

Manitoba Ombudsman

NEWS RELEASE

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Manitoba Ombudsman releases FIPPA investigation reports about access to records relating to the upcoming inquest into the death of Brian Sinclair.

Manitoba Ombudsman Irene Hamilton today publicly released her investigation reports under *The Freedom of Information and Protection of Privacy Act* (FIPPA) about the access decisions made by the Winnipeg Regional Health Authority and the City of Winnipeg (Winnipeg Police Service), public bodies under FIPPA.

The records requested under FIPPA concerned the death of Brian Sinclair. The access decisions made by the WRHA and the WPS were that FIPPA does not apply to the records because the records relate to an inquest under *The Fatality Inquiries Act* and the proceedings concerning the inquest have not been completed. The investigation reports can be found at <http://www.ombudsman.mb.ca/whatsnew.htm>.

“I am releasing these investigation reports to the public because they set out the basis of my findings concerning how the rules in FIPPA apply,” said Hamilton. “FIPPA says if an inquest is called, then FIPPA cannot be used to seek access to records related to the inquest. Once the inquest has been completed, then those records are subject to FIPPA.”

During our investigation we contacted Inquest Counsel and enquired as to the status of the inquest. Inquest Counsel advised that the inquest was on hold until the Winnipeg Police Service completed its investigation as to whether or not it would be laying any criminal charges. Once that investigation is complete, and if it is determined that there is no basis to lay any criminal charges, then the inquest will resume. However, should criminal charges be laid, then these charges will have to be disposed of by the Courts prior to the commencement of the inquest.

According to Inquest Counsel, once the inquest proceeds, a production order for relevant documents will be issued. Until the production order is issued, neither the WRHA nor the WPS can determine with any certainty whether certain records concerning the death of Brian Sinclair might be relevant to the inquest. Under these circumstances, it was reasonable for the WPS and the WRHA to conclude that the requested records were currently not subject to FIPPA.

Section 4 of FIPPA states in part:

This Act applies to all records in the custody or under the control of a public body but does not apply to.....

(i) a record relating to a prosecution or an inquest under The Fatality Inquiries Act if all proceedings concerning the prosecution of the inquest have not been completed:

The investigation reports provide the full details of the Ombudsman's findings.

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