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Access and Privacy

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March 2003

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 section 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 fourth Annual Report of the Manitoba Ombudsman under these statutes, covering the calendar year January 1, 2001 to December 31, 2001.

Yours very truly,

Original signed by

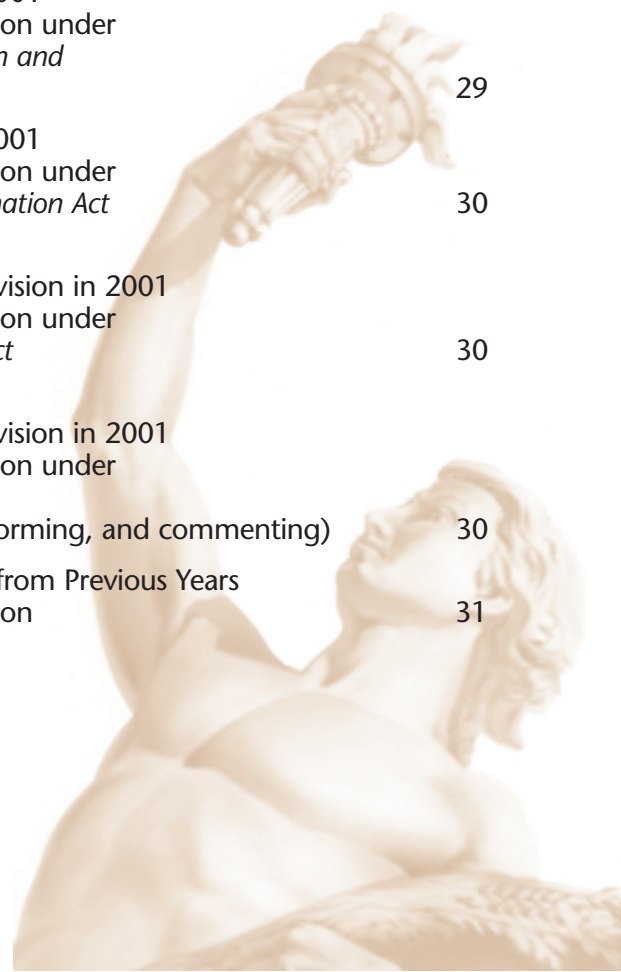
Barry E. Tuckett
Manitoba Ombudsman



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A Message from the Manitoba Ombudsman



Barry E. Tuckett
Manitoba Ombudsman

A steadily increasing workload with resultant backlogs has affected our ability to complete the Ombudsman's 2001 Access and Privacy Annual Report in a more timely manner. In 2001, we received 260 complaints under *The Freedom of Information and Protection of Privacy Act* (FIPPA) and *The Personal Health Information Act* (PHIA), a 16% increase from the previous year. In total, since 1997, our complaints have increased 270%. While we closed 194 cases in 2001, we carried forward a backlog of 185 cases into 2002.

We are continuing to look for ways to reduce our complaint backlog without compromising the integrity of our investigations. For example, we have developed a checklist for public bodies as a reminder of the elements to be included when responding to requests for information. We have found that incomplete responses add unnecessary time and effort both to our office's reviews of access complaints and to that required by access personnel of the public bodies implicated.

We are also developing a privacy compliance tool for the guidance of entities falling under FIPPA and PHIA. Utilizing a self-assessment tool will no doubt assist public bodies and personal health information trustees in determining their state of compliance with the legislation and help minimize breaches and subsequent complaints to our office.

While it is important that the public receive timely reviews of complaints and concerns relating to their access and privacy rights, one must recognize the need to devote time and resources to the other important duties and obligations that are placed on the Ombudsman which are additional to complaint investigation.

I refer to:

- commenting on proposed legislative schemes or programs of public bodies or trustees of personal health information that impact on access and privacy rights; or,
- commenting on the implications of using or disclosing personal information or personal health information for record linkage or using information technology in the collection, storage, use or transfer of personal information or personal health information.

The powers and duties of the Ombudsman also include informing the public about the Acts, bringing public awareness to matters relating to access and privacy rights, and making an annual report to the Legislative Assembly.

Limited resources present a challenge in balancing increasingly complex workloads and priorities. Unfortunately, it is not possible to satisfy everyone when, understandably, people raise concerns about delays in dealing with their individual problems or concerns. While we will continue to work toward improving the service we provide to the members of the Legislative Assembly, to the public, and to the government, I believe a visible and practical commitment by the government and the

Legislative Assembly to the purposes and values of access and privacy legislation and the oversight role, is needed.

A Word About Access Issues

In the 2000 Annual Report, we raised concerns about issues where complaints were delayed by numerous time extensions taken by public bodies, where processes were changed for coordinating access requests, and where inadequate government responses to requests for information generated an unprecedented volume of complaints to our office. Our experiences in 2001 suggested that there was a perceptible improvement. Overall, we also found that departments and agencies continued, with some exceptions, to maintain a commendable standard of meeting statutory time requirements for responding to access requests. We found that the number of complaints about access matters under FIPPA compared to the number of requests for information was lower than previous years. We also found that we supported the decisions of provincial government public bodies more often than in previous years. This is certainly a positive trend.

A Word About Privacy Issues

Retired Supreme Court Justice Hon. Gerard V. LaForest, articulated some influential propositions in 1988 with respect to privacy, liberty, and Canadian society in the case, *R. vs. Dyment*, where he wrote:

Grounded in man's physical and moral autonomy, privacy is essential for the well-being of the individual. For this reason alone it is worthy of constitutional protection, but it also has profound significance for the public order. The restraints imposed on government to pry into the lives of the citizen go to the essence of a democratic state.

The federal, provincial and territorial governments of Canada have enacted legislation that provides a legal framework for essential policies and practices relating to the collection, use, disclosure, retention and security of identifiable personal information. The legislation respects an individual's fundamental right to privacy and to protection of personal information.

In previous Annual Reports, we have referred to the challenges presented by a rapidly changing technological environment that brings new dimensions, possibilities, and requirements into play for control of the collection, use, disclosure, and protection of personal and personal health information, and the preservation of an individual's right to be left alone. The Manitoba government's discussion papers of 1996 on proposed new access and privacy legislation acknowledged that the growth of electronic information technology had opened up a vast range of information to a growing number of people. While there were important benefits to be realised, it was also suggested that many felt their privacy was threatened by the sheer volume of information that could potentially be accessed, linked, and matched through electronic technologies. It was noted that the intent of new legislation was to accommodate technological change while balancing the right of personal information privacy and the right of access to information. The challenges, responsibilities, and indeed, the opportunities are even greater today as technology advances at a dramatic pace.

Anti-terrorist security measures following the tragic events of September 11, 2001, are also confronting privacy rights as they may have significant impacts on one's fundamental rights in terms of collection, use and disclosure of personal information. The Federal Privacy Commissioner, Provincial Privacy Commissioners, and Privacy Advocates have raised alarms, not about justifiable measures to combat terrorism, but with regard to possible overreaction

and to the introduction of privacy-intrusive measures that are unrelated to, or may be ineffective in combating terrorism or providing security.

Privacy rights are part of the fabric of democratic societies and I think one could find correlation between a lack of privacy and a lack of democracy or a sense of freedom.

Nevertheless, privacy is not an absolute right and there must be a balance or proportionality among privacy and other real public interests or rights.

I make these comments in consideration of the issues being raised relating to the proliferation of surveillance cameras, proposed random drug testing in schools, taxicab cameras, and proposed creation or linking of large data banks containing personal information for health information highways, national identification cards, etc.

I believe there must be more public education and more organizational transparency in the collection, use and disclosure of one's personal information so the public can have a meaningful role in the discussion and decisions that affect their privacy and the protection of their personal and personal health information. Privacy issues are becoming more prevalent in society. It is essential that there be leadership and commitment by government, the private sector, and Privacy Commissioners/ Ombudsmen with respect to privacy rights, in order to gain or maintain public trust and confidence that in fact, such rights are valued and respected.

It is anticipated that our office will increasingly be called upon to comment on some of these privacy issues in accordance with Manitoba's privacy legislation and we hope to play a beneficial role in raising public awareness and bringing meaningful debate to the issues.

Sincerely
Original signed by

Barry E. Tuckett

2001

Year In Review





YEAR IN REVIEW

INTRODUCTION

The "Year in Review" section of our last Annual Report began with the observation that there were five key events on the horizon relating to the public's information access and privacy rights of particular interest to legislators and the people they represent.

The first of these was the coming into force on January 1, 2001, of the federal *Personal Information Protection and Electronic Documents Act* (PIPEDA), which regulates the collection, use, and disclosure of personal information by private sector organizations in the course of commercial activities that cross provincial/territorial boundaries. This proclamation indeed took place at the beginning of the period that our 2001 Annual Report covers. The second event followed one year later on January 1, 2002, when personal health information was drawn within the scope of PIPEDA, where applicable.

The passage of these events left the fifth one that we signaled still in clear view: on January 1, 2004, PIPEDA will cover the collection, use or disclosure of personal information in the course of any commercial activity in Manitoba, including provincially regulated organizations unless the Province passes what is called "substantially similar" legislation.

This is a matter of considerable importance to business and other organizations in the province. Experience at the federal level has underlined the value of advance planning and preparation for the implementation of this new statutory regime for managing personal information in the private sector.

At the time of writing, it is not clear what route the Government of Manitoba will choose: bring in substantially similar legislation or simply let the federal law apply.

The third and fourth matters we flagged were the statutory deadlines for undertaking comprehensive reviews and public consultations of *The Personal Health Information Act* (PHIA) by December 11, 2002, and of *The Freedom of Information and Protection of Privacy Act* (FIPPA) by May 4, 2002.

Not unexpectedly perhaps, these reviews were not initiated during the year 2001 though we did have reason to believe that the process was imminent for FIPPA because the government had announced it through a news release dated May 19, 2000. Consequently, we made an observation in our annual report for the year 2000 that bears repeating here since the reviews of the statutes remain in the future:

Reviews of legislation dealing with such fundamental public rights as information access and privacy are landmark events every time they occur in a democracy.

OVERVIEW OF THE LEGISLATION

Having outlined the purposes of PHIA and FIPPA in our last annual report, it is timely to present a short overview of the two Acts that will be the subject of public consultations and review by our Legislative Assembly.

Information access and privacy laws in Canada and around the world are based on two fundamental rights:

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

Our Office investigates complaints about access to information and protection of privacy rights under *The Freedom of Information and Protection of Privacy Act* (FIPPA) and *The Personal Health Information Act* (PHIA) in Manitoba. We may also review the activities of those who are required to respect and uphold rights under these laws.

THE LEGISLATION

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. As of April 3, 2000, all local public bodies, which include educational bodies, health care bodies and local government bodies, have been subject to the Act.

The Act governs access to 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 (Cabinet), 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. The Act provides individuals the right of access to their own personal health information held by trustees and requires them to protect the privacy of personal health information contained in their records.

Trustees include:

- ◆ 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;
- ◆ health services agencies that provide health care under an agreement with a trustee; and
- ◆ public bodies as defined under FIPPA.

The Ombudsman Act

While this Act is not under scheduled review, it should be mentioned here because it does come into play from time-to-time in relation to information access and privacy matters. Where access and privacy complaints do not fall under *The Freedom of Information and Protection of Privacy Act* or *The Personal Health Information Act* for a jurisdictional reason, but otherwise fall under the jurisdiction of *The Ombudsman Act*, our Office reviews these complaints under that legislation. This includes situations where the entity complained about or the records in question do not come within the access and privacy legislation.

The Ombudsman's duties and powers under *The Ombudsman Act*, enable the investigation of complaints about the administration by provincial government departments and agencies, and municipalities, where a person alleges he or she has been aggrieved. This Act came into force in 1970 and, since 1997, has also applied to all municipalities with the exception of the City of Winnipeg, which became subject to the Act on January 1, 2003.

ROLE OF THE OMBUDSMAN

The Freedom of Information and Protection of Privacy Act and *The Personal Health Information Act* provide for an independent review of the decisions of public bodies and trustees under the Acts. The Ombudsman is an independent Officer of the Legislature with broad investigative powers. The responsibilities of the Ombudsman under these Acts include the investigation of complaints respecting access to information and privacy of personal information and personal health information. Additionally, the Ombudsman has a role to monitor and ensure compliance with the Acts, which set out these and other general powers and duties.

Complaints

Complaints under Part 5 of FIPPA or PHIA may be made if, for example, a person feels 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 information or personal health information as was requested; or
- ◆ has collected, used or disclosed personal information or personal health information that is believed to be contrary to privacy rights.

Additionally, the Ombudsman may initiate an investigation or review any matter respecting these Acts where the Ombudsman is satisfied there are reasonable grounds to do so.

A person who has received a report from the Ombudsman concerning a complaint of refused access, and who has not received the requested records, may appeal the decision to the Court of Queen's Bench. In certain circumstances, the Ombudsman may intervene as a party to an appeal or appeal to Court on behalf of the complainant.

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 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.

Reporting

FIPPA and PHIA incorporate multi-layered reporting and accountability requirements. Virtually every case, concern or issue that we formally investigate, audit or monitor results in a report on our findings and provides recommendations when deemed necessary. The report is sent to the parties involved including a complainant, public body or trustee, and sometimes to others depending on the specific circumstances. Under PHIA, we may also refer the matter and report on a complaint to a health professional regulatory authority, if the complainant does not object.

The legislation also mandates our Office to inform the public about the Acts, publish special reports in the public interest, and to make an annual report to the Legislature on the work of the office in relation to the Acts.

In our reports to the Legislature, we strive to provide a broad sense of the state of compliance and apparent trends over the course of a year in this respect of all the entities that fall within the scope of the legislation, as well as our own.

ACCESS MATTERS

The year 2001 was not characterised by any particular clustering of access matters that would suggest a broad theme or key issue. All the same, a number of case-specific situations arose that underlined the ongoing requirement for clear commitment to the principles and values embodied in Manitoba's access and privacy legislation from some public and local public bodies and some personal health information trustees.

There is a continuing need for awareness, training and education that will translate into practical application when responding to information access and privacy matters even among those entities that have had considerable experience with the statutes. In some instances, particularly among personal health information trustees, we encountered minimal appreciation of the requirements of the Acts. We embraced the opportunity to inform these entities about the principles and particularities of the legislation, and to assist them in finding resolutions to complaints to our Office that arose. Additionally, the natural passage of staff to other duties or to retirement alone underscored the need to keep an organization's knowledge about FIPPA and PHIA refreshed and up-to-date.

Volume of Requests for Information

The most obvious change in statistical information available about requests for information resulted from the extension of FIPPA to encompass local public bodies in April 2000.¹ These educational, health care, and local government bodies thereby joined provincial government public bodies that had been under the Act since proclamation in 1998.

In the year 2000, local public bodies received 291 requests for access to records. In 2001, this figure rose to 542, of which the City of Winnipeg accounted for 153. Provincial government departments and agencies received 553 requests in 2000 compared with 667 in 2001.²

These were substantial increases in both instances, particularly for local public bodies, but it should be noted that by the end of 2001, there were a total of 398 local public bodies under the Act of which a little more than half were municipal government. The base of statistical information for local public bodies is too short in time to discern a trend in the number of access requests. On the other hand, 2001 marked the third year of a significant increase in applications for information to the provincial government. This followed three years of decline from 1996 to 1998.

Processing Time for Requests for Information

Access Coordinators and Officers are central to the process of providing information requested by applicants. A multiplicity of factors may impinge on their reasonable efforts to meet the head of a public body's duty to assist an applicant and to respond without delay, openly, accurately and completely as required under the legislation. These factors include the complexity of the request or requests for information, the specific sections of the Acts engaged, sensitivity of the information involved, the volume of applications at any given moment, and the availability of resources. Few entities under the statutes have or may even need to have full-time staff dedicated to responding to information requests, but all must be committed to the spirit, intent, and letter of the legislation and ensure that they have the expertise and resources in place when needed.

In 2001, provincial government departments and agencies continued to maintain a high standard of meeting statutory time requirements for responding to access requests. Eighty-nine percent of requests were met within 30 days, nine percent in 60 days or less, and one percent did not meet these standards (see Appendix 1, Chart 1). This would likely place Manitoba in the highest performance percentile across Canada for this indicator.³ According to statistics provided in the 2001 Annual Report on FIPPA by Manitoba Culture, Heritage and Tourism (CHT), this standard was approximately matched by the majority of local public bodies that reported on this activity.

Access, in Full or in Part

"Perfection" in a legislated access regime will never equate to an overall 100% release of information to applicants. Access and privacy statutes contain mandatory and discretionary excep-

¹ The City of Winnipeg came under FIPPA in late August 1998.

² The source of these and various other statistics used in our report relating to applications for information under FIPPA derive from the annual reports published by Manitoba Culture, Heritage and Tourism. These reports may be consulted for a fuller picture of activities under FIPPA. They are available from 1998 on the department's web site: <http://www.gov.mb.ca/chc/fippa/index.html>.

³ For our 2000 Annual Report, we were able to establish a context for Manitoba's performance in this respect with a number of other jurisdictions in Canada based on a study by Alasdair Roberts, Limited Access: assessing the health of Canada's Freedom of Information Laws, Kingston, Queen's University School of Policy Studies, 1998. The report is available at <http://faculty.maxwell.syr.edu/asroberts/documents/limitedaccess.pdf>. No more recent national study exists to allow a more up-to-date comparison.

tions to access that lead legitimately to a lower percentage in many instances. In fact, while relatively rare, such exceptions can lead to virtually or actually no substantive information being disclosed. Be that as it may, we are mindful of one journalist who observed to us that even the provision of no information is information in itself.

In the first judgement under Manitoba's *Freedom of Information Act*, Justice Oliphant articulated from the Court of Queen's Bench in 1990 a clear principle that continues under FIPPA:

[Exemptions] must be strictly interpreted and, to come within the scope of an exemption the record must fall squarely within the ambit of the exempting section.⁴

He also wrote:

The importance placed by the legislators on the right of the public to have access to government records is indicated, I think by the fact that the head of the department bears the onus of establishing that the applicant has no right of access.⁵

Mandatory exceptions must be adhered to and neither the Court nor the Ombudsman may compel the release of information found to be strictly and properly within the bounds of such an exception.

Discretionary exceptions to disclosure under access and privacy legislation are just that. The exercise of discretion implicates choice. It is the very nature of an ombudsman's office to need to know what matters were considered in making a choice so that we may arrive at an informed opinion as required by our mandate. Simply saying that a choice was available so it was made arbitrarily or without due consideration is not a reason in itself.

Under "Access Matters" last year, we observed what we hoped was the beginning of an upward trend in decisions by provincial departments and agencies in providing full or partial access to records requested. The figure had risen to 68% in 2000 following a precipitous drop of more than 20% in 1999 from the average of the preceding eight years. In 2001, this figure remained essentially unchanged at 67%. (See Appendix 1, Chart 2)

Local public bodies (educational, health care, and government) provided full or partial access to records in 80% of the requests processed in 2001, down from 89% for the nine months that FIPPA was in force for them in 2000. The statistical base is too limited to indicate an emerging trend.

PRIVACY MATTERS

In last year's annual report, we observed that the extraordinary growth in the capabilities and use of electronic technologies to handle, manipulate and communicate vast quantities of information, virtually unconstrained by borders, has brought both benefits and risks to the public. These matters had become an increasing focus of scrutiny nationally and internationally with particular respect to surveillance technologies that were being developed, used, and extended with astonishing and sometimes disconcerting rapidity around the world.

⁴ The Freedom of Information Act, which was replaced by Manitoba's Freedom of Information and Protection of Privacy Act in 1998, used the word "exemption" rather than "exception" as employed in FIPPA. The words can be taken to have parallel meaning.

⁵ With the refinement of information privacy as a legal right rather than an exemption from access, FIPPA introduced distinct "burden of proof" provisions for personal and non-personal information (section 70), but they do not change the basic access principle articulated by Justice Oliphant.

After the initial shock and grief arising from the tragic and repulsive attacks on the World Trade Center on September 11, 2001, there was what might be called a respectful or stunned lull in the voices of apprehension about the expansion of surveillance and its impact on privacy rights.

Barely six weeks after the attacks, the Congress of the United States passed the *USA PATRIOT Act*.⁶ At the time of writing, vigorous debate has resumed in the U.S. about the potential and, it is maintained, actual abuses of surveillance powers attributable to the Act from the increased authority for undertaking such activities and the reduced checks and balances on these powers, including judicial oversight. The tone of some aspects of the discussion is captured by a statement attributed to U.S. "Founding Father" Benjamin Franklin in the 18th century: "They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."

These privacy concerns were also emerging in relation to Canada's response to the terrorist attacks. In general, the issues revolve around similar questions about limitations on the collection, use, disclosure, and retention of personal information. In particular, but at the risk of oversimplifying the issue, there is a concern that information gathered in the name of protecting public safety and ensuring security not be used for other purposes arbitrarily and without justifiable cause.

In this context, it is being argued that any proposal to curtail or limit privacy must be able to meet a reasonableness test: it must be demonstrably necessary to meet a specific need; it must be likely to be effective in meeting that need; the loss of privacy must be proportional to the benefit gained; and, there must be no less privacy-intrusive way of achieving the same end.

In our world of near boundless and almost instantaneous information flow, it is important to understand the wider environment within which Manitoba's access and privacy laws operate, for what happens in one place can have significant implications for another. It also underlines what we said in our Special Report to the Manitoba Legislature, "A Privacy Snapshot taken September 1999",⁷ to the effect that the very individual nature of personal privacy seems to support the premise that the best personal privacy protection arises from the vigilance of a well-informed public.

The number of privacy complaints to our Office rose in 2001 reflecting the overall 16% increase in all complaints under FIPPA and PHIA. The relative proportion of information privacy to access cases remained largely unchanged at about 22% of the full case volume, bearing in mind that the bulk of our auditing, monitoring, and informational activities are focussed on privacy issues at this time (see Appendix 1, Chart 4).

Information privacy complaints covered a wide range of alleged mishandling of personal and personal health information including collection, use, disclosure, security, consent, notification, correction or accuracy, retention and destruction.

⁶ The short title of the legislation is *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001*.

⁷ This is available on our web site at: <http://www.ombudsman.mb.ca/reports/snapshot.htm>.

COMPLIANCE MATTERS

Statistical Indicators

We have noted before that the use and activity statistics gathered from public bodies that fall under the access and privacy provisions of FIPPA are more detailed than those obtained under PHIA relating to personal health information trustees. The data obtained under FIPPA's requirements is published annually under the authority of the Minister of Culture, Heritage and Tourism, who is responsible for the Act. PHIA does not include similar statutory reporting requirements, probably reflecting the somewhat different focus of the two statutes and the apparent or evident impracticality of obtaining parallel levels of information from certain categories of personal health information trustees.

Such distinctions do have an impact on the structure and content of our annual reports since we have different bases of information on which to form our opinions and comments. As a result, our annual reports provide some comments on performance and trends relating to public bodies under FIPPA more broadly based than for trustees under PHIA. For the latter, we tend to rely more on methods of reporting by exception -- which is to say that we bring forward more situation-specific observations as circumstances warrant.

Targets of Complaints

In 2001, the most notable changes in the targets of complaints were the rise to 40% of the total from 21% in the case of local public bodies and the decline of provincial government departments to 31% from 47%. Complaints against provincial agencies remained the same at 19%. Health care facilities dropped to 2% from 6% of the total and health professionals from 7% to 4% (see Appendix 1, Chart 3).

Signs of Improvement

Last year, we expressed a concern relating to provincial government departments and agencies that the numbers of complaints about access matters under FIPPA compared to the number of requests for information (or rate of complaint⁸), were at an all time high for the years 1998 to 2000. There was a marked improvement in the year 2001 and we hope this is the start of a trend for the coming year. (See Appendix 1, Chart 5)

There was also a distinct improvement in another indicator that portrays the number of complaint reviews in which we supported a provincial government public body in its decisions relating to access to information. The figures for 1999 and 2000 show that our Office supported public body decisions 34% and 37% of the time respectively, by far the lowest figures since the all-time low of 33% in 1993. The figure for 2001 was 53%, introducing, we hope, a sustained and rapid upward trend. (See Appendix 1, Chart 6)

Our perspective on this indicator is that normally we would expect the commitment, knowledge, and experience of the public bodies would lead them to decisions reflecting the spirit, letter, and intent of the legislation considerably more often than not. Accordingly, we anticipate that the likelihood is that we would support the decisions of public bodies more often than not.

⁸ The "rate of complaint" compares the total number of complaints opened against the number of applications for access received by public bodies, excluding applications that were not dealt with for one reason or another (abandoned, withdrawn, etc.).

Rising Complaints and Backlogs

Complaints to our Office against public bodies which began in 1988 under the old *Freedom of Information Act* have continued to rise over the years. The persistent increase took a sharp upward turn beginning in 1997/98 with the proclamation of PHIA and of FIPPA, which replaced the original access statute.

Chart 7 of Appendix 1 represents the change over time showing:

- ◆ the total number of cases open at any time through the course of a year regardless of date opened,
- ◆ the number of new cases opened in the year,
- ◆ the number of cases closed in the year,
- ◆ the number of cases carried over from all years to the next, and
- ◆ the number of cases carried over from the current year.

For 2001, the chart shows that since 1997, more cases were open during the course of the year (up 350%), more new cases were opened (270%), more cases were closed (240%), but also that more cases from each year were carried over (almost 410%) and more cases from all years were carried over to the next year (585%).

Our commitment to reducing the backlog of complaint cases once again constrained work on developing a Privacy Impact Assessment for the guidance of and use by entities that fall under FIPPA and PHIA in determining their state of compliance with the legislation. The clear need for this self-assessment tool that we noted in our last annual report continues unabated.

Information and Educational Activities

The Ombudsman has statutory duties to inform the Legislature and public about the Office's access and privacy work. The Ombudsman and staff participated in a wide variety of presentations and panels that involved workshops, lectures, and addresses on personal and personal health information, security of information, access to information, recordkeeping and information management, the role and function of the Office, and human rights. These engaged attendees from the Legislative Internship program, Management Interns in the Civil Service, access and privacy specialists in and outside the Province, university students, schools, access and privacy coordinators, and various special interest groups. The Ombudsman gave numerous interviews to broadcast and print news media, more often than not about privacy issues and cases that had become a matter of public interest.

Our Web Site

Our web site continues to be an integral part of our communications activities. Beginning with the publication of our 2001 Annual Report, we will be placing summaries of selected access and privacy cases on line (<http://www.ombudsman.mb.ca/>). Accordingly, the separate "Selected Case Summaries" section is not being published in the current annual report, which is a change from our past practice.

We hope that this new format for publishing case summaries will be more timely, more broadly available, more cost effective and, for most individuals, public bodies and trustees, more convenient than the inclusion of selected case summaries in our annual reports. For those without access to the Internet, hard copies of our selected case summaries can be obtained in

person or by fax or mail from our Office. New postings of case summaries for our web site will be considered by our Office on a regular basis.

Following our longstanding practice, certain cases will be highlighted for particular reasons, for example, because they are instructive, timely, representative, relevant to all public bodies and/or trustees, issues of first instance, the subject of the Ombudsman's recommendations, or reflective of our Office's comments on principles, provisions or the spirit of *The Freedom of Information and Protection of Privacy Act*, *The Personal Health Information Act* or *The Ombudsman Act*.

The cases will appear in French and English. Public bodies and trustees implicated by a case will be advised of the web site posting according to our usual practice when publishing case summaries.

Compliance in Responding to Access Applications under FIPPA

In the course of reviewing access to information complaints, we have observed that response letters are often incomplete and are not complying with the requirement set out under section 12 of the Act, which provides:

Contents of response

- 12(1) In a response under section 11, the head of the public body shall inform the applicant*
- (a) whether access to the record or part of the record is granted or refused;*
 - (b) if access to the record or part of the record is granted, where, when and how access will be given; and*
 - (c) if access to the record or part of the record is refused,*
 - (i) in the case of a record that does not exist or cannot be located, that the record does not exist or cannot be located,*
 - (ii) in the case of a record that exists and can be located, the reasons for the refusal and the specific provision of this Act on which the refusal is based,*
 - (iii) of the title and business telephone number of an officer or employee of the public body who can answer the applicant's questions about the refusal, and*
 - (iv) that the applicant may make a complaint to the Ombudsman about the refusal.*

The most common example of an incomplete response is where the reasons for the refusal of access are not explained as required by section 12(1)(c)(ii). Other examples include the incomplete citation and quotation of the specific exceptions to disclosure being relied upon in refusing access.

As well as being non-compliant with the Act, an incomplete response entails additional time by both our Office and the access personnel of the public body in order to clarify the information missing from the response letter. This results in unnecessary delays. In some cases, we have requested that a public body re-issue the response letter in order to be compliant with section 12. Informing an applicant of reasons for a refusal and an explanation of how an exception applies rather than just citing the exception to disclosure may pre-empt some complaints to our Office.

Based on these concerns, we have developed a Checklist for public bodies as a reminder of the elements to be included when issuing response letters. (See Appendix 2, Checklist: Contents of a Complete Response under Section 12 of FIPPA)

Other resources to assist public bodies in providing complete responses are provided by the sample response letters in the Provincial Government Resource Manual and the Handbook for Local Public Bodies. These are published by Manitoba Culture, Heritage and Tourism and are also available on their web site.

OMBUDSMAN'S RECOMMENDATIONS MADE IN 2001

In 2001, the Ombudsman made recommendations concerning four files that were opened in 2000. Three files were under *The Freedom of Information and Protection of Privacy Act* (FIPPA) and one was under *The Personal Health Information Act* (PHIA). Two cases pertained to access requests and two concerned alleged breaches of privacy. There was an additional PHIA file, opened in 2001, where recommendations were made in 2001; however, that file was closed in 2002 and will be addressed in the 2002 Annual Report.

MANITOBA CONSERVATION

[Cases 2000-056 and 2000-057]

There were two related complaints under FIPPA alleging a breach of privacy with respect to collection, use and disclosure of personal information.

The complainants had written letters to the Minister to express concerns on a matter. They alleged that a breach of their privacy resulted from their letters, containing their personal information, being used by various employees within the Department and being disclosed to third parties.

We found that the Department provided minimal notice concerning the purpose for collecting the personal information contained in the complaint letters, as the complainants were not informed how the information would be used or that it would be disclosed. It was determined that the Department was authorized to use the personal information within the Department. Nevertheless, the Department had not considered whether it was necessary for the employees to use all of the information in the letters. Compliance with the Act requires that only the minimum amount of personal information be used to accomplish the purpose. We concluded that the Department was not authorized to disclose the letters to third parties.

Accordingly, we recommended that the Department (1) develop procedures for conducting internal reviews of complaints from the public ensuring that these are compliant with the notice, use and disclosure provisions of FIPPA, (2) notify the third parties to whom the information was disclosed that the disclosures were made in error and take reasonable measures to ensure that no copies of the complaint letters were retained by the third parties, and (3) send a letter of apology to the complainants for the breach of privacy resulting from the disclosure of their personal information contained in their letters.

The Department advised our Office that it intends to comply with all requirements of the Act relating to collection, use and disclosure.

MANITOBA HYDRO

[Case 2000-103]

This complaint concerned a refusal of access under FIPPA.

The applicant made an application for access to records and requested that any fees for access be waived. Access was granted to some information with the majority of records being withheld.

We determined that the public body had not substantively reviewed the records to which it denied access and had not responded to the request for a fee waiver. Recommendations were made for the public body to provide the applicant with (1) a response to the access request that complies with FIPPA and is based on substantive review of the responsive records, (2) a fee estimate, and (3) a decision on the applicant's request for a fee waiver.

The public body indicated that it accepted the recommendations. Issues arising from this case are the subject of files still under investigation by our Office.

PHYSICIAN

[Case 2000-110]

This complaint related to a refusal of access to part of the records requested under PHIA.

An individual who had requested access to her complete medical file from a physician was granted access to part of the file in question. The physician had apparently withheld six to ten pages of records. Subsequently, the physician destroyed boxes of files, including the remaining six to ten pages coming under the individual's access request.

As a result, we reviewed issues relating to the legislative requirements to have a written security policy and procedures for the retention and destruction of records. Three recommendations were made relating to sound recordkeeping practices to ensure compliance with the legislation.

The physician indicated his acceptance of the recommendations.

RECENT COURT DECISION

Where the Ombudsman does not support an access complaint under FIPPA or PHIA, or if a public body or trustee does not act on the Ombudsman's recommendation to release, an applicant can proceed to the Manitoba Court of Queen's Bench to seek release. Under both pieces of legislation, the Ombudsman can also appeal a refusal of access to the Court in the place of the applicant and with the applicant's consent. However, in appealing under *The Freedom of Information and Protection of Privacy Act*, 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.

In 2001, Manitoba's Court of Queen's Bench issued one order under FIPPA, the third decision of the Court under the legislation. This was in the matter of *Heber v. The Director of Animal Services, City of Winnipeg* (February 9, 2001; Suit #CI 00-01-21102). No judgment with written reasons was issued by the Court, which dismissed the application without costs to either party.

In 2000, our Office had investigated the City's denial of access in this matter. The complaint related to severed information, which the requester narrowed in our investigation to the name of a complainant to the Animal Services Agency relating to an incident involving the requester's dog.

Our review supported the City's reliance on the mandatory exceptions 17(1) and 17(2)(c) of FIPPA. It was our opinion that disclosure would be an unreasonable invasion of a third party's privacy because it could reasonably be expected to reveal the identity of a person who provided information in confidence to a public body for the purposes of law enforcement or the administration of an enactment. In this case, the enactment was the by-law authorising the City to regulate, control and license the keeping of animals. As we could not support the complaint, we advised the requester that he could appeal to Court.

Under FIPPA, the Court considers an appeal as a new matter and may hear evidence by sworn written statements. The appeal concerned all of the severed information: the names of the complainant, the Animal Services officer, and the dispatcher. The burden of proof lies with the public body as the Act provides that it is up to the head of the public body to prove that the applicant has no right of access to the record or part of the record.

Based on documentation filed in Court, we note that the City relied on the exceptions it had cited at first instance and, additionally, the mandatory exception 17(2)(b) whereby disclosure would be an unreasonable invasion of a third party's privacy because the personal information was compiled and is identifiable as part of an investigation into possible violation of the law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation. The City also referred to the discretionary exceptions 25(1)(a)(c)(e) and (n) relating, generally, to disclosure harmful to law enforcement or legal proceedings.

In our investigation and also in the Court documentation, the City noted that if an individual were charged with an offence under the City of Winnipeg Pound By-law, he or she would be entitled to receive full particulars of the alleged offence, including a complete copy of any complaint statement that may be held on file. We understand that this is in accordance with the requirements of criminal law, which entitles an accused person to full particulars of an offence, including the identity of any complainant.

FINAL WORDS

Parts 4 and 5 of FIPPA and PHIA focus on the oversight role of the Ombudsman, among other things. While the elements of legislation must be read as a whole, these two parts of the legislation can be distinguished somewhat by the actions each implicates for our Office.

Part 5 deals in the first instance with complaints about access and privacy rights under the Acts. This may be characterised as involving actions that respond or react to a complaint. Nevertheless, this part also enables the Ombudsman to initiate complaints where there are reasonable grounds to conduct an investigation, which may be used in proactive ways.

Part 4 places an emphasis on actions that may frequently be seen as proactive or preventive such as conducting audits, monitoring situations, and making comments to ensure compliance with the legislation. When FIPPA and PHIA were introduced with their protections for personal and personal health information privacy, it was this part that most changed the role of the Ombudsman's Office from that which existed under the old *Freedom of Information Act*. It would seem the Legislative Assembly intended the statutes to be used in certain ways to inhibit or prevent breaches of personal information privacy in recognition of the reality that once privacy is lost, it cannot be fully redeemed or recompensed.

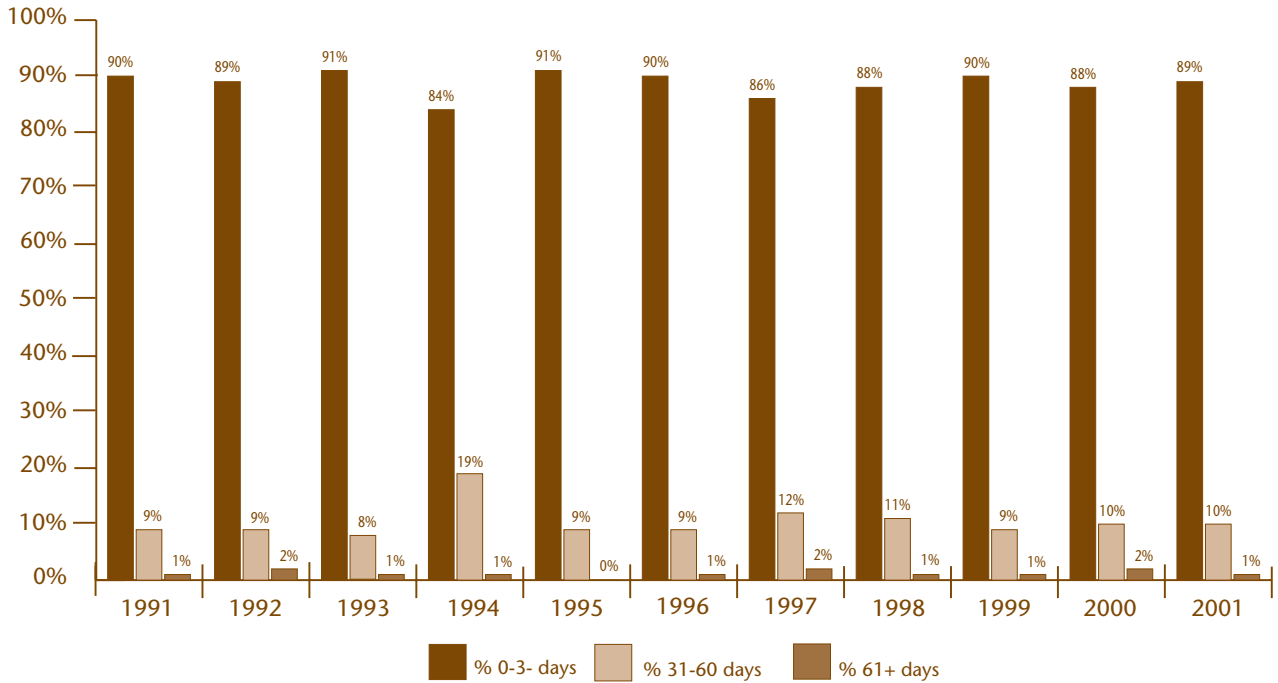
The Office's Access and Privacy Division has undertaken some significant work of this nature under Part 4 of the Acts, but the growing volume, complexity, and backlog of complaints has inhibited the pursuit of a more systematic process of assessing overall compliance with the legislation. Consequently, while we would not prejudge situations or extend blanket assurances, we find we cannot offer a fact-based opinion on, or even a broad sense of the general level of compliance in Manitoba with the information privacy principles embodied in FIPPA and PHIA.

We believe that one of the most important roles of our Office is to contribute to public trust and confidence in the activities and programs of those entities charged with duties and obligations to respect information access and privacy rights under *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*.

Time for Responding to Access Requests, Provincial Departments and Agencies

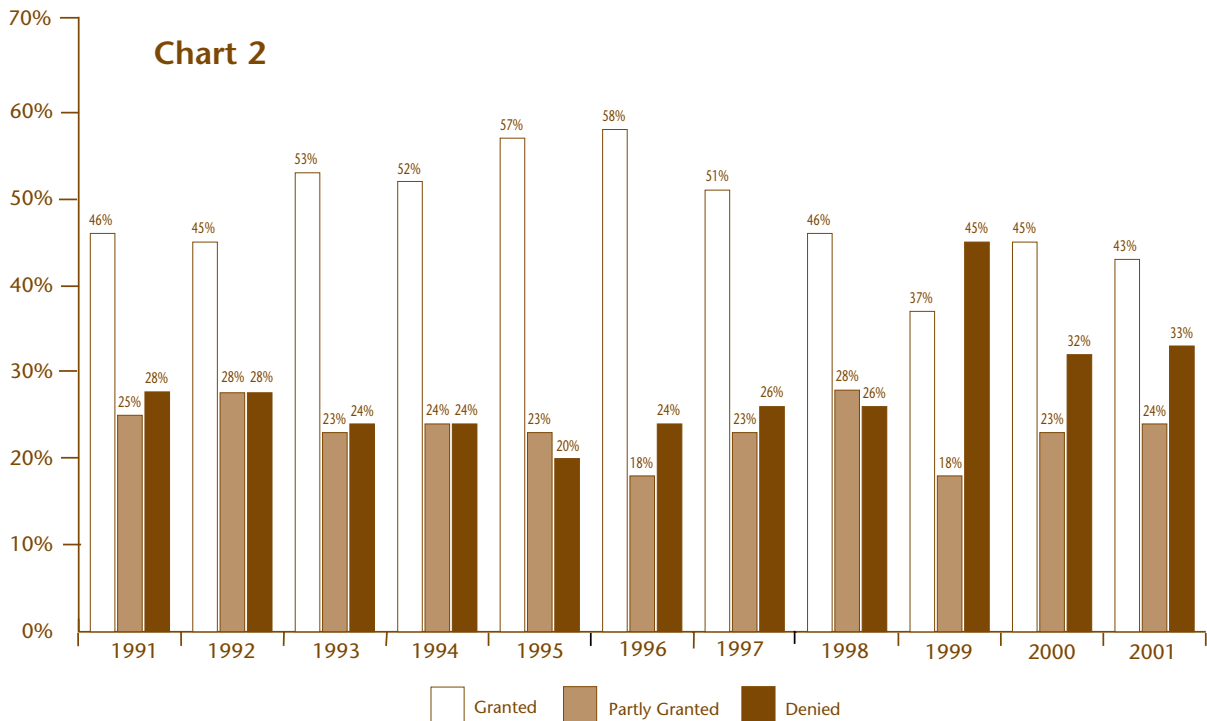
APPENDIX 1

Chart 1



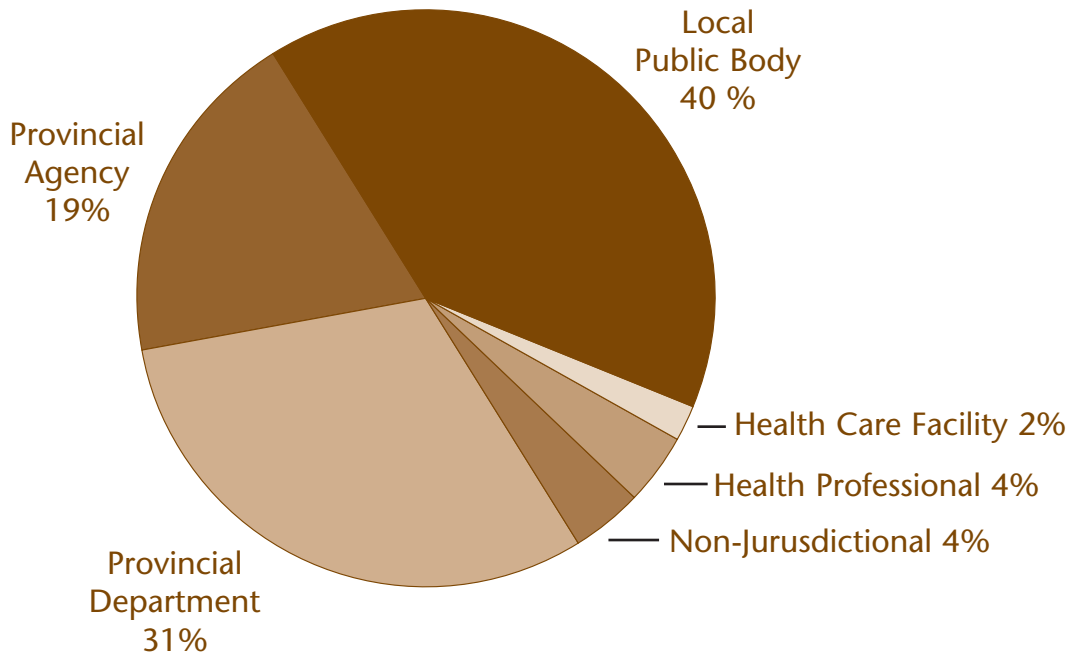
Access Decisions under FOI/FIPPA, Provincial Departments and Agencies

Chart 2



***Note:** This figure includes any requests denied because the applicant was informed the record did not exist, or the request was repetitive, or its existence could be neither confirmed or denied.

Chart 3



Types of Complaints in 2001

Chart 4

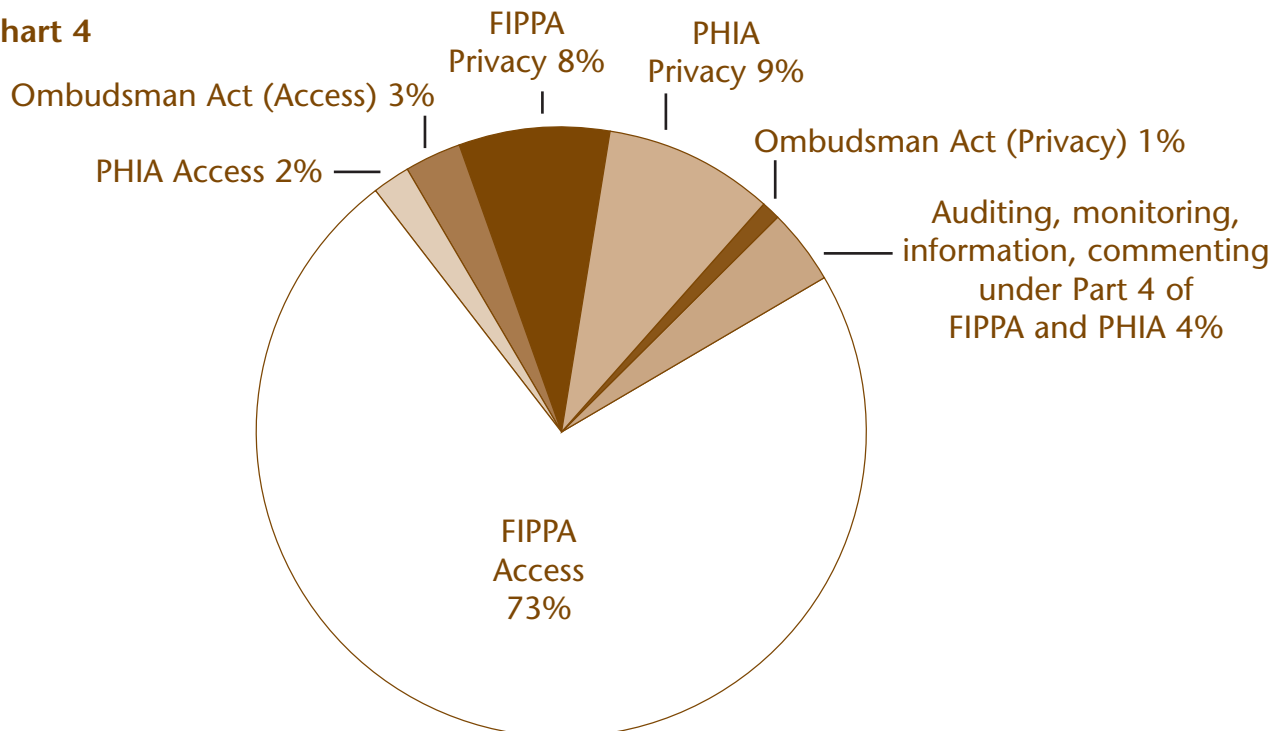
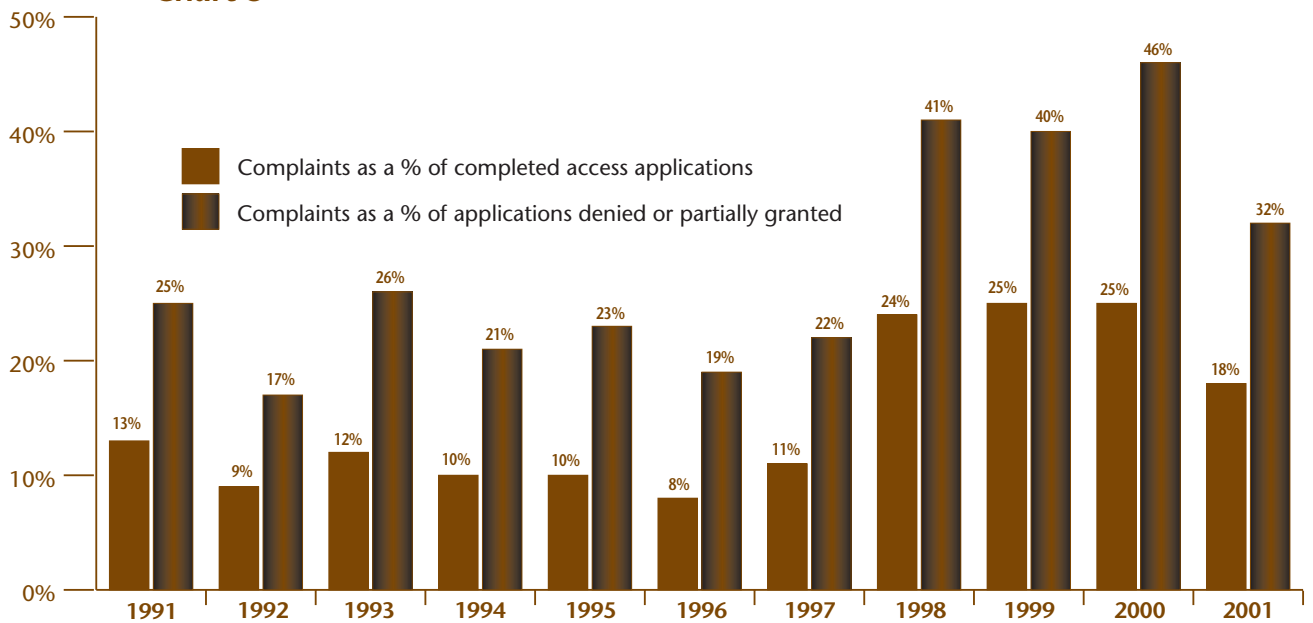


Chart 5



Percentage of Complaint Reviews
Supporting Public Bodies
(Provincial Government Departments and Agencies)

Chart 6

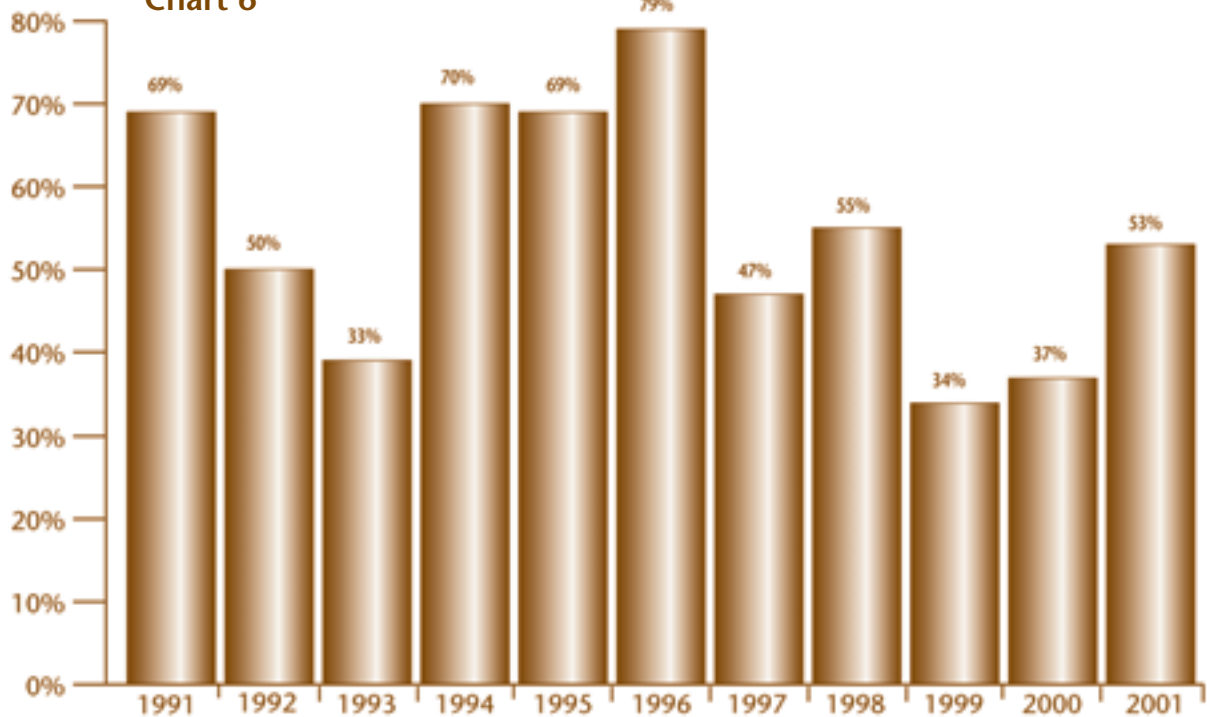
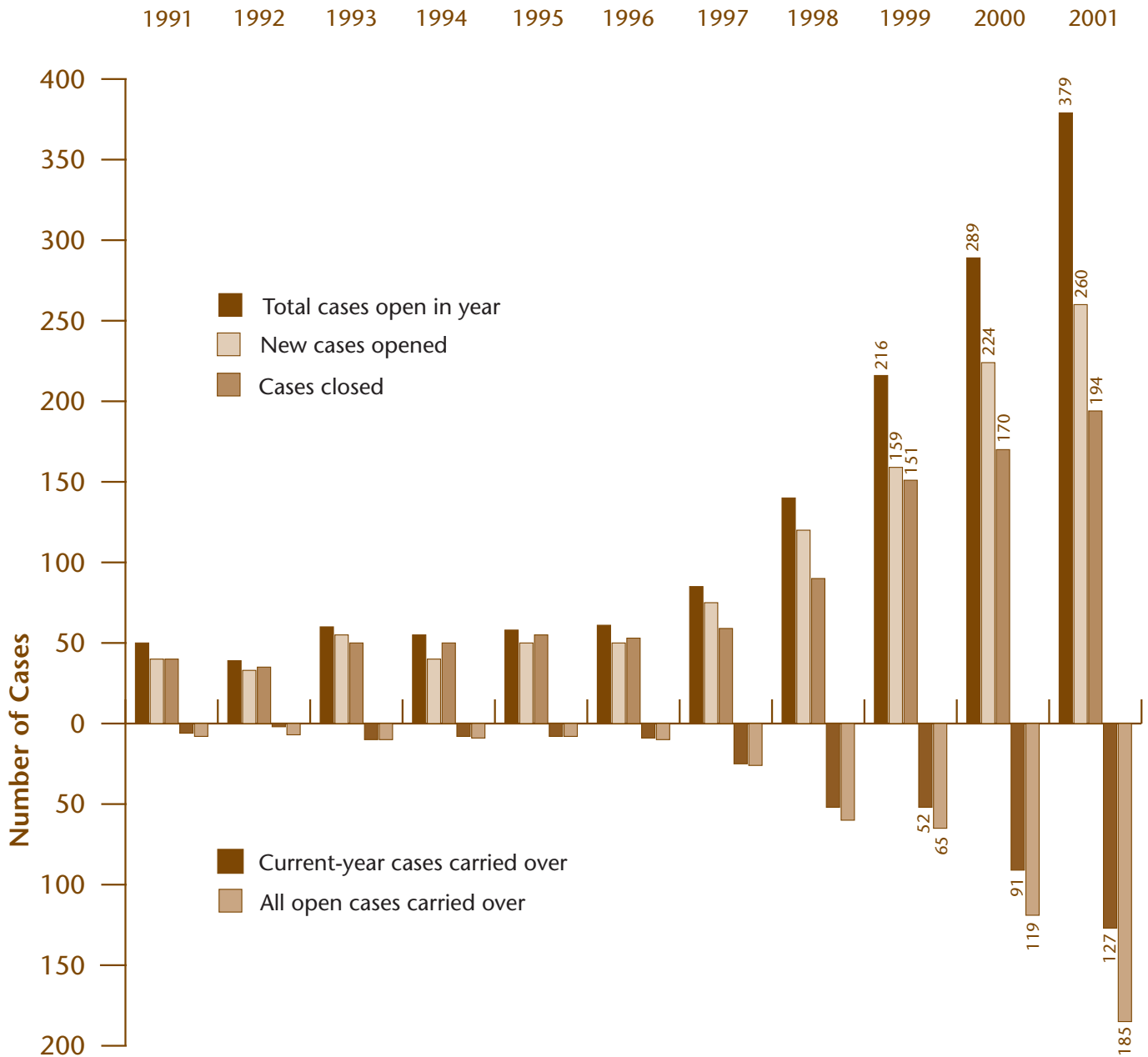


Chart 7





- Date of response letter
- Date access request was received
- Reiteration of the access request

Inform the applicant whether:

- Access is granted in full; and
- Where, when and how access will be given.

OR

- Access is granted in part; and
- Where, when and how access will be given.

OR

- Access is refused in full.

- Where access to the record or part of the record is refused:
Inform the applicant:**

In the case of a record that does not exist or cannot be located:

- Inform that the record does not exist or cannot be located quoting this provision; and,
- Provide a brief explanation.

OR

In the case of a record that exists and can be located:

- Explain the reasons for the refusal; and,
- Quote the specific provision(s) of FIPPA on which the refusal is based.

- Contact Information**

- Provide the title and business telephone number of an officer or employee of the public body who can answer the applicant's questions about the refusal.

- Complaint to Ombudsman**

- Inform the applicant that a complaint about the refusal may be made to the Ombudsman, on the prescribed form, within 60 days and provide contact information for the Ombudsman.

2001

Statistical Information

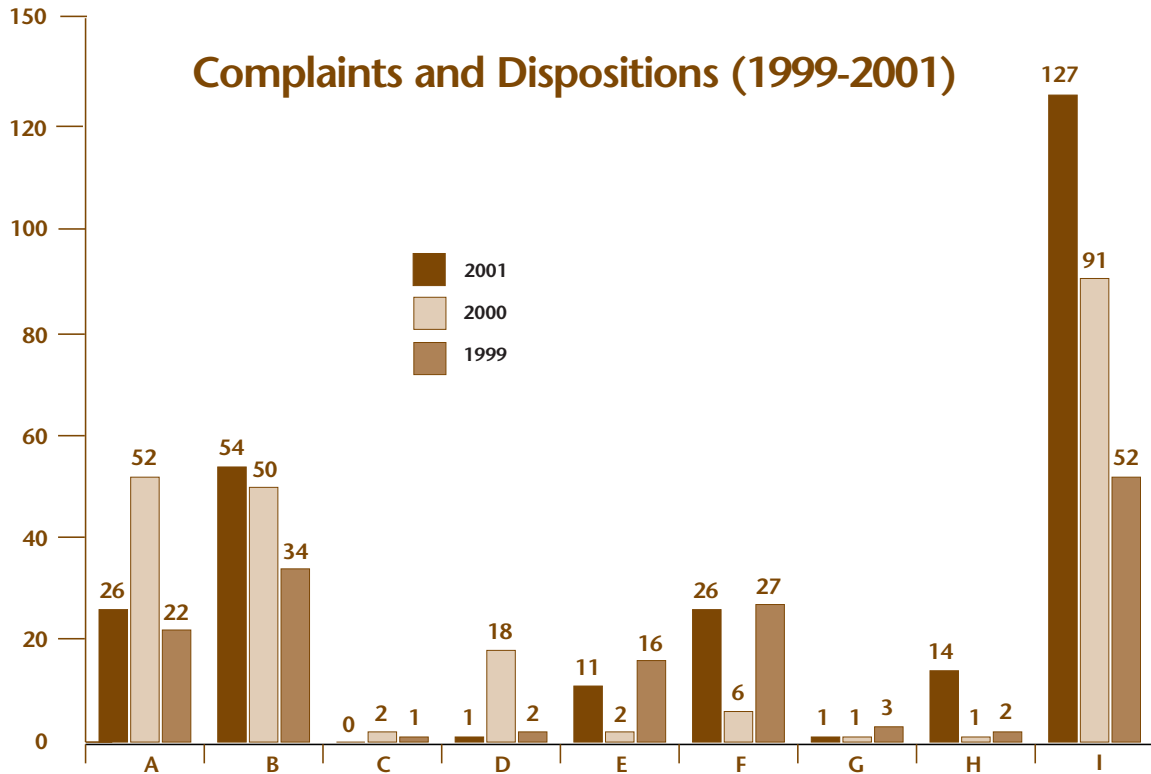




Complaints and Dispositions in 2001

Two hundred and sixty access and privacy complaints were received by our office in 2001. Of these, 133 were closed and 127 were carried forward to 2002. Our office also closed four cases carried over from 1999 and 57 carried over from 2000. In total, 194 complaint cases were closed in 2001.

The disposition of the 260 access and privacy complaints received in 2000 is shown below. The categories of disposition, labeled A to I on the bar graph and used throughout this Annual Report, are also explained below.



A = Supported or Partially Supported

Complaint fully/partially supported and, in the case of access complaints, access granted through informal procedures.

B = Not Supported

Complaint not supported at all.

C = Recommendation Made

All or part of complaint supported and recommendation made after informal procedures prove unsuccessful.

D = Discontinued by Ombudsman

Investigation of complaint stopped before finding is made.

E = Discontinued by Client

Investigation of complaint stopped before finding is made.

F = Declined

Upon making enquiries, complaint not accepted for investigation by Ombudsman, usually for reason of non-jurisdiction or premature complaint.

G = Assistance Rendered

Cases conducted under *The Ombudsman Act* or Part 4 of *The Freedom of Information and Protection of Privacy Act* or *The Personal Health Information Act* which resulted in assistance being provided

H = Information Supplied

Cases conducted under *The Ombudsman Act* or part 4 of *The Freedom of Information and Protection of Privacy Act* or *The Personal Health Information Act* which resulted in information (not requested records) being provided.

I = Pending

Complaint still under investigation as of January 1, 2002.



Source of Complaints



COMMUNITY	NUMBER
Anola	1
Brandon	3
Cormorant	1
Cross Lake	2
Dauphin	1
East St. Paul	2
Ethelbert	2
Gimli	1
Libau	16
Morden	1
Morris	1
Portage la Prairie	2
Rosendale	1
Selkirk	1
St. Norbert	1
Ste Rose	1
Steinbach	1
Winkler	1
Winnipeg	212
Winnipeg Beach	1
Red Deer (Alberta)	1
St. Albert (Alberta)	1
Prince Rupert (British Columbia)	1
Vancouver (British Columbia)	1
Station Forces Astra (Ontario)	1
Toronto (Ontario)	1
New Port Rickey (Florida)	1
Saint Paul (Minnesota)	1
TOTAL	260



Complaints Received in 2001 by Category and Disposition Under *The Freedom of Information and Protection of Privacy Act*

Department or Category	Total	Declined	Discont'd (Client)	Discont'd (Omb)	Information Supplied	Not Supported	Supported or Partially Supported	Recommendation	Pending
Public Body									
Agriculture & Food	1	-	-	-	-	1	-	-	-
Conservation	11	-	1	-	-	5	2	-	3
Consumer and Corporate Affairs	5	-	-	-	-	3	-	-	2
Culture, Heritage and Tourism	3	1	-	-	-	-	1	-	1
Education, Training and Youth	2	-	-	-	-	-	-	-	2
Family Services & Housing	7	-	1	-	-	1	-	-	5
Child & Family Services of Central Manitoba	1	-	-	-	-	1	-	-	-
Winnipeg Child and Family Services	1	-	-	-	-	1	-	-	-
Finance	1	-	-	-	-	-	1	-	-
Health	6	-	-	-	-	2	3	-	1
Industry Trade & Mines	2	-	-	-	-	-	-	-	2
Intergovernmental Affairs	2	-	-	-	-	-	2	-	-
Justice	15	-	5	-	-	3	1	-	6
Labour & Immigration	5	-	-	-	-	2	-	-	3
Manitoba Hazardous Waste Corporation	1	-	-	-	-	-	-	-	1
Manitoba Human Rights Commission	2	-	-	-	-	1	-	-	1
Manitoba Hydro	5	-	-	-	-	3	-	-	2
Manitoba Liquor Control Commission	2	-	-	-	-	-	-	-	2
Manitoba Lotteries	1	-	-	-	-	-	-	-	1
Transportation and Government Services	2	-	-	-	-	-	-	-	2
Workers Compensation Board *	34	10	-	-	-	-	-	-	24
Local Public Body									
City of Brandon	2	-	-	-	-	-	-	-	2
City of Portage La Prairie	1	-	-	-	-	-	-	-	1
City of Winnipeg	45	10	2	1	-	12	5	-	15
Town of Hamiota	1	-	-	-	-	-	1	-	-
Town of Winnipeg Beach	1	-	-	-	-	-	1	-	-
R.M. of Ethelbert	2	-	-	-	-	-	1	-	1
R.M. of Gimli	1	-	-	-	-	1	-	-	-
R.M. of Hamiota	1	-	-	-	-	1	-	-	-
R.M. of La Broquerie	1	-	-	-	-	1	-	-	-
R.M. of Richot	1	-	-	-	-	-	-	-	1
R.M. of St. Clements**	12	-	-	-	-	9	3	-	-
R.M. of Thompson	1	-	-	-	-	-	1	-	-
Division Scolaire Franco-Manitobaine	1	-	-	-	-	1	-	-	-
Evergreen School Division	1	-	-	-	-	-	-	-	1
Seine River School Division	1	-	-	-	-	1	-	-	-
Transcona Springfield School Division	2	-	-	-	-	2	-	-	-
Brandon University	7	-	2	-	-	-	2	-	3
University of Manitoba ***	16	-	-	-	-	1	-	-	15
Winnipeg Regional Health Authority	4	-	-	-	-	-	2	-	2
Not a Public Body	3	2	-	-	-	-	-	-	1
Total	213	23	11	1	0	52	26	0	100

Note: *Of the 34 complaints, 33 were filed by one individual.

**Of the 12 complaints, all were filed by one individual.

***Of the 16 complaints, nine were filed by one individual and the other seven complaints were filed by other individuals.



Complaints Received in 2001 by Category and Disposition Under *The Personal Health Information Act*

Department or Category	Total	Declined	Discont'd (Client)	Discont'd (Omb)	Not Supported	Supported or Partially Supported	Recommendation	Pending
Public Body								
Family Services and Housing	1	-	-	-	-	-	-	1
Health	6	-	-	-	-	-	-	6
Manitoba Public Insurance	1	-	-	-	-	-	-	1
Workers Compensation Board	1	-	-	-	-	-	-	1
Local Public Body								
Interlake Regional Health Authority	2	-	-	-	-	-	-	2
Health Care Facility								
Assiniboine Clinic	1	-	-	-	-	-	-	1
Health Science Centre	1	-	-	-	-	-	-	1
Manitoba Clinic	1	-	-	-	1	-	-	-
Morden Medical Centre	1	-	-	-	-	-	-	1
Seven Oaks General Hospital	2	-	-	-	-	-	-	2
Health Professional								
Dentist	1	1	-	-	-	-	-	-
Medical Doctor	5	-	-	-	-	-	-	5
Optometrist	1	-	-	-	-	-	-	1
Psychiatrist	1	-	-	-	1	-	-	-
Psychologist	1	-	-	-	-	-	-	1
Unknown Trustee	1	-	-	-	-	-	-	1
Total	27	1	0	0	2	0	0	24



Complaints Handled by The Access and Privacy Division in 2001 by Category and Disposition Under *The Ombudsman Act*

Department or Category	Total	Assist Rendered	Declined	Discont'd (Client)	Discont'd (Omb)	Information Supplied	Not Supported	Supported or Partially Supported	Recommendation	Pending
Eden Mental Health Centre	1	-	1	-	-	-	-	-	-	-
Family Services and Housing	1	-	-	-	-	1	-	-	-	-
Justice	2	-	-	-	-	2	-	-	-	-
Legislative Assembly	1	-	-	-	-	1	-	-	-	-
Manitoba Public Insurance	1	-	-	-	-	1	-	-	-	-
Winnipeg Clinic	1	-	-	-	-	1	-	-	-	-
Non-Jurisdictional	3	-	1	-	-	2	-	-	-	-
Total	10	0	2	0	0	8	0	0	0	0



Complaints Handled by The Access and Privacy Division in 2001 by Category and Disposition Under *Part 4 of FIPPA and PHIA (auditing, monitoring, informing and commenting)*

Department or Category	Total	Assist Rendered	Declined	Discont'd (Client)	Discont'd (Omb)	Information Supplied	Not Supported	Supported or Partially Supported	Recommendation	Pending
Manitoba Association of Optometrists	1	-	-	-	-	-	-	-	-	1
College of Physicians & Surgeons	1	-	-	-	-	1	-	-	-	-
Consumer & Corporate Affairs RTB	1	-	-	-	-	-	-	-	-	1
Finance	1	-	-	-	-	-	-	-	-	1
Frontier School Division	1	-	-	-	-	1	-	-	-	-
Health	3	1	-	-	-	2	-	-	-	-
Justice	1	-	-	-	-	1	-	-	-	-
Pediatric Cardiac Surgery Inquest	1	-	-	-	-	1	-	-	-	-
Total	10	0	2	0	0	8	0	0	0	0



Complaints Carried Over from Previous Years by Category and Disposition

There were ninety-one access and privacy complaints carried over to 2001 from 2000, 22 from 1999 and 6 from 1998. Of these 119 complaints, fifty-eight were carried over to 2002 and sixty-one were concluded as follows.

Department or Category	Total	Declined	Discont. (Client)	Discont. (Omb.)	Not Supported	Supported or Part Supported	Recomm	Completed	Assist. Rendered /Info. Sup.	Pending
The Freedom of Information and Protection of Privacy Act										
Public Body										
Agriculture and Food	1	-	-	-	-	1	-	-	-	-
(1998) Civil Service Commission	2	-	-	-	-	-	-	-	-	2
Conservation	9	-	-	-	-	-	2	-	-	7
Consumer and Corporate Affairs	3	-	-	-	1	-	-	-	1	1
(1999) Consumer and Corporate Affairs	1	-	-	-	1	-	-	-	-	-
(1998) Consumer and Corporate Affairs	1	-	-	-	-	-	-	-	-	1
Culture Heritage and Tourism	3	-	-	-	1	-	-	-	-	2
*Education and Training	1	-	-	-	-	-	-	-	-	1
Executive Council	2	-	2	-	-	-	-	-	-	-
(1999) Environment	1	-	-	-	-	-	-	-	-	1
Family Services & Housing	4	-	-	-	1	-	-	-	-	3
(1999) Family Services	3	-	-	-	-	-	-	-	-	3
Child & Family Services of Manitoba	1	-	-	-	1	-	-	-	-	-
Child & Family Services (Unidentified Region)	1	-	-	-	-	-	-	-	-	1
Finance	1	-	-	-	-	1	-	-	-	-
(1998) Finance	2	-	-	-	-	-	-	-	-	2
(1999) Government Services	2	-	-	-	-	-	-	-	-	2
(1999) Highways and Transportation	1	-	-	-	-	-	-	-	-	1
Manitoba Hydro	1	-	-	-	-	-	1	-	-	-
Industry Trade and Mines	1	-	-	-	-	-	-	-	-	1
Intergovernmental Affairs	3	-	-	-	-	-	-	-	-	3
Justice	10	-	-	-	5	2	-	-	-	3
(1999) Justice	3	-	-	-	-	-	-	-	-	3
Manitoba Labour	1	-	1	-	-	-	-	-	-	-
Manitoba Lotteries Corporation	1	-	-	-	-	1	-	-	-	-
Manitoba Public Insurance	4	-	1	-	2	-	-	-	-	1
(1999) Natural Resources	2	-	-	-	-	-	-	-	-	2
Workers Compensation Board	14	-	-	-	12	-	-	-	-	2
Local Public Body										
City of Winnipeg	8	-	-	-	4	1	-	-	-	3
(1999) City of Winnipeg	1	-	-	-	1	-	-	-	-	-
(1998) City of Winnipeg	1	-	-	-	-	-	-	-	-	1
R.M. of Cartier	1	-	-	-	1	-	-	-	-	-
R.M. of Richot	1	-	-	-	-	1	-	-	-	-
R.M. of Rosser	2	-	-	-	1	1	-	-	-	-
R.M. of St. Clements	1	-	-	-	-	1	-	-	-	-
R.M. of Tache	1	-	-	-	-	1	-	-	-	-
Seven Oaks General Hospital	1	-	-	-	-	-	-	-	-	1
The Personal Health Information Act										
Manitoba Health	1	-	-	-	1	-	-	-	-	-
**1999 Manitoba Justice	1	-	-	-	-	-	-	-	-	1
(1999) Addictions Foundation of Manitoba	1	-	-	-	-	-	-	-	-	1
(1999) Manitoba Public Insurance	1	-	-	-	-	-	-	-	-	1
Winnipeg Regional Health Authority	1	-	-	-	-	-	-	1	-	-
Local Government Body										
(1999) City of Winnipeg	1	-	-	-	-	-	-	-	-	1
Health Care Facility										
(1999) Assiniboine Clinic	1	-	-	-	-	-	-	-	-	1
Grace General Hospital	1	-	-	-	-	-	-	-	-	1
(1999) Health Sciences Centre	2	-	-	-	1	-	-	-	-	1
Morden Medical Clinic	1	-	-	-	1	-	-	-	-	-
Misericordia Health Centre	1	-	-	-	-	1	-	-	-	-
St. Boniface General Hospital	1	-	-	-	1	-	-	-	-	-
Health Professional*										
Chiropractor	5	-	-	1	-	-	-	-	-	4
Medical Doctor	1	-	-	-	-	-	1	-	-	-
Psychiatrist	2	-	-	-	1	1	-	-	-	-
The Ombudsman Act										
Health Care Facility										
Eden Mental Health Centre	1	-	-	-	-	-	-	-	1	-
(1999) Rural Development	1	-	-	-	-	-	-	-	1	-
Total	119	0	4	1	36	12	4	1	3	58

Note:

*This file was originally recorded in the 2000 Annual Report as a PHIA complaint, however, it is FIPPA complaint.

**This file was originally recorded in the 1999 and 2000 Annual Report as a FIPPA complaint, however, it is a PHIA complaint.

Legislation

The purpose of the Ombudsman's Office is to promote fairness, equity and administrative accountability through independent and impartial investigation of complaints and legislative compliance reviews. The basic structure reflects the two operational divisions of the Office:

- Access and Privacy Division, which investigates complaints and reviews compliance under *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*.
- Ombudsman's 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.

A copy of the Acts mentioned above can be found on our web site at www.ombudsman.mb.ca

