

Ombudsman  Manitoba

Access and Privacy

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 structure of the Office reflects its two operational divisions:

- **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 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

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September 6, 2005

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 sections 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 seventh Annual Report of the Manitoba Ombudsman under these statutes, covering the calendar year January 1, 2004 to December 31, 2004.

This report covers a period during which Barry Tuckett was the Manitoba Ombudsman. Mr. Tuckett retired on February 11, 2005 after serving twenty-six years with this office, eleven as Ombudsman. His commitment to promoting fairness and administrative accountability for all Manitobans was demonstrated throughout his tenure as Manitoba's third Ombudsman. I wish to thank him for his years of dedicated service.

Yours truly,

Original signed by

Irene A. Original
Manitoba Ombudsman

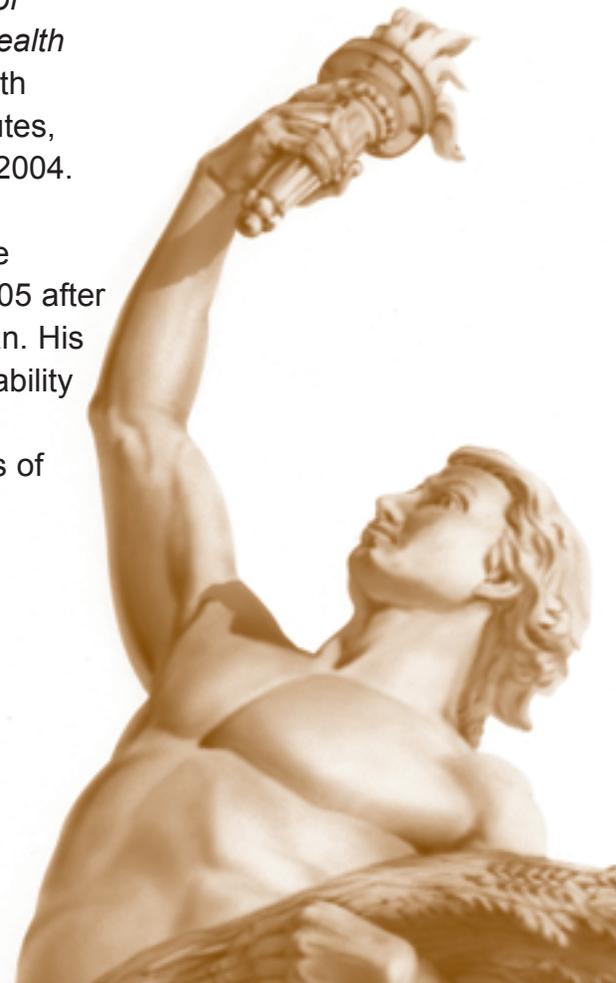
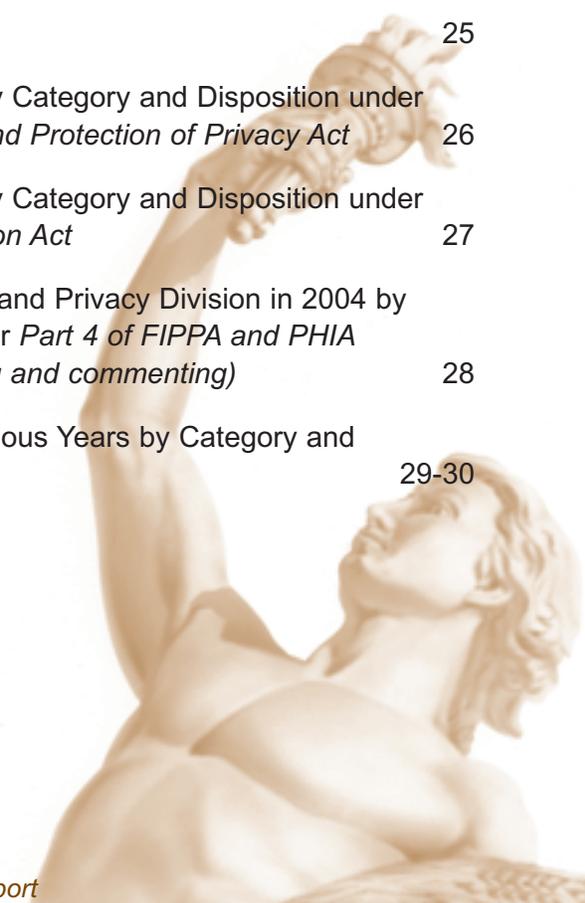


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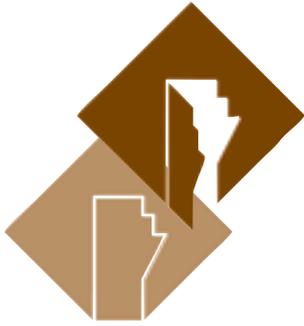
2004 Personnel Listings	YEAR 2004 IN REVIEW	3
Access & Privacy Division: Peter Bower Executive Director Gail Perry Manager, Compliance Review Nancy Love Manager, Compliance Investigation Patricia Cox Compliance Investigator Valerie Gural Compliance Investigator Carol Markusoff Compliance Investigator Darren Osadchuk Compliance Investigator Kim Riddell Compliance Investigator Candace Russell Compliance Investigator Aurele Teffaine Compliance Investigator	Role and Mandate Introduction Access and Privacy Matters Compliance with the Requirements of Section 12 of FIPPA: Informing the Applicant of a Decision to Refuse Access Compliance Matters Ombudsman's Recommendations Made in 2004 No Court Decisions in 2004... Lessons Learned from Access Decisions of the Court of Queen's Bench Appendix 1, Charts Appendix 2, Practice Note: Providing Reasons to an Applicant when Refusing Access under FIPPA, May 2005	4 7 7 8 10 12 14 20-21 22
Ombudsman Division: Donna M. Drever Deputy Ombudsman Corinne Caron Senior Investigator Cheryl Ritlbauer Senior Investigator Robert Baker Investigator Debra DeGraeve Investigator Robert W. Gates Investigator Kris Ramchandrar Investigator Wanda Slomiany Investigator Marni Yasumatsu Investigator Jack Mercredi Intake Office/Investigator	STATISTICAL INFORMATION Cases and Dispositions in 2004 Source of Complaints Complaints Opened in 2004 by Category and Disposition under <i>The Freedom of Information and Protection of Privacy Act</i> Complaints Opened in 2004 by Category and Disposition under <i>The Personal Health Information Act</i> Cases opened by The Access and Privacy Division in 2004 by Category and Disposition under <i>Part 4 of FIPPA and PHIA</i> (auditing, monitoring, informing and commenting) Cases Carried Over from Previous Years by Category and Disposition	23 24 25 26 27 28 29-30
Brandon Office: Janet Wood Senior Investigator Mel Holley Investigator Sharon Krakowka Intake/Office Manager	Administration: Laura Foster Office Manager Helen Hicks Administrative Support Clerk Jacquie Laberge Intake Assistant Felicia Palmer Administrative Support Clerk	



2004

Year in Review





ROLE AND MANDATE

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 personal health information trustees by the Manitoba Ombudsman with respect to access and privacy rights established under these Acts.

The Ombudsman is an independent Officer of the Legislature with broad investigative powers. Responsibilities of the Ombudsman under these Acts include the investigation of complaints respecting access to information and privacy of personal and personal health information. The Ombudsman also has significant duties and powers to monitor and ensure compliance with the Acts, among other matters.

FUNDAMENTAL ACCESS AND PRIVACY RIGHTS

Public sector 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.

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. Since 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

This Act 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 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.

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 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.

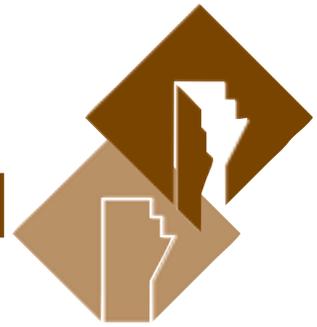
REVIEWS

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.

INTRODUCTION



The Access and Privacy Division opened 369 new cases in 2004, a significant increase over the 194 new cases opened the previous year. There were 152 cases carried over from 2003, bringing the workload in 2004 to 521 cases. Chart 3 of Appendix 1 provides a comparison of our workload on an annual basis since 1998.

We closed 307 of the 521 cases and carried over the remaining 214 cases to 2005. Although the number of cases closed was our highest to date, the increased volume of new cases contributed to the highest number of cases carried over from year to year so far.

During 2004, we responded to more than 700 inquiries from the public about access and privacy matters. We provided information about FIPPA and PHIA as well as the rights of individuals and obligations of public bodies and trustees under the Acts. Referrals were made to other organizations where individuals raised non-jurisdictional issues.

Our 2003 Annual Report noted our ongoing concerns about public bodies' often incomplete written responses to applicants for access. As part of our efforts to address the issue of non-compliance, we undertook an evaluation of response letters we had received in the course of investigating complaints about public bodies' decisions to refuse access to records. The purpose of this evaluation was to measure compliance with the mandatory requirements of section 12 when refusing access in whole or in part. This evaluation began in the fall of 2004 and was completed in May 2005. An overview of the evaluation and our findings is contained under the heading *Compliance with the Requirements of Section 12 of FIPPA: Informing the Applicant of a Decision to Refuse Access*.

Of some note, our office investigated several privacy complaints last year that related to the faxing of personal information. Each complaint presented a unique set of circumstances, but each also clearly highlighted the risks and unintended consequences that can result when confidential information is faxed: a breach of FIPPA or PHIA. If it is essential to fax documents because of critical time constraints, then personal identifiers should be severed from the documents wherever possible. When personal or personal health information is faxed to a wrong number or retrieved and read by staff who have no need to know the information, the damage to the individual whose privacy has been breached is irreparable. Public bodies and trustees should develop written policies for the use of fax technology that are in keeping with the privacy and security provisions of the Acts.

ACCESS AND PRIVACY MATTERS

Of the 369 cases opened in 2004, 348 were complaints made under Part 5 of FIPPA and PHIA. The work of the Compliance Investigation Group of the Access and Privacy Division is directed toward the investigation of complaints made under Part 5 of FIPPA and PHIA. The majority of the new cases (241 or 65%) were access-related complaints made under FIPPA. There were 21 cases opened under Part 4 of FIPPA and PHIA. These cases concerned broader issues

under the legislation such as monitoring, informing, and commenting on compliance with the Acts. Chart 1 of Appendix 1 provides a breakdown of the types of cases.

Regarding the 348 new complaints under Part 5 of the legislation, 270 (78%) were made under FIPPA and 78 (22%) under PHIA.

Of the 270 new FIPPA complaints, 241 (89%) pertained to access matters and 29 (11%) to privacy matters. The majority of the access complaints concerned refusals of access (150 or 62%) and not responding to requests for access within the 30-day time limit (48 or 20%). The remaining 43 (18%) access-related complaints were about other issues such as fees and extensions of the time limit for responding. Although 29 privacy complaint files were opened under FIPPA in 2004, some of these complaints had multiple issues. These files included 5 concerns relating to collection of personal information, 11 relating to its use by public bodies and 16 about disclosure.

Of the 78 new PHIA complaints, 21 (27%) related to access and 57 (73%) related to privacy issues. The majority of access complaints concerned refusals of access (11 or 52%). The remaining 10 (48%) access-related complaints were about other issues such as not responding to requests for access within the 30-day time limit and fees for accessing information. The 57 PHIA privacy complaints opened in 2004 identified 63 concerns for investigation. Of these concerns, 8 related to collection of personal health information, 9 related to its use by trustees, 19 were about disclosure and 1 was about security. The remaining complaints were about matters that were determined to be non-jurisdictional.

COMPLIANCE WITH THE REQUIREMENTS OF SECTION 12 OF FIPPA: INFORMING THE APPLICANT OF A DECISION TO REFUSE ACCESS

Part 2 of FIPPA governs access to information. Section 12 sets out the mandatory contents of a public body's written response to an applicant for access. The section requires that a public body inform the applicant whether access to the requested record is granted or refused, and if access is refused in whole or in part, the response letter must contain other elements of information.

The majority of complaints made to the Ombudsman under FIPPA concern the decisions of public bodies to refuse access. In reviewing the public bodies' response letters to applicants in the course of investigating these complaints, we have observed that public bodies often do not include in their responses all of the contents required by FIPPA.

The value of complying with the requirements set out in section 12 extends beyond fulfilling the legal obligation for public bodies to do so. Compliance is important to all parties involved in the access to information process under FIPPA: public bodies, applicants and our office. Providing complete responses to applicants demonstrates public bodies' transparency and accountability for access decisions. Fully compliant response letters assist applicants in understanding the decisions to refuse access. Applicants who are fully informed of the decisions made by public bodies may be more satisfied that those decisions were made in accordance with FIPPA. This may result in fewer or more narrowly focused complaints.

Our ongoing concerns about non-compliant response letters by public bodies have been noted in previous Annual Reports. In 2001, we provided a *Checklist for Contents of a Complete Response under Section 12 of FIPPA*. Our 2003 Annual Report indicated that we would be increasing our efforts to address the issue of non-compliant responses.

In the last quarter of 2004, we undertook an evaluation to measure the compliance of public bodies' response letters with the required contents of a response set out in clause 12(1)(c) of FIPPA when access is refused in whole or in part. This evaluation was conducted on 268 response letters we had received in the course of investigations of refusal of access complaints in 2002, 2003, and the first half of 2004. These response letters included both types of refusal of access scenarios: when records do not exist or cannot be located and when exceptions to disclosure are applied to existing records.

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

When the refusal of access was based on a determination that the record did not exist or could not be located, 26% of the responses informed the applicants of all four required elements of information. The following indicates the rates of compliance with informing the applicant of each of the required elements:

- that the record did not exist or could not be located, 100%
- the title of an officer or employee of the public body who could answer the applicant's questions about the refusal, 31%
- the business telephone number of an officer or employee of the public body who could answer the applicant's questions about the refusal, 31%
- that the applicant may make a complaint to the Ombudsman about the refusal, 82%

When the decision to refuse access was based on a determination that exceptions to disclosure applied to the existing record, 13% of the responses included all five of the required elements of information. The following indicates the rates of compliance with informing the applicant of each of the five elements:

- the reasons for the refusal, 34%
- the specific provision of FIPPA on which the refusal was based, 88%
- the title of an officer or employee of the public body who could answer the applicant's questions about the refusal, 40%
- the business telephone number of an officer or employee of the public body who could answer the applicant's questions about the refusal, 40%
- that the applicant may make a complaint to the Ombudsman about the refusal, 96%

The rates of compliance identify strengths and also areas where improvements can be made. Providing thorough response letters can have a positive impact on public bodies, applicants and our office. If a response letter invites an applicant to call with any questions about the refusal of access, and provides the telephone number of a particular employee, the applicant's initial step may be to try to resolve questions or concerns with the public body. Then, if the applicant is still not satisfied after doing so, a complaint could be made to the Ombudsman.

When exceptions were applied to records that existed, the required element of information most frequently omitted was providing reasons for the refusal. Public bodies often provided the specific provisions of FIPPA on which the refusals were based, but did not explain why these provisions applied. Aside from the legal obligation to provide reasons, doing so assists an applicant to understand why the exceptions to disclosure apply to the requested records.

To ensure compliance with the requirements of section 12, our office will return response letters that do not contain all the necessary elements required by the Act to the public body for revision. We will ask that a revised response be sent to the complainant, copied to our office, within 14 days of the public body receiving the returned letter. To facilitate the revisions, we will attach a checklist to our notice that indicates which elements required by section 12 are missing from the response.

Our report titled *Evaluation of Compliance with Section 12 of FIPPA: The Required Contents of Responses to Access Requests* was completed in May 2005 and is available on our web site at: www.ombudsman.mb.ca/resources.htm

To assist public bodies in complying with the requirement to provide reasons for the refusal of access, we prepared a *Practice Note: Providing Reasons to an Applicant when Refusing Access under FIPPA*, which is reproduced as Appendix 2 of this report.

COMPLIANCE MATTERS

In addition to the Ombudsman's responsibilities to investigate complaints under Part 5 of FIPPA and PHIA, Part 4 of both Acts sets out additional duties and powers. The Ombudsman may:

- conduct investigations and audits and make recommendations to monitor and ensure compliance with the Acts, including requirements relating to the retention and security of personal or personal health information;
- inform the public about the Acts;
- receive comments from the public about the administration of the Acts;
- comment on the implications for access to information or protection of privacy of proposed legislative schemes or programs of public bodies or practices of trustees;
- comment on the implications for protection of privacy of using or disclosing personal information for record linkage, or of using information technology in the collection, storage, use or transfer of personal information;
- bring to the attention of the head of a public body any failure to fulfil the duty under FIPPA to assist applicants;
- where personal health information is involved, refer a matter to a body with authority to regulate health professionals;
- recommend that a public body or trustee
 - cease or modify a specified practice of collecting, using or disclosing information that contravenes the Acts, or
 - destroy a collection of personal or personal health information that was not collected in compliance with the Acts;
- make recommendations to the head of a public body or the responsible minister about the administration of FIPPA;
- consult with any person with experience or expertise in any matter related to the purposes of the Acts; and,
- engage in or commission research into anything relating to the purposes of the Acts.

In 2004, the Compliance Review Group of the Access and Privacy Division, whose work is largely directed to Part 4 activities, was involved in several major projects. Some of these activities have already been noted in the Ombudsman's 2003 Annual Report and included the following:

FIPPA/PHIA and PHIA Interactive Workshops

The “Privacy Compliance Tool”, a made-in-Manitoba privacy impact assessment process that our office completed and launched in October 2003, was made the subject of interactive workshops that were first presented in the spring of 2004. These workshops are intended to assist public bodies and trustees in using the Privacy Compliance Tool and to gain a more in-depth knowledge of information privacy requirements in Manitoba. The information provided in these sessions, including hands-on exercises, ideally helps organizations in beginning an assessment of their own information systems.

One workshop addresses both FIPPA and PHIA and another concerns PHIA exclusively. Staff members from our office are available to present these workshops in one-day or half-day formats to public bodies and trustees.

The Privacy Compliance Tool offers a means of self-assessment by an organization to analyze its compliance with both FIPPA and PHIA.

While public bodies under FIPPA are also trustees under PHIA, the original version of the PCT might have seemed too elaborate to trustees subject only to PHIA. Therefore, in 2004, our office produced a shorter compliance tool intended to be more user-friendly to trustees coming under PHIA exclusively. This PHIA-specific tool was placed on our web site in November, 2004 and is available at www.ombudsman.mb.ca/reports.htm.

Comments Relating to the Statutory Public Reviews of FIPPA and PHIA

The legislated comprehensive reviews of FIPPA and PHIA took place in 2004 with the issuance of discussion papers in February by Manitoba Culture Heritage and Tourism and Manitoba Health followed by public hearings spanning April and May in Winnipeg, Brandon and Thompson.

In anticipation of this process, the Compliance Review Group had undertaken a project to consider our experience and research on FIPPA and PHIA over the years. This work, in consultation with the Compliance Investigation Group of the Division, resulted in section-by-section comments on the legislative provisions and a thematic overview of both Acts. In June 2004, the Ombudsman forwarded comments and suggestions on FIPPA to the Minister of Culture, Heritage and Tourism and, on PHIA, to the Minister of Healthy Living.

The Ombudsman’s packages to the Ministers, including the section-by-section comments and thematic overview are on the office’s web site at www.ombudsman.mb.ca/reports.htm.

Information and Educational Activities

The Ombudsman’s duties under FIPPA and PHIA include informing the Legislature and the public about the office’s access and privacy work.

In 2004, the Ombudsman and staff participated in a variety of presentations, panels and workshops on such issues as the role and function of the Ombudsman, information privacy compliance and security in the areas of health and research, and Manitoba’s legislation in relation to the private sector information privacy regime.

Attendees at the various information and education activities in 2004 included members of the Canadian and Manitoba Bar Associations, members of the Manitoba Municipal

Administrators Association, senior managers and executives from Manitoba government departments, representatives from regulatory bodies of the health professions in Manitoba and access and privacy coordinators in and outside of the province, and the interdepartmental networking Committee of Aboriginal Services in the Manitoba Government. The Ombudsman also gave numerous interviews to news media.

As in 2003, our office placed summaries of selected access and privacy cases on the office web site. However, as reported in our last annual report, the case summaries have not been posted on a regular basis and we therefore have not met our intention of making these case summaries more timely and more broadly available than they were in past years when published as part of our annual report. We continue to address our investigation backlogs and other tasks within the office and find the means of making our web site communications a greater priority.

OMBUDSMAN'S RECOMMENDATIONS MADE IN 2004

In 2004, the Ombudsman made recommendations in three cases, all under *The Freedom of Information and Protection of Privacy Act* (FIPPA) and all concerning access to information. One file, involving Manitoba Conservation, was opened in 2001 and the other two, involving Manitoba Water Stewardship and the Manitoba Boxing Commission, were opened in 2004.

■ MANITOBA CONSERVATION [Case 2001-249]

This was a case where enquiries made by our office often went unanswered by Manitoba Conservation for months at a time, resulting in a needlessly protracted investigation.

The matter concerned a FIPPA complaint about partial refusal of access to a copy of a specified briefing package prepared for the Deputy Minister of Conservation and which, according to the Department's response to the applicant, consisted of five pages. In the course of our investigation, however, it was determined that 13 attachments consisting of an additional 39 pages formed part of the requested record. In April 2004, the Department released more information to the applicant such that of the 44 pages subject to request, 24 pages were released in full, 8 pages were released with severing and 12 pages continued to be withheld.

Our office was of the opinion that the Department had complied with FIPPA where it had fully withheld information under subsection 19(1) on the basis that release would reveal the substance of Cabinet deliberations, and also where it relied on clause 27(1)(a), that release would disclose information subject to solicitor-client privilege.

However, our office was of the opinion that some of the information severed under clauses 17(3)(e), 17(3)(i) and 23(1)(a) of FIPPA should have been released to the applicant. The Department advised us that release would unreasonably invade a third party's privacy because information was provided explicitly or implicitly in confidence (17(3)(e)), or that disclosure would be inconsistent with the purpose for which the information was obtained (17(3)(i)). We were of the view that some of the requested information did not fall within the scope of these provisions. Also, with respect to some information, the position of the Department was that release could reasonably be expected to reveal advice, opinions or recommendations developed by or for Manitoba Conservation (23(1)(a)). This is a discretionary exception that allows a public body to release or withhold information where the exception applies. We were of the view the Department's reasons for withholding the information either did not apply to some information

or that the Department did not provide sufficient support for withholding the information.

The information in question consisted of a small number of lines on four pages. In July 2004, the Department agreed to reconsider release of these passages. When, after four months, despite several contacts by our office with the Department, we did not have the Department's further position, the Ombudsman recommended that Manitoba Conservation release to the applicant the passages in question.

In response to the Ombudsman's recommendation, Manitoba Conservation advised that it would be releasing the additional information.

■ **MANITOBA WATER STEWARDSHIP** **[Case 2004-058]**

This case concerned a FIPPA complaint about a refusal of access to a copy of the Department's correspondence with the federal government in April 1997 concerning the Red River floodway. The Department refused access under the following exceptions to disclosure: 23(1)(a), advice to a public body; 25(1)(n), disclosure harmful to law enforcement or legal proceedings; and, 28(1)(c)(i)(iii), disclosure harmful to economic and other interests of a public body.

The record in question was a two-page document. In order to determine whether, in our opinion, the information in question was subject to the cited exceptions, we asked the Department to clarify to which portions of the record the exceptions applied and to provide information to support its decision that the exceptions applied to the information.

We received clarification that clause 25(1)(n) was being applied to the entire record. The Department did not identify which information in the record was being withheld under clause 23(1)(a) and subclauses 28(1)(c)(i)(iii). In addition, the Department did not supply information to explain how or why the exceptions to disclosure applied to the withheld information. We notified the Department that, in the absence of being provided with sufficient information to support the Department's reliance on these exceptions, the Ombudsman would consider issuing a recommendation under FIPPA.

As no further information was received from the Department, the Ombudsman advised the Department that it could not be concluded that the cited exceptions to disclosure applied to the withheld information. Accordingly, we recommended that the Department release the record to the complainant. Pursuant to this recommendation, the Department provided the complainant with full access to the requested record.

■ **MANITOBA BOXING COMMISSION** **[Case 2004-130]**

This FIPPA complaint concerned the Manitoba Boxing Commission's decision to extend the time limit for responding to an application for access. The applicant had requested access to records concerning the Commission's investigation into the complaint made by the applicant.

FIPPA requires that a response be provided within 30 days of receipt of an access request; however, an extension of that time limit may be taken for up to an additional 30 days. In this case, the Commission's basis for extending the time limit for responding was under clause 15(1)(c) of FIPPA, which permits an extension where time is needed to consult with a third party or another public body before deciding whether or not to grant access to a record.

The Commission advised our office that the additional time was needed to consult with human resources and legal counsel about granting access to the requested records. In our view, these consultations do not fall under section 15 of FIPPA. Human resources and legal counsel of a public body act as their agents and are under the control of the public body; they are not “a third party or another public body” as contemplated by FIPPA. Accordingly, we were of the view that the decision to extend the time limit for these consultations was not in accordance with the Act. The Ombudsman recommended that the Commission respond to the request immediately. Pursuant to the recommendation, the Commission responded to the request.

No COURT DECISIONS IN 2004... LESSONS LEARNED FROM ACCESS DECISIONS OF MANITOBA’S COURT OF QUEEN’S BENCH

There were no Court decisions under FIPPA or PHIA in 2004 and our office was not advised during the year that any Court matters were initiated under these Acts. This is the second consecutive year where there have been no access appeals under the legislation.

Since the proclamation of PHIA in December 1997 and of FIPPA in May 1998, there have been only four access appeals to Manitoba’s Court of Queen’s Bench, all of them concerning FIPPA:

- *Jaslowski v. The Minister of Justice* (August 20, 1999; Suit No. CI 98-01-10175),
- *Kattenburg v. The Minister of Industry, Trade and Tourism* (November 19, 1999; Suit No. CI 98-01-08704),
- *Heber v. The Director of Animal Services, City of Winnipeg* (February 9, 2001; Suit No. CI 00-01-21102), and
- *Sigurdson v. The Minister of Conservation* (September 30, 2002; Suit No. CI 01-01-25052).

In these FIPPA cases, the Court has used, as precedent, judgments relating to *Manitoba’s Freedom of Information Act* (FOI), which was replaced by FIPPA in May 1998. The Court has noted that the replacement of the FOI Act by FIPPA did not result in a change to certain principles developed by the Court on FOI Act appeals or applications. There were six judgments concerning FOI Act access appeals delivered during the time that Act was law:

- *Marchand v. The Minister of Government Services* (October 9, 1990; Suit No. CI 89.01.35277),
- *Reid v. The Minister of Justice* (October 1, 1993; Suit No. CI 93-01-73072),
- *Oakley v. The Minister of Health* (March 23, 1995; Suit No. CI 93-01-74794),
- *Pollock v. The Minister of Justice* (May 10, 1995; Suit No. CI 94-01-85917),
- *Brousseau v. The Minister of Industry, Trade and Tourism* (December 13, 1996; Suit No. CI 95-01-92429) and
- *Swan v. The Minister of Health* (January 21, 1997; Suit No. CI 96-01-96026).

GENERAL PRINCIPLES

In *Jaslowski v. The Minister of Justice*, the first FIPPA appeal but a matter that was commenced under the FOI Act, Mr. Justice Clearwater wrote:

*[9] I am satisfied that the replacement of the **old Act** by the **new Act** in 1998 has not resulted in a change in certain principles developed by this court on appeals or applications under the **old Act**. The important principles, as stated by Oliphant, J... in **Marchand v. Manitoba**...still apply:*

The onus of satisfying the court that a record falls within an exemption lies upon the respondent, that is, the head of the governmental department involved in the appeal before the court.

In my view, the applicable standard of proof is the normal civil standard of proof.

*If, then, on the balance of probabilities, the respondent is able to prove the record in question falls within one or more of the exemption sections of the **Act**, the court is disallowed by statute from ordering that the applicant be given access to such record.*

...

*On an appeal under the **Act**, the question for determination is simply one of whether access to a record can be denied because the record is within one or more of the exemption sections. The discretion exercised by the governmental official or officials in arriving at the decision to be granted access is, in my opinion, beyond the purview of the court's scrutiny, except as to an error being committed in determining that the record falls within an exemption.*

...

However, it is clear, I think, that if a governmental official exercises his or her discretion in a manifestly unreasonable manner, or upon criteria so remote from that authorized by the legislation as to exceed the authority conferred by statute, the court can intervene....

At the outset of the judgment in *Kattenburg v. The Minister of Industry, Trade and Tourism*, the second access appeal under FIPPA, Madam Justice Steel wrote:

*[5] The **Act** promotes the general principle that information held by government should be available to the public, except where other considerations legitimately require denial of such access. Disclosure is the rule rather than the exception (**Oakley v. Manitoba (Minister of Health)**...). Thus, upon application, there is a right to access any record in the custody or the control of a public body, subject to the exemptions outlined in the **Act**. (See s. 7(1) of the **Act**.)*

At the conclusion of the judgment, Madam Justice Steel observed:

*[64] The applicant has argued generally that the democratic process would be furthered by disclosure. I do not dispute that in most cases this is true. Hence, the general thrust of this **Act** is to make disclosure the rule rather than the exception and to place the burden of proof on those wishing to prevent disclosure.*

[65] However, it is insufficient to argue that the public interest always requires disclosure.

*[66] Inevitably, there will be situations where equally valuable goals in a free and democratic society will collide. Thus, the right to individual privacy must be balanced against the public's right to disclosure. As well, there will be situations where a public body will find it necessary to refuse to disclose a document where the result would be to prejudice the competitive position of, or interfere with or prejudice contractual or other negotiations of either the third party or the public body. The **Act** is an attempt to balance those competing objectives.*

The Judge in the *Kattenburg* case also addressed the issue of severing:

[60] When considering whether there is information that is reasonably severable from the whole, one must bear in mind:

'...Disconnected snippets of releasable information taken from otherwise exempt passages are not...reasonably severable', and severance of exempt and nonexempt portions should be attempted only when the result is a reasonable fulfilment of the purposes of the Act, per Jerome, A.C.J., in Information Commissioner (Can.) v. Canada (Solicitor General), [1988] 3 F.C. 551; 20 F.T.R. 314, at pp. 558-559 (T.D.)

[61] I have carefully gone through all the information filed as being publicly available and have compared it to the MOU [a memorandum of understanding was the withheld record in question]. The detail that is publicly disclosed and is also contained in the MOU is minimal, however, given that s. 18(3) [of FIPPA] specifically states that the exemption does not apply to information that is publicly available, I have provided that information in an excerpted copy of the MOU attached to this judgment.

CERTAIN EXCEPTIONS UNDER FIPPA INTERPRETED

In addition to commenting on general principles of the legislation, the judgments in the *Jaslowski* and *Kattenburg* cases provide interpretation of certain exceptions of FIPPA by setting out answers to issues raised in these appeals.

❖ **Clauses 19(1)(d) and 23(1)(a) and (b) of FIPPA**

In the *Jaslowski* case, the exceptions in clauses 19(1)(d) and 23(1)(a) and (b) were considered. These provisions set out:

Cabinet confidences

19(1) The head of a public body shall refuse to disclose to an applicant information that would reveal the substance of deliberations of Cabinet, including

...

d) a record that reflects communications among ministers relating directly to the making of a government decision or the formulation of government policy;...

Advice to a public body

23(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal

a) advice, opinions, proposals, recommendations, analyses or policy options developed by or for the public body or a minister;

b) consultations or deliberations involving officers or employees of the public body or minister;

...

Exceptions

23(2) Subsection (1) does not apply if the information

a) is in a record that is more than 30 years old;

Concerning sections 19 and 23 generally, the Judge wrote:

[15] ...These exemption sections are designed to facilitate clear and open discussion between employees, the minister, cabinet ministers, and other public officials who are acting

in the course of their employment or their duties in reviewing information and coming to decisions within the scope of their authority.

An argument made in the case was that sections 19 and 23 should be interpreted as meaning that information contained in the withheld records is exempted from disclosure only until the subject matter revealed by the records has been decided upon. The argument was that if decisions have already been made or events have transpired, the information should not be subject to these exceptions. The Judge stated:

*[15]...s. 23(2) of the **new Act** authorizes the release of information or documents that are clearly exempted from disclosure by s. 23(1) but only after 30 years. If s. 23(1) was to only apply to documents and records until such time as a decision was made, there would have been no need to include specific exceptions such as are contained in subsection 23(2)(a) (for records more than 30 years old).*

✧ **Clauses 18(1)(b) and 18(1)(c)(ii) of FIPPA**

Section 18 was one of two sections considered in the Kattenburg case, where several interpretations of the Act were made. The section 18 provisions in question read:

Disclosure harmful to a third party's business interests

18(1) *The head of a public body shall refuse to disclose to an applicant information that would reveal*

...

b) commercial, financial, labour relations, scientific or technical information supplied to the public body by a third party, explicitly or implicitly, on a confidential basis and treated consistently as confidential information by the third party; or

c) commercial, financial, labour relations, scientific or technical information the disclosure of which could reasonably be expected to

...

ii) interfere with contractual or other negotiations of a third party,

One question was how the opening terms in these provisions, "commercial, financial...technical information" ought to be interpreted. Madam Justice Steel adopted an approach taken in a Federal Court decision, *Air Atonabee Ltd. v. Canada (Minster of Transport)* (1989), 37 Admin. L.R. 245 (F.C.T.D.) where, she noted:

[13]...Mr. Justice MacKay, in considering whether information could be considered 'financial, commercial, scientific or technical', rejected the submission that the information must have an independent value. He held that the dictionary meanings provide the best guide and

...that it is sufficient...that the information relate or pertain to matters of finance, commerce, science or technical matters as those terms are commonly understood....
(p. 268)

Adopting that definition, I find that the information is commercial, technical and financial information supplied to the public body by a third party. They may indeed also represent commitments made by the parties regarding the construction and operation of the plant, however, those 'commitments' consist of financial and commercial information.

Another question in the case was whether, in clause 18(1)(b) of FIPPA, the phrase “supplied to the public body by a third party, explicitly or implicitly, on a confidential basis” necessitates a subjective test. The question, therefore, was regardless of whether or not another person would consider the information confidential, did the third party supply it to the public body on the understanding that it would be treated in a confidential manner. Madam Justice Steel wrote:

[24]...I find that the phrase ‘supplied...on a confidential basis’ in s 18(1)(b) should be interpreted in a subjective manner. The language in this Act is different from that of other provinces or that of the federal legislation and therefore other cases in other jurisdictions are not always applicable.

A third question was whether, on the evidence of the case, information was treated consistently as confidential. On this issue, the Judge wrote:

[32] It is the treatment by the third party that must be confidential. The comments reported by the media are generic and do not delineate precisely what the parameters of the agreement [the contents of the withheld memorandum of understanding] are, or the specific responsibilities or contributions of Maple Leaf....

...

[35] Even if some of the information was disclosed, that does not automatically mean that everything in the MOU loses its claim to confidentiality. It would be a question of degree. Comparing the MOU to the publicly available information...I find that the degree of disclosure is limited and does not remove the mantle of confidentiality from the whole document. Disclosure of general information or information required to obtain the necessary permits and licenses does not amount to conduct inconsistent with a desire to maintain confidentiality with respect to specific information.

[36] However, the fact that some of the information is both publicly available and contains specific detail should be taken into account when the decision is made with respect to severance later in this judgment.

❖ **Paragraphs 28(1)(c)(ii) and (iii) of FIPPA**

Other provisions considered in the *Kattenburg* case were paragraphs 28(1)(c)(ii) and (iii).

These provisions set out:

Disclosure harmful to economic and other interests of a public body

28(1) *The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to harm the economic or financial interests or negotiating position of a public body or the Government of Manitoba, including the following information:*

...

- (c) information the disclosure of which could reasonably be expected to*
 - (ii) prejudice the competitive position of, or*
 - (iii) interfere with or prejudice contractual or other negotiations of,*

a public body or the Government of Manitoba;

The question concerning these provisions was the degree of proof required to satisfy the Court that there is a “reasonable expectation of harm”. The Judge wrote:

[55] *The reasonable expectation of an injury is a future event and therefore need not be proven by means of direct evidence. A court is familiar with the determination of the likelihood of occurrence of future events. Traditionally, that likelihood must be proven on the balance of probabilities to be a reasonable expectation of probable prejudice or interference as opposed to a possible likelihood. In this regard, “possible” is equated with speculative or ‘fanciful’. There will always be some possibility of an adverse impact when negotiating positions are released, but here the drafters have included the word ‘reasonable’ expectation, thus adding the objective and qualitative elements.*

[56] *Expert evidence might be adduced to establish the way in which negotiations between companies and provincial governments are carried on and the likelihood of harm that might arise as a result of disclosure. Evidence from other companies that have located in Manitoba or are considering locating in Manitoba might have been useful....No direct evidence from Maple Leaf or the other communities was adduced....*

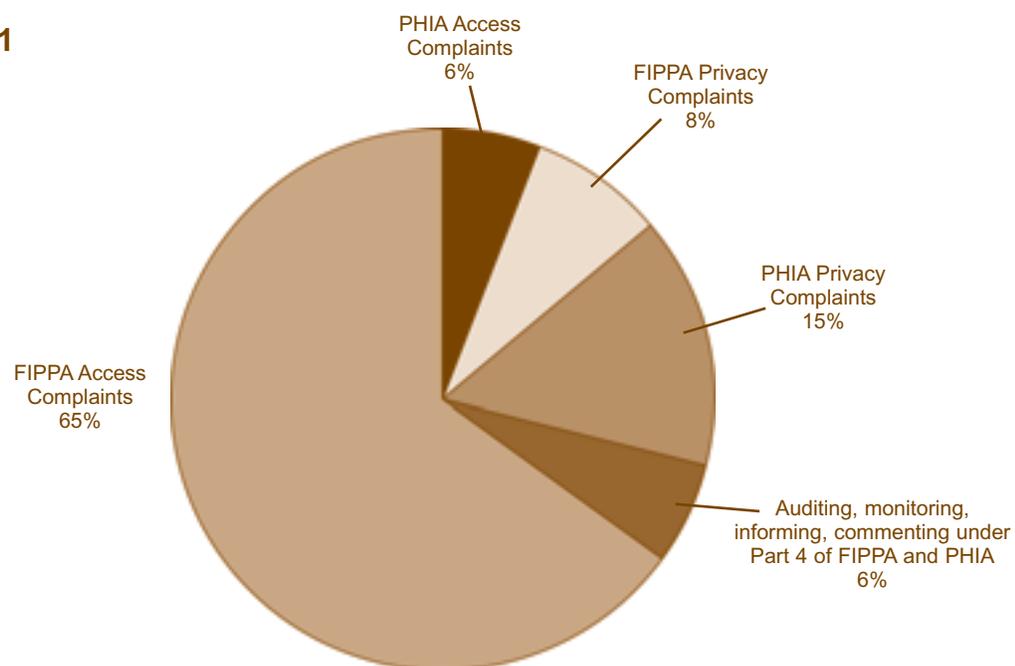
[57]...*while the respondent has provided reasons why the release of this type of information in general may be prejudicial to the Government of Manitoba’s interests, it has not provided reasons why the release of the MOU in particular would be prejudicial to its interests.*

[58]...*I agree with the Federal Trial Court in the case of **Timiskaming Indian Band** [Timiskaming Indian Band v. Canada (Minister of Indian and Northern Affairs) (1997), 138 D.L.R. (4th) 356 (F.C.T.D.)] that the bald assertion that release of information may affect ongoing negotiations or may affect future negotiations with other parties does not meet the high standard of the test established in the case law.*

COMMENT

There have been relatively few appeals to Court relating to access under FIPPA and its predecessor legislation, the FOI Act. Comments by the Court interpreting these laws as a whole and individual provisions in particular, are helpful to the understanding of Manitoba’s access and privacy legislation and serve as a guide to its application.

Chart 1



Distribution of Cases

Chart 2

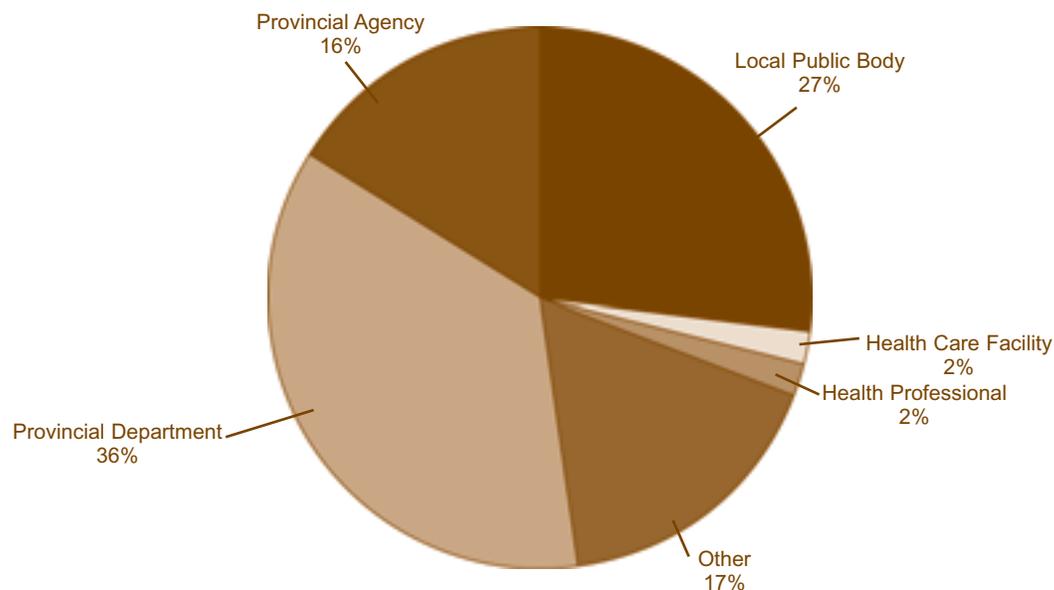
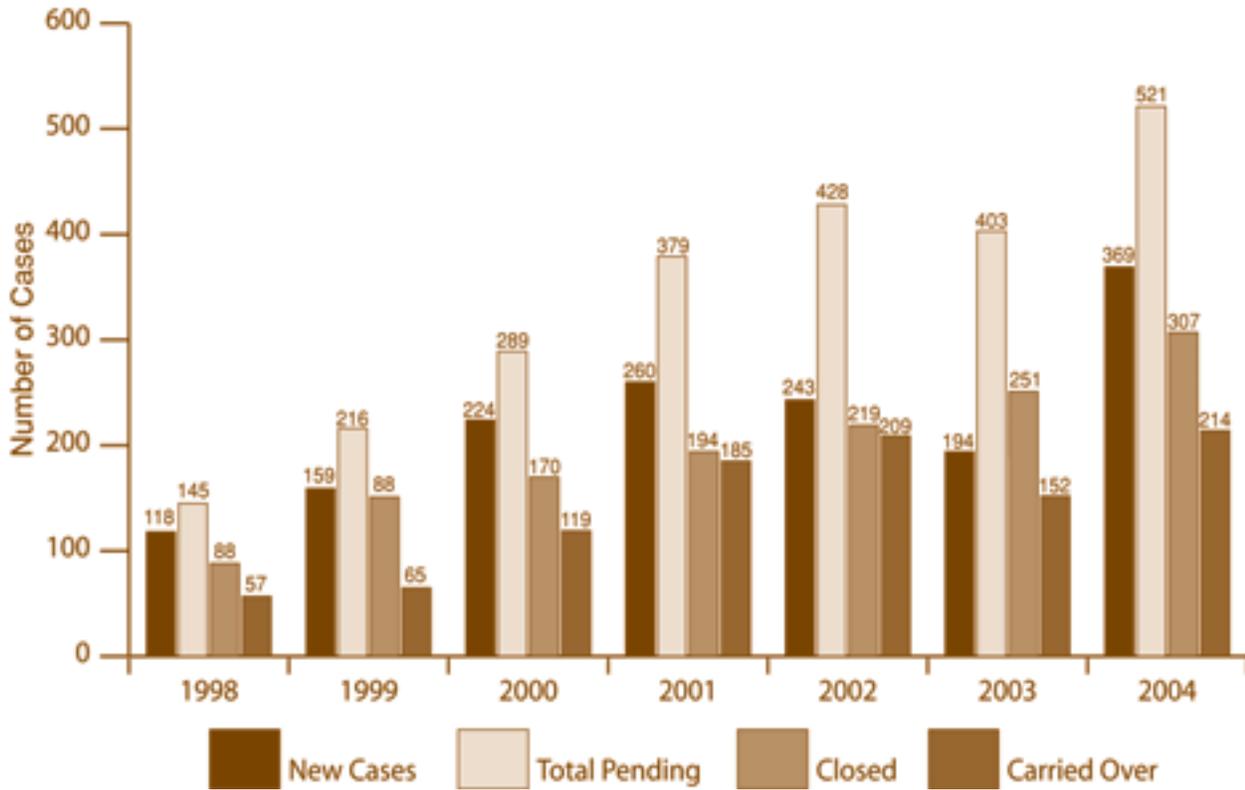


Chart 3



PROVIDING REASONS TO AN APPLICANT WHEN REFUSING ACCESS UNDER FIPPA

Section 12(1) of FIPPA requires that a public body's response letter to an applicant contain certain information, including reasons for the refusal. In addition to informing the applicant of the specific provision on which the refusal is based, clause (c)(ii) requires that the response inform the applicant of the reasons for the refusal.

Contents of response

12(1) *In a response under section 11, the head of the public body shall inform the applicant*
(c) if access to the record or part of the record is refused,
(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

A reason should indicate why the specific provision applies to the withheld information. A reason could consist of indicating which element(s) of the provision are relevant and explaining why they apply to the requested information.

For example, section 18(1)(c)(i) states: "The...public body shall refuse to disclose...information that would reveal commercial, financial, labour relations, scientific or technical information the disclosure of which could reasonably be expected to harm the competitive position of a third party." A reason for the refusal of access could include an explanation of which type of information would be revealed by disclosure and why disclosure could be expected to harm the third party's competitive position. An example of a reason would be:

The information you requested reveals the commercial and financial information of a third party. The disclosure of this information could harm the third party's competitive position because the details of the third party's business plan for expansion could provide a competitive advantage to other similar businesses. Therefore, section 18(1)(c)(i) of FIPPA requires that access to this information must be refused. This section of FIPPA states....

Some exceptions to disclosure may not require much amplification when providing a reason, such as the application of sections 17(1) and 17(2)(a). An example of a reason would be:

The information you requested is the personal health information of a third party. The disclosure of this information is deemed to be an unreasonable invasion of the third party's privacy under section 17(2)(a) of FIPPA. Therefore, section 17(1) of FIPPA requires that access to this information must be refused. These sections of FIPPA state....

May 2005

2004

Statistical Information

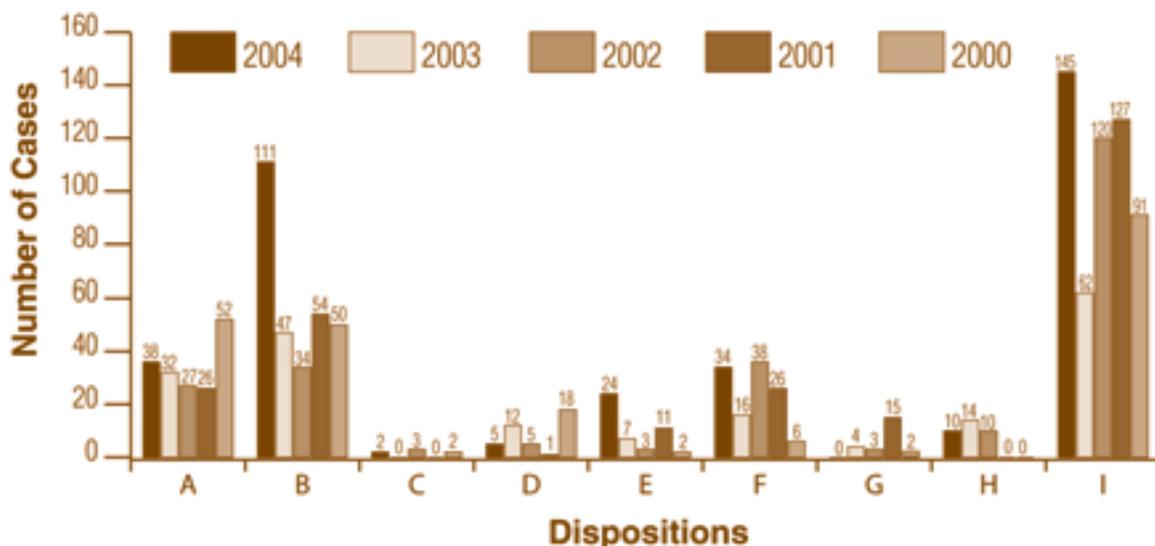


Cases and Dispositions in 2004

Three hundred and sixty-nine access and privacy cases were opened by our office in 2004. Of these, 224 were closed and 145 were carried forward to 2005. Our office also closed 1 case from 1999, 4 cases from 2000, 11 from 2001, 22 from 2002 and 45 carried over from 2003. In total, 307 cases were closed in 2004.

The disposition of the 369 access and privacy cases received in 2004 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.

Cases and Dispositions (2000-2004)



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/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 assistance or information (not requested records) being provided.

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, 2005.

Source of Complaints

Community	Number
Anonymized Communities*	8
Altona	1
Anola	2
Beausejour	2
Belair	5
Brandon	3
Dauphin	2
Dugald	6
East St. Paul	1
Emerson	2
Erickson	1
Gimli	1
Lac du Bonnet	2
Lorette	2
Morris	1
Otterburne	1
Portage la Prairie	8
Powerview	1
Selkirk	1
St. Adolphe	1
Ste. Agathe	4
St-Pierre-Jolys	2
The Pas	1
Thompson	1
Tyndall	1
West St. Paul	36
Winkler	1
Winnipeg	230
Drumheller (Alberta)	2
Edmonton (Alberta)	1
Vancouver (British Columbia)	2
Hamilton (Ontario)	4
Thunder Bay (Ontario)	1
Toronto (Ontario)	1
Gainsboro (Saskatchewan)	1
Kamsack (Saskatchewan)	9
TOTAL	348**

*Naming these small communities could inappropriately identify the complainants.

**This statistic concerns access and privacy complaints received or initiated by the Ombudsman under Part 5 of *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act* and also *The Ombudsman Act*. It does not include the 24 cases initiated in 2004 by the Ombudsman under Part 4 of FIPPA and PHIA.

Complaints opened in 2004 by Category and Disposition under The Freedom of Information and Protection of Privacy Act

DEPARTMENT OR CATEGORY	Total	Declined	Discont. (Client)	Discont. (Omb.)	Not Supported	Supported or Part. Supported	Recomm.	Pending
Public Body								
Advanced Education and Training	3	-	-	-	1	2	-	-
Agriculture, Food and Rural Initiative	1	-	-	-	-	-	-	1
Conservation	12	1	1	-	2	6	-	2
Child and Family Services	1	-	-	-	-	-	-	1
Energy Science and Technology	2	-	-	-	1	-	-	1
Finance	5	-	1	-	-	-	-	4
Family Services and Housing	7	-	1	1	-	-	-	5
Intergovernmental Affairs and Trade	9	3	-	-	2	2	-	2
Industry, Economic Development and Mines	4	-	-	-	-	2	-	2
Justice	22	1	2	-	6	1	-	12
Labour and Immigration	42	-	1	-	37	3	-	1
Manitoba Agricultural Credit Corporation	1	-	-	-	1	-	-	-
Manitoba Boxing Commission	13	1	-	1	1	-	1	9
Manitoba Health	6	-	-	-	3	-	-	3
Manitoba Housing and Renewal Corporation	3	-	-	-	2	1	-	-
Manitoba Human Rights Commission	1	-	-	-	-	-	-	1
Manitoba Hydro	2	-	1	-	1	-	-	-
Manitoba Legal Aid	3	-	-	-	-	-	-	3
Manitoba Lotteries Corporation	9	-	4	-	3	1	-	1
Manitoba Public Insurance	22	-	1	-	8	2	-	11
Sport Manitoba	1	-	-	-	-	-	-	1
Transportation & Government Services	5	-	1	-	1	1	-	2
Water Stewardship	1	-	-	-	-	-	1	-
Workers Compensation Board	2	1	-	-	-	-	-	1
Local Public Body								
City of Brandon	2	-	-	-	-	-	-	2
City of Winnipeg	37	1	1	-	8	6	-	21
Town of Lac du Bonnet	2	-	-	-	1	-	-	1
R.M. of Alexander	2	-	-	-	-	2	-	-
R.M. of De Salaberry	1	-	-	-	-	1	-	-
R.M. of East St. Paul	1	-	-	-	-	-	-	1
R.M. of Gimli	1	-	-	-	-	1	-	-
R.M. of Springfield	2	-	-	-	1	-	-	1
R.M. Unknown	1	-	-	1	-	-	-	-
Lord Selkirk School Division	5	-	1	-	1	3	-	-
Division scolaire franco-manitobaine	3	-	-	-	-	1	-	2
University of Manitoba	6	1	-	-	3	1	-	1
Winnipeg School Division	1	-	-	-	1	-	-	-
Brandon Regional Health Authority	1	-	-	-	1	-	-	-
Winnipeg Regional Health Authority	20	-	-	-	17	1	-	2
Not a Public Body	8	8	-	-	-	-	-	-
Total	270	17	15	3	102	37	2	94

Complaints opened in 2004 by Category and Disposition under *The Personal Health Information Act*

TRUSTEE	Total	Declined	Discont. (Client)	Discont. (Omb.)	Not Supported	Supported or Part. Supported	Recomm.	Pending
Public Body								
Addictions Foundation of Manitoba	1	-	-	-	-	-	-	1
Manitoba Health	4	-	1	1	-	-	-	2
Manitoba Public Insurance	2	1	-	-	1	-	-	-
Transportation and Government Services	2	-	1	-	-	-	-	1
Workers Compensation Board	2	-	1	-	1	-	-	-
Local Public Body								
City of Winnipeg	4	-	-	-	-	-	-	4
Winnipeg Regional Health Authority	1	-	-	-	1	-	-	-
Regional Health Authority	1	-	-	-	1	-	-	-
Health Care Facility								
Beausejour Clinic	1	-	-	-	1	-	-	-
Concordia Hospital	1	-	-	-	1	-	-	-
Manitoba Clinic	3	-	1	-	1	1	-	-
St. Boniface General Hospital	1	-	-	-	1	-	-	-
Victoria General Hospital	1	-	-	-	1	-	-	-
Health Professional								
Medical Doctor	8	2	3	1	-	-	-	2
Not a Public Body	46	14	-	-	-	-	-	32
Total	78	17	7	2	9	1	-	42

Cases opened by The Access and Privacy Division in 2004 by Category and Disposition under Part 4 of FIPPA and PHIA (auditing, monitoring, informing and commenting)

DEPARTMENT OR CATEGORY	Total	Assist. Rendered/ Info Supplied	Declined	Discont. (Client)	Discont. (Omb.)	Not Supported	Supported or Part. Supported	Completed	Recomm.	Pending
Conservation	2	-	-	1	-	-	-	-	-	1
Manitoba Health	1	-	-	-	-	-	-	-	-	1
Manitoba Public Insurance	1	-	-	-	-	-	-	1	-	-
Transportation and Government Services	1	-	-	-	-	-	-	1	-	-
Workers Compensation Board	1	-	-	-	-	-	-	-	-	1
City of Brandon	2	-	-	-	-	-	-	-	-	2
City of Winnipeg	1	-	-	-	-	-	-	-	-	1
Winnipeg Regional Housing Authority	1	-	-	-	-	-	-	1	-	-
Brandon School Division	1	-	-	-	-	-	-	-	-	1
University of Manitoba	1	-	-	1	-	-	-	-	-	-
Anonymized Health Care Professionals	2	-	-	-	-	-	-	-	-	2
No Public Body	3	-	-	-	-	-	-	3	-	-
Comment	1	-	-	-	-	-	-	1	-	-
Informing the Public	3	-	-	-	-	-	-	3	-	-
Total	21	-	-	2	-	-	-	10	-	9

Cases carried over from Previous Years by Category and Disposition

There were 62 access and privacy cases carried over to 2004 from 2003, 47 from 2002, 36 from 2001, 5 from 2000, 1 from 1999 and 1 from 1998. Of these 152 cases, 69 were carried over to 2005 and 83 were concluded as follows.

<i>THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT</i>	Total	Declined	Discont. (Client)	Discont. (Omb.)	Not Supported	Supported or Part. Supported	Recomm.	Completed	Assist. Rendered /Info Supp	Pending
Public Body										
Aboriginal and Northern Affairs	1	-	-	-	-	1	-	-	-	-
Advanced Education and Training	1	-	1	-	-	-	-	-	-	-
Agriculture and Food	1	-	-	-	-	-	-	-	-	1
Conservation	4	-	-	-	2	2	-	-	-	-
(2002) Conservation	3	-	-	-	1	-	-	-	-	2
(2001) Conservation	2	-	-	-	-	1	1	-	-	-
(2001) Consumer and Corporate Affairs	1	-	-	-	-	-	-	-	-	1
(1998) Consumer and Corporate Affairs	1	-	-	-	-	-	-	-	-	1
(2001) Culture, Heritage and Tourism	1	-	-	-	-	-	-	-	-	1
Energy, Science and Technology	1	-	-	-	-	-	-	-	-	1
(2002) Energy, Science and Technology	1	-	-	-	-	-	-	-	-	1
Executive Council	1	-	-	-	1	-	-	-	-	-
Family Services and Housing	2	-	1	-	1	-	-	-	-	-
(2002) Family Services and Housing	1	-	-	-	-	-	-	-	-	1
Health	2	-	-	-	1	-	-	-	-	1
(2002) Health	1	-	-	-	-	-	-	-	-	1
(2001) Health	1	-	-	-	1	-	-	-	-	-
Industry, Trade and Mines	1	-	-	-	-	-	-	-	-	1
Industry, Economic Development and Mines	2	-	2	-	-	-	-	-	-	-
(2001) Industry, Trade and Mines	1	-	-	-	-	-	-	-	-	1
Intergovernmental Affairs	1	-	1	-	-	-	-	-	-	-
(2000) Intergovernmental Affairs	2	-	2	-	-	-	-	-	-	-
Justice	4	-	2	-	1	1	-	-	-	-
(2002) Justice	5	-	-	-	1	2	-	-	-	2
(2001) Justice	1	-	-	-	-	1	-	-	-	-
Labour and Immigration	2	-	-	-	1	-	-	-	-	1
(2001) Labour and Immigration	2	-	-	-	1	-	-	-	-	1
Manitoba Hydro	1	-	-	-	-	-	-	-	-	1
(2002) Manitoba Hydro	1	-	-	-	-	-	-	-	-	1
(2001) Manitoba Hydro	2	-	-	-	-	-	-	-	-	2
Manitoba Liquor Control Commission	1	-	-	-	-	-	-	-	-	1
(2001) Manitoba Liquor Control Commission	1	-	-	-	-	1	-	-	-	-
(2001) Manitoba Lotteries Corporation	1	-	1	-	-	-	-	-	-	-
Manitoba Public Insurance	4	-	-	-	-	1	-	-	-	3
(2002) Manitoba Public Insurance	13	-	-	-	-	2	-	-	-	11
(1999) Natural Resources	1	-	-	-	-	1	-	-	-	-
Transportation and Government Services	2	-	-	-	2	-	-	-	-	-
Workers Compensation Board	4	-	1	-	3	-	-	-	-	-
(2002) Workers Compensation Board	2	-	-	-	2	-	-	-	-	-
(2001) Workers Compensation Board	3	-	-	-	3	-	-	-	-	-
(2000) Workers Compensation Board	2	-	-	-	-	-	-	1	-	1
Local Public Body										
City of Winnipeg	5	-	-	-	4	1	-	-	-	-
(2002) City of Winnipeg	2	-	-	-	2	-	-	-	-	-
(2001) City of Winnipeg	5	-	-	-	-	-	-	-	-	5

Cases carried over from Previous Years by Category and Disposition *cont'd*

THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT	Total	Declined	Discont. (Client)	Discont. (Omb.)	Not Supported	Supported or Part. Supported	Recomm.	Completed	Assist. Rendered /Info Supp	Pending
Brandon School Division	1	-	-	-	-	-	-	-	-	1
(2002) Brandon School Division	1	-	-	-	-	-	-	-	-	1
(2002) Interlake School Division	1	-	-	-	1	-	-	-	-	-
Seven Oaks School Division	1	-	-	-	1	-	-	-	-	-
School District of Whiteshell	2	-	-	1	-	1	-	-	-	-
University of Manitoba	1	-	-	-	-	1	-	-	-	-
(2001) University of Manitoba	7	-	-	-	-	-	-	-	-	7
University of Winnipeg	3	-	-	-	1	-	-	1	-	1
Brandon Regional Health Authority	2	-	1	-	1	-	-	-	-	-
(2002) Nor-Man Regional Health Authority	1	-	1	-	-	-	-	-	-	-
Winnipeg Regional Health Authority	1	1	-	-	-	-	-	-	-	-
(2001) Winnipeg Regional Health Authority	1	-	-	-	-	-	-	-	-	1
The Personal Health Information Act										
(2001) Family Services and Housing	1	-	-	1	-	-	-	-	-	-
(2002) Health	1	-	-	-	-	-	-	-	-	1
(2002) Justice	1	-	-	-	1	-	-	-	-	-
(2001) Manitoba Public Insurance	1	-	-	-	-	-	-	-	-	1
Local Public Body										
City of Winnipeg	1	-	-	-	1	-	-	-	-	-
Brandon School Division	1	-	-	-	-	-	-	-	-	1
(2000) Seven Oaks School Division	1	-	-	1	-	-	-	-	-	-
(2002) Interlake Regional Health Authority	1	-	-	-	1	-	-	-	-	-
Health Care Facility										
(2002) Assiniboine Clinic	1	-	-	-	-	1	-	-	-	-
Birchwood Medical Clinic	1	-	-	-	-	1	-	-	-	-
(2002) Seven Oaks General Hospital	1	-	-	-	-	1	-	-	-	-
(2001) Seven Oaks General Hospital	2	-	-	-	-	-	-	-	-	2
(2002) St. Boniface General Hospital	1	-	-	-	1	-	-	-	-	-
Health Professional										
(2002) Medical Doctor	1	-	-	-	1	-	-	-	-	-
(2001) Medical Doctor	1	-	-	-	-	-	-	-	-	1
Part 4 of FIPPA and PHIA										
City of Dauphin	1	-	-	-	-	-	-	1	-	-
City of Winnipeg	1	-	-	-	-	-	-	-	-	1
(2001) Consumer and Corporate Affairs	1	-	-	-	-	-	-	-	-	1
Conservation	2	-	-	-	-	1	-	-	-	1
(2001) Finance	1	-	-	-	-	-	-	-	-	1
(2002) Health Sciences Centre	1	-	-	-	-	-	-	-	-	1
Manitoba Public Insurance	1	-	-	-	-	-	-	-	-	1
Transportation and Government Services	2	-	-	1	-	-	-	-	-	1
(2002) Transportation and Government Services	1	-	-	-	-	-	-	-	-	1
Winnipeg Regional Health Authority	1	-	-	-	-	-	-	1	-	-
(2002) Comment	2	-	-	-	-	-	-	2	-	-
(2002) Informing the Public	2	-	-	1	-	-	-	1	-	-
The Ombudsman Act										
(2002) Education Training and Youth	1	-	-	-	-	-	-	-	-	1
(2002) Workers Compensation Board	1	-	-	-	-	-	-	-	-	1
Total	152	1	13	5	36	20	1	7	0	69