

At December 31, 2004, there were 214 cases pending:

- 145 were carried over from 2004
- 17 were carried over from 2003
- 25 were carried over from 2002
- 25 were carried over from 2001
- 1 was carried over from 2000
- 1 was carried over from 1998

In 2005, 188 of these 214 carried over cases were closed. Of the 26 cases still pending at December 31, 2005:

- 20 originated in 2004
- 2 originated in 2003
- 4 originated in 2001

# GLOSSARY OF TERMS

**Access**

Under PHIA: the right of an individual (or his or her authorized representative) to examine or obtain copies of his or her own personal health information held by a trustee (subject to some exceptions).

Under FIPPA: the right of an individual (or his or her authorized representative) to examine or obtain copies of records held by a public body, including records which contain the individual's personal information (subject to some exceptions).

**Applicant**

A person who makes a request for access to a record under FIPPA.

**Authorized Representative**

A person who is authorized to exercise the access or privacy rights of an individual.

**Collection**

The process of gathering or obtaining personal or personal health information either *directly* from an individual or *indirectly* from other sources.

**Consent**

Permission from an individual or his or her authorized representative to allow the indirect collection, use or disclosure of the individual's personal or personal health information.

**Control**

Having the power or authority to make decisions about a record.

**Custody**

Having physical possession of a record.

**Data Linking**

The bringing together of two or more records of personal or personal health information to form a composite record. This activity may occur within, between or among entities in the same jurisdiction or across jurisdictions.

**Disclosure**

Releasing personal or personal health information to any person or organization outside the public body or trustee (see also 'use' for distinction from this concept).

**Local Public Body**

The following entities constitute a local public body:

- a local government body such as the City of Winnipeg, a municipality, local government district, planning district, or conservation district
- an educational body such as a school division, university or college
  a health care body such as a hospital or regional health authority

**Notification or Notice**

The process of informing individuals why their personal or personal health information is being collected from them.

**Personal Information**

Recorded information that identifies an individual such as:

- the name of the individual
- the home address or telephone number of the individual
- age, gender, family or marital status, or sexual orientation of the individual
- religious or political associations, or beliefs of the individual
- ancestry, racial origin, or nationality of the individual
- personal health information of the individual
- education, employment or occupation of the individual
- income source or status of the individual
- criminal or regulatory offence history of the individual
- the views and opinions of another person about the individual
- the individual's own views and opinions except those relating to another person
- a number, symbol or particular assigned to the individual

**Personal Health Information**

Recorded information that identifies an individual that relates to:

- the physical or mental health of the individual
- genetic information about the individual
- health services provided to the individual
- registration of the individual for the provision of health services
- donation of any body part or bodily substance of the individual, or is derived from the testing or examination of any such body part or bodily substance
- payment for health care
- a number, symbol or particular assigned to uniquely identify the individual, including the Personal Health Identification Number
- information that is collected in the course of the provision of health care to the individual

**Privacy**

The protection of personal and personal health information through rules that govern the collection, use and disclosure of this information by a public body or trustee.

**Public Body**

The following entities constitute a public body:

- Provincial Government departments
- a government agency such as certain boards or commissions and other designated agencies
- the Executive Council Office
- the office of a minister
- a local public body

**Record**

Recorded information held by a public body or trustee. This includes correspondence, memoranda, reports, books and notes, as well as graphic information in the form of pictorials or graphic works, painting, films, microfilms, video and sound recording, in addition to computerized (electronic) records, but not electronic software.

**Security**

The protection of personal or personal health information from unauthorized access, use, modification or disclosure, and from damage, loss or theft.

**Third Party**

A person, group of persons or an organization who is neither the applicant nor the public body under FIPPA.

**Trustee**

An individual or entity that collects or maintains personal health information. The following constitutes a trustee:

- a health professional who is licensed or registered to provide health care such as a doctor, dentist, chiropractor, nurse or physiotherapist
- a health care facility such as a hospital, personal care home, medical clinic, psychiatric facility, community health centre or laboratory and other designated facilities
- a health services agency that provides health care under an agreement with another trustee
- a public body

**Use**

The treatment and handling of personal and personal health information within the public body or trustee (see also 'disclosure' for distinction from this concept).