

2020 ANNUAL REPORT



Manitoba Ombudsman

OMBUDSMAN DU
MANITOBA
OMBUDSMAN
50
ANS
YEARS
1970-2020

Manitoba Ombudsman

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December 14, 2021

The Honourable Myrna Driedger
Speaker of the Legislative Assembly
Room 244 Legislative Building
Winnipeg, MB R3C 0V8

Dear Madam Speaker:

In accordance with section 42 of the Ombudsman Act, subsection 58(1) of the Freedom of Information and Protection of Privacy Act, subsection 37(1) of the Personal Health Information Act and subsection 29.2(1) of the Public Interest Disclosure (Whistleblower Protection) Act, I am pleased to submit the annual report of Manitoba Ombudsman for the calendar year January 1, 2020, to December 31, 2020.

Yours truly,



Jill Perron
Manitoba Ombudsman

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OMBUDSMAN'S MESSAGE



Jill Perron

I am pleased to present Manitoba Ombudsman's 50th annual report, which highlights the work and accomplishments of the office in 2020.

It goes without saying that 2020 was a year of uncertainty and continual adaptation. When the year began, we were in the midst of preparing to celebrate our 50th anniversary in April 2020. By March, the global pandemic arrived in our province, impacting the physical and mental health, financial, and social well-being of Manitobans. Many citizens turned to public programs and services to help alleviate those hardships. Public systems tried their best to be responsive by adapting their services. Governments often turned to technology to remain connected and accessible to citizens, clients, stakeholders and colleagues, and to guide decision making and the delivery of health, education, economic and other public services. The decisions made in response to the pandemic will have an impact on individuals and society for years to come.

It is important that our office acknowledge the unprecedented challenges that the pandemic has placed on governments. The speed of decision making about services affecting citizens required that our office remain focused on promoting access to information and privacy protection rights, fairness, transparency and good governance. At the onset of the pandemic, we turned our attention to mobilizing our operations in order to remain accessible to citizens while maintaining the health and safety of everyone involved. We adapted to conform to public health restrictions and altered our approaches to working with citizens and public bodies. With some new internal processes in place to handle calls and emails, we were able to provide information and assistance to Manitobans as they navigated the changing landscape of public services.

As some institutions, particularly correctional facilities, personal care homes and health-care facilities, began implementing pandemic-related restrictions, we began to receive calls about how programs and services were being delivered and the impact these changes were having on Manitobans. For us, this meant communicating frequently with public bodies in order to understand how they were operating in pandemic conditions in order to be able to respond to the concerns of people contacting us for help. In some cases, our ability to connect with public bodies was impacted as they too were adapting and adjusting to new ways of working.

During 2020, we experienced an overall decrease in complaint volume. We handled 3,110 inquiries and complaints and opened 338 investigations under FIPPA, PHIA, the Ombudsman Act and the Public Interest Disclosure (Whistleblower Protection) Act. We shifted our public outreach efforts to provide virtual training about fairness, privacy matters and our office. We hosted our Brown Bag Talk series online featuring a session on protecting personal and personal health information when working off-site – a topic we believed was needed when many public-sector organizations were working remotely. We also encountered more public bodies requesting informal consultations on the access and privacy implications of digital service delivery or new initiatives spurred by the pandemic.

To assist public bodies and trustees in fulfilling their obligations, we issued two advisories under FIPPA and PHIA to provide guidance to public bodies on responding to access requests and taking extensions during the pandemic.

I met with our information and privacy commissioner colleagues throughout the year to discuss privacy issues as governments grappled with how to handle the pandemic. By May 2020, commissioners had released a joint statement on the privacy principles that should guide decisions about the use of contact tracing and similar smartphone applications as public health tools to help address the COVID-19 pandemic. As the host of the annual meeting of federal, provincial and territorial information and privacy commissioners in September 2020, our office deferred the in-person event in favour of establishing a virtual forum for commissioners to collaborate and share information on emerging access and privacy matters.

We worked collaboratively with my ombudsman colleagues in the Canadian Council of Parliamentary Ombudsman to develop a new guide, *Fairness by Design: An Administrative Fairness Self-Assessment Guide*, which can be used by public bodies to objectively assess the fairness of existing or new systems, policies and practices. To complement the self-assessment tool, my office developed *Fairness by Design: An Administrative Fairness Backgrounder*, to share information about what administrative fairness is and why it is important. These publications are examples of the important role ombudsmen can take to proactively promote a common understanding of administrative fairness in provincial and local public bodies, enabling them to identify areas of change or improvement and helping to prevent unfairness before it happens. We released both publications on international Ombuds Day, which is a day that gives us an opportunity to educate and raise awareness about the history and practices of the ombuds profession.

In 2020, my office reached an important milestone as we marked 50 years as an independent office of the Legislative Assembly of Manitoba. While some of our 50th celebrations were deferred, the significance of reaching 50 years was not diminished. We look forward to celebrating our long history and accomplishments in the coming years.

I would like to acknowledge the dedication of employees in my office, who remained mindful of the pandemic environment and the circumstances of those who called seeking information and assistance. Changing processes and practices quickly is not an easy task, but we stayed focused on moving in the same direction together and were able to accomplish what we needed to do with everyone's help and cooperation, making it possible to continue delivering our services. I would also like to acknowledge the valuable guidance and support provided by the legislative assembly's information technology and human resource services teams.

We view our annual report as an opportunity to share summaries of our completed investigations, statistics and other work, such as our collaborative efforts, to communicate the breadth and value of the work we undertake. Through independent oversight and the impartial and objective assessment and investigation of complaints about fair administration, access and privacy matters and good governance, we hold public bodies to account and promote positive changes in public services. I'm pleased to share this 50th annual report with you.

ABOUT THE OFFICE

Manitoba Ombudsman is one of the independent offices of the Legislative Assembly of Manitoba. In 1970, the ombudsman role was established to act on behalf of citizens when they had a grievance with government. Since then, the ombudsman's mandate has expanded to encompass access to information, privacy and whistleblower matters and the number of public sector organizations that fall under the jurisdiction of the ombudsman has increased.

Manitoba's Ombudsman Act incorporates the hallmarks of legislative ombudsmen seen in many jurisdictions around the world:

- » independence of the office
- » broad powers of investigation
- » informal procedures for conducting investigations
- » non-adversarial approaches to the resolution of problems
- » the power to make recommendations
- » the power to report publicly

What we do and how we work

The ombudsman conducts independent, impartial, and non-partisan investigations into complaints about access to information and privacy matters, the fairness of government actions or decisions, and serious wrongdoings that people believe may have occurred.

Ombudsman staff attempt to resolve complaints informally at the earliest possible stage. If, after an investigation, the ombudsman finds that a complaint is justified, he or she may recommend a remedy. In many situations, ombudsman staff also provide information and advice and refer people who contact our office to other avenues that may be helpful to resolve their concerns.

Making a complaint to the ombudsman can provide an opportunity to:

- » Give citizens an avenue to express their concerns.
- » Revisit an issue with fresh and impartial eyes.
- » Change the status quo.
- » Help public bodies improve policies, procedures or practices.
- » Communicate the public body's decisions and actions in an open and transparent way.
- » Increase compliance with access and privacy legislation.
- » Increase transparency, openness and accountability.

An Ombudsman for Manitoba

By the mid twentieth century, government administration in many places had grown in size and scope. As administrative powers expanded, so did the possibility for administrative injustices that affected the rights and liberties of citizens. The concept of a legislative officer, such as an ombudsman, to act on behalf of citizens when they had a grievance with government was discussed and debated frequently in many jurisdictions, including in Manitoba.

The word "ombudsman" is Swedish in origin and refers to a person who acts as a spokesperson or representative of another person. A parliamentary ombudsman had been established in Sweden in 1809. By the 20th century, other countries began to adopt the ombudsman model, such as Finland (1919), Denmark (1954), Norway (1961), New Zealand (1962) and the UK (which established a parliamentary commissioner in 1967). In Canada, Manitoba was the fourth province (after Alberta, New Brunswick and Quebec) to establish an ombudsman. George Maltby, Manitoba's first ombudsman, was sworn in on March 31, 1970, and began work on April 1.

The office's mission is to promote and foster openness, transparency, fairness, accountability, and respect for privacy in the design and delivery of public services.

COLLABORATION, EDUCATION AND OUTREACH

The ombudsman and staff support and further the goals of the office by collaborating with other oversight offices on issues of mutual interest and concern, attending and hosting meetings and events, and delivering presentations and training sessions.

Interjurisdictional collaboration

In May 2020 our office joined with other federal, provincial and territorial privacy commissioners in issuing a joint statement on the privacy principles that should guide decisions about using contact tracing and similar smartphone applications as public health tools to help address the COVID-19 pandemic.

Our office joined with other ombudsman offices in Canada to celebrate international Ombuds Day on October 8, 2020. We marked the day by releasing two publications:

- *Fairness by Design: An Administrative Fairness Backgrounder*, developed by our office, which sets out what administrative fairness is and why it is important.
- *Fairness by Design: An Administrative Fairness Self-Assessment Guide*, developed by parliamentary ombuds from across Canada, which can be used to evaluate the fairness of existing or new systems, policies and practices.



With the cancellation of many in-person training opportunities as a result of the pandemic, Canadian Council of Parliamentary Ombudsman (CCPO) member offices began offering monthly webinars for employees. Each webinar was hosted by a different office on a topic of their choice. Manitoba Ombudsman employees participated in the training series, which began in September 2020.

We also participated on the advisory board for a virtual conference, 2020 RTK WEEK: Celebrating the Right to Know Across Canada, held at the end of September during Right to Know Week and hosted by the Public Service Information Community Connection (PSICC).

Presentations

To help others understand the mandate and work of our office, we delivered three presentations about the office to:

- legislative interns
- “Leaders in Training Program” interns
- new deputy ministers

We delivered training and other sessions tailored to specific audiences:

- a presentation on key steps for responding to privacy breaches to staff at Economic Development and Training
- a “Fairness by Design” session to the Manitoba Association of School Business Officials
- participation on a privacy-related panel as part of the PSICC conference

Access and privacy staff host Brown Bag Talks in our office, which are informal discussions led by staff with participation by access and privacy coordinators and officers. In 2020 we held two talks:

- “5-Minute Privacy Checkup” to celebrate Data Privacy Day on January 28, 2020
- “Protecting Personal and Personal Health Information When Working Off-Site,” in response to the COVID-19 pandemic and the new reality of many people working remotely. Our office also made a video of this presentation and posted it to YouTube.

Celebrating 50 years

Our office marked its 50th anniversary in 2020 and had planned a number of outreach activities to celebrate. Many of these 50th anniversary activities were put on hold due to the pandemic.

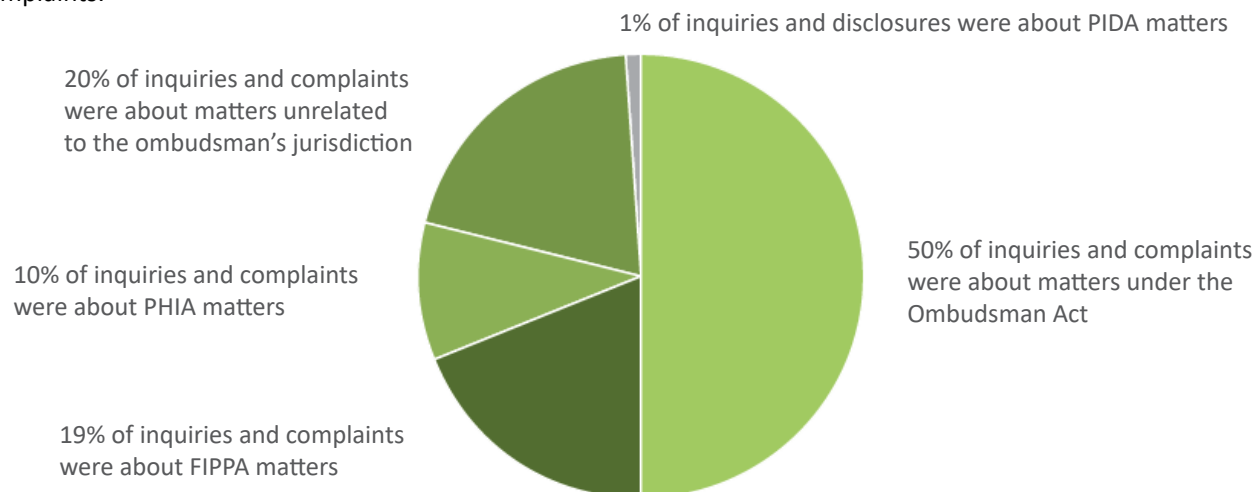
We developed an anniversary logo to use in communications and on promotional products. We launched a bookmark campaign in Manitoba’s public libraries when libraries were beginning to reopen after the first wave of the pandemic in late spring 2020. We also began work on a retrospective report to be released after our 50th year.



2020 OVERVIEW: INQUIRIES, COMPLAINTS AND INVESTIGATIONS	
3,152	INQUIRIES AND COMPLAINTS
3,110	Intake staff handled inquiries and complaints related to the Freedom of Information and Protection of Privacy Act (FIPPA), the Personal Health Information Act (PHIA), the Ombudsman Act and the Public Interest Disclosure (Whistleblower Protection) Act
42	The administration team also handled 42 general inquiries.
338	INVESTIGATIONS OPENED
270	FIPPA
36	PHIA
31	Ombudsman Act
1	PIDA
3	INQUEST RECOMMENDATIONS MONITORED
3	1 inquest report with 3 recommendations was received from the Provincial Court of Manitoba
8	INVESTIGATION AND AUDIT REPORTS POSTED ON WEBSITE
6	FIPPA
-	PHIA
2	Ombudsman Act

INTAKE SERVICES

All public inquiries and complaints received by our office are handled by intake staff who hold a lot of information about citizens' rights and government systems and processes. In 2020, intake staff handled **3,110** inquiries and complaints.



As the first point of contact with the public, intake staff accept calls from the public, meet with complainants and respond to emails, written inquiries, complaints and disclosures. Our staff team provides assistance by:

- explaining the role and function of our office
- explaining citizens' rights under the acts and how to exercise them (for example, how to request one's own personal health information from a health-care provider)
- identifying the specific nature of complaints
- assessing jurisdiction
- explaining other avenues of review or appeal
- making preliminary inquiries about complaints
- reviewing documentation and conducting research
- preparing cases to be opened for investigation
- referring people to resources, including brochures and guides on our website, as well as information and resources from other organizations
- making appropriate referrals for non-jurisdictional concerns

"I am quite happy with actual results. Again I believe this is all due to fact that you got involved and made inquiries. Thank you so much for your help it really made the difference."

"It is so amazing to hear from someone who listened. The process advice was exactly what we needed...Many people have no idea about their rights and with poor English do not have a clue where to start. Thank-you for all the lives you will touch unknowingly with the enclosed information."

Early resolution cases

At the intake level, our focus is primarily on early resolution. This may involve providing guidance on the public body's internal resolution process, providing referrals to other offices, facilitating communication with the public body and/or requesting more information such as correspondence or decision documents. Below are some examples of the complaints we received and how we handled them at the intake level:

A tenant contacted our office about a delayed response from Manitoba Housing related to their transfer request to move to a larger unit. The tenant needed more space due to the effects of a traumatic event for one of the family members, which was supported by documentation from medical and other professionals. We inquired about the matter with Manitoba Housing and facilitated communication with the family. Upon reviewing supporting documentation provided by the tenant, Manitoba Housing approved the transfer.

An individual was frustrated with Efficiency Manitoba's process for notifying her of a required home inspection as part of an insulation rebate program. Unaware that a third party would be doing the inspection rather than Efficiency Manitoba, the individual was distrustful when a third party called advising her they must enter her home to do an inspection. Our office contacted Efficiency Manitoba and found that it was changing its notification process so that home owners would be directly notified by Efficiency Manitoba about pending home inspections, rather than by the third party who would be doing the inspection. After sharing the concerns of the individual who contacted us for help, Efficiency Manitoba reached out to the individual to confirm the details of her home inspection.

A student expressed concern over discrepancies in their student loan and had been unsuccessful in clarifying the status of their account with Manitoba Student Aid (MSA) due to long wait times by phone. We inquired with MSA to clarify reasons for delays and possible constraints due to the pandemic. As part of our follow-up, we verified that MSA responded to the student about their loan status. While the student's situation was resolved, our office wanted to discuss potential administrative improvements about advising the public about possible delays in processing. MSA advised us that their messaging would be enhanced to reflect current processing times.

A landlord was upset because his tenants had stopped paying their water bill and the City of Winnipeg's Water and Waste Department declined his request to shut off the tenants' water during the pandemic. The tenants accumulated a water bill of over \$1,000 before moving out and the landlord assumed that this amount would be added to his property taxes and felt this was unfair. Our office contacted the Water and Waste Department and found that the department had suspended its process of adding outstanding debt to an owner's property tax bill in an effort to provide financial relief to customers during the pandemic. The department was actively attempting to collect the outstanding debt from the former tenants. It advised us that the debt would only be added to the landlord's property taxes once all efforts to collect from the tenants were exhausted and the process of adding debts to property tax had resumed. Our office was able to assist the landlord by providing him updated information on how the department's procedures changed during the pandemic.

Intake staff respond to inmate calls and this was exceptionally important in 2020 considering some correctional facilities had COVID-19 outbreaks and in turn took measures to keep inmates safe. The pandemic caused many changes in the daily operations of correctional facilities that affected both staff and inmates. Manitoba Corrections kept our office apprised of the operational changes it had been taking to mitigate spread of the virus and how they were working to protect inmates and staff. This communication was instrumental in anticipating inmates' concerns. By proactively sharing information with our office, we were better able to respond to complaints and clarify information for inmates.

"I'm grateful that I've been able to utilize the Manitoba Ombudsman when I was in need of advice and support. I sincerely thank you."

ACCESS AND PRIVACY

THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT | THE PERSONAL HEALTH INFORMATION ACT

The ombudsman's role under the Freedom of Information and Protection of Privacy Act (FIPPA) and the Personal Health Information Act (PHIA)

The ombudsman investigates complaints from people who have concerns about any decision, act or failure to act that relates to their requests for information from public bodies or trustees, or a privacy concern about the way their personal or personal health information has been handled. For example, a person can make a complaint if he or she believes a public body or trustee has:

- not responded to a request for access within the legislated time limit
- refused access to information that was requested
- charged an unreasonable or unauthorized fee related to the access request
- refused to correct the personal or personal health information as requested, or
- collected, used or disclosed personal or personal health information in a way that is believed to be contrary to FIPPA or PHIA

The ombudsman has additional duties and powers under FIPPA and PHIA, and these include:

- conducting audits to monitor and ensure compliance with FIPPA and PHIA
- commenting on the implications of proposed legislation or programs affecting access and privacy rights
- commenting on the implications of the use of information technology in the collection, storage, use or transfer of personal and personal health information
- informing the public about FIPPA and PHIA and receiving comments from the public

About FIPPA and PHIA

FIPPA provides people with a right of access to general information and to their own personal information held by public bodies. FIPPA also sets out requirements that public bodies must follow to protect the privacy of personal information contained in the records they maintain. FIPPA applies to:

- provincial government departments, offices of the ministers of government, the office of the executive council, 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
- health-care bodies such as hospitals and regional health authorities

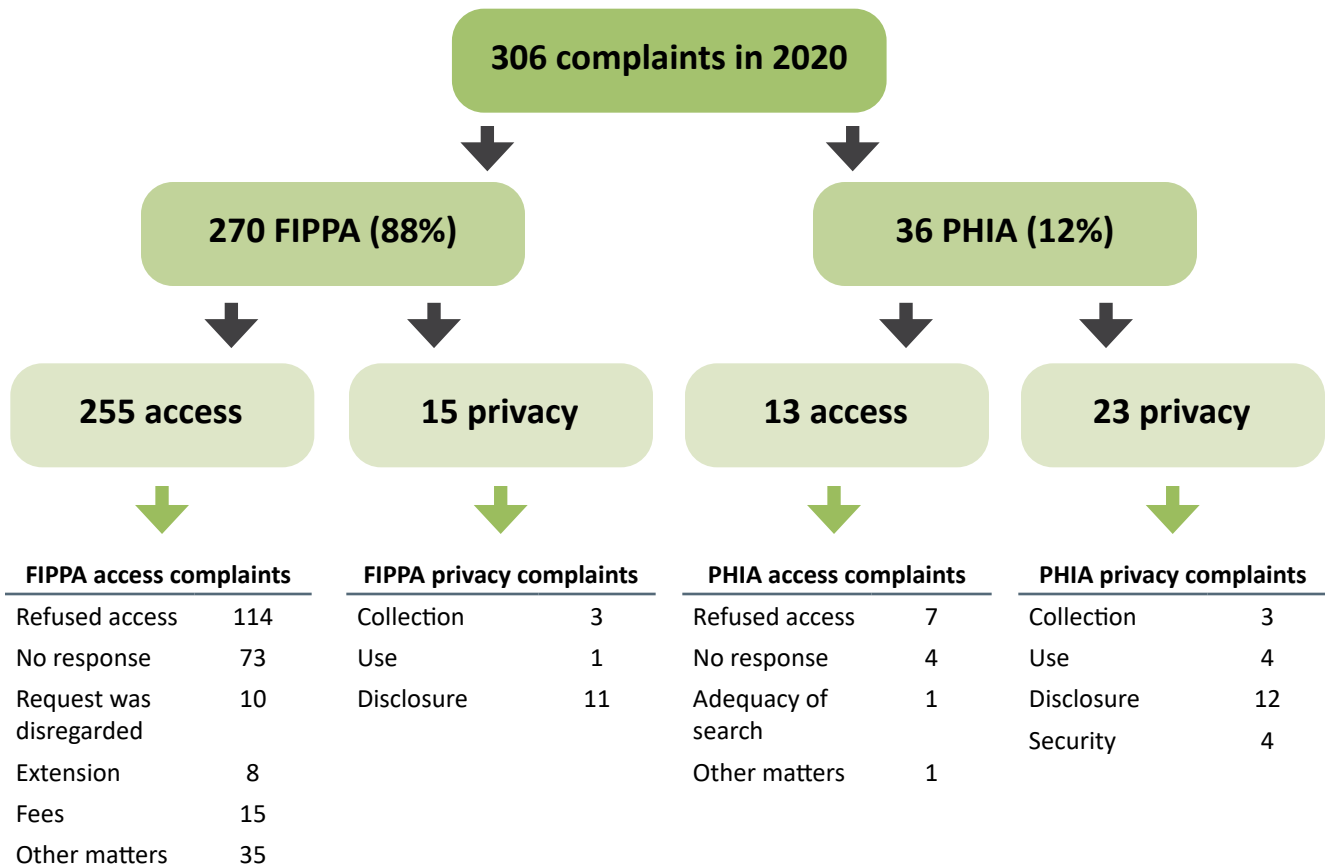
PHIA provides people with a right of access to their personal health information held by trustees and requires trustees to protect the privacy of personal health information contained in their records. PHIA applies to:

- public bodies (as set out for FIPPA)
- health professionals such as doctors, dentists, nurses 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

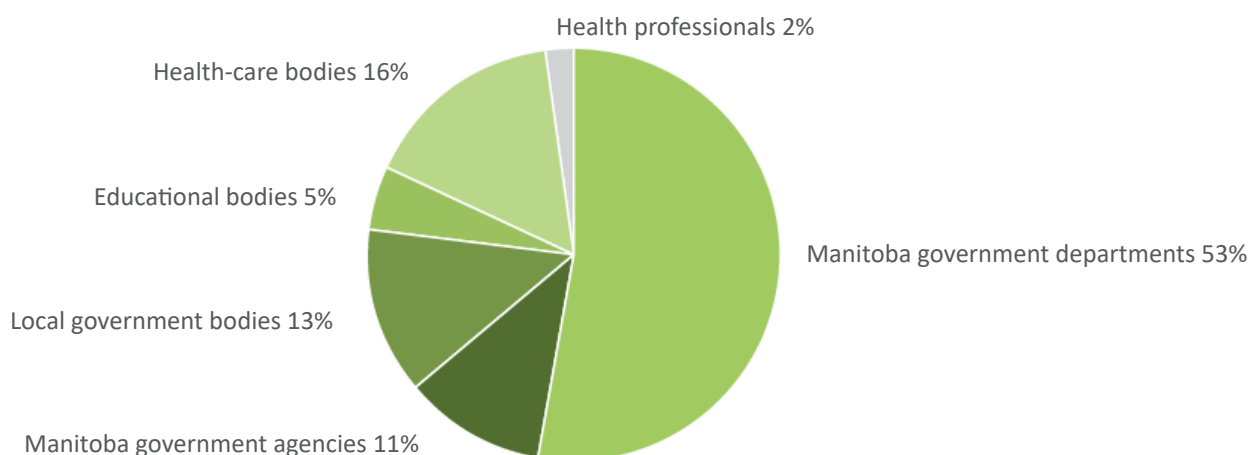
FIPPA and PHIA Overview 2020

306 new complaints opened for investigation	104 informal consultations with public bodies and trustees
32 other complaints dealt with informally at intake stage	6 investigation and audit reports posted on our website
42 privacy breaches reported to our office by public bodies and trustees	3 access and privacy presentations
20 requests for approval of longer extensions of the time limit for responding to access requests	2 practice notes published

The investigation of complaints from citizens continued to be our primary focus throughout 2020. We commenced investigations in response to 306 of the complaints we received, 83 per cent of which were in relation to FIPPA access matters. As 180 of the complaints under investigation during 2019 continued to be investigated in 2020, our workload of complaints totaled 486 investigations. We closed 263 (54 per cent) of the total complaints during 2020.



Distribution of FIPPA and PHIA complaints in 2020 by type of public body or trustee



Outcomes of 263 complaint investigations completed

100	Supported in whole or in part, meaning that there was substance to the complaint. Nearly all were rectified by public bodies and trustees as a result of the investigation, with the exception of one case that required a recommendation be made by the ombudsman.
91	Not supported at all, meaning that no aspect of the complainants' concerns were determined to be well-founded.
39	Resolved during the investigation without the need to make findings, by investigators working with complainants and public bodies/trustees to address the complainants' concerns.
33	Discontinued or declined

FIPPA Complaints Closed	Total	Declined or discontinued	Supported in part or in whole	Not supported	Resolved	Recommendation made
Type of Access Complaint						
Refused access	114	17	33	46	18	-
No response	35	5	25	1	4	-
Request was disregarded	14	4	1	7	2	-
Extension	8	2	4	2	-	-
Fees	11	1	7	2	1	-
Fee waiver	2	1	-	1	-	-
Adequacy of search	6	1	2	3	-	-
Other access matters	23	1	7	5	9	1
Type of Privacy Complaint						
Collection	5	-	-	4	1	-
Use	2	-	1	1	-	-
Disclosure	11	-	6	4	1	-
TOTAL	231	32	86	76	36	1

PHIA Complaints Closed	Total	Declined or discontinued	Supported in part or in whole	Not supported	Resolved	Recommendation made
Type of Access Complaint						
Refused access	6	-	-	5	1	-
No response	2	-	1	-	1	-
Correction	2	-	-	2	-	-
Adequacy of search	1	-	-	1	-	-
Other access matters	2	-	1	-	1	-
Type of Privacy Complaint						
Collection	4	1	-	3	-	-
Use	1	-	-	1	-	-
Disclosure	11	-	8	3	-	-
Security	3	-	3	-	-	-
TOTAL	32	1	13	15	3	-

For more detailed information about FIPPA and PHIA complaint investigations, please see the tables on pages 42-44.

ACCESS TO INFORMATION MATTERS

2020 trends:

- » 45 per cent of the access complaints (114 of 255 complaints) under FIPPA were made about public bodies' decisions to refuse access to the requested records.
- » 28 per cent of the access complaints (73 of 255 complaints) under FIPPA were made about public bodies' non-compliance with legislated time frames to respond to access requests. 85 per cent (62 of 73) of timeliness complaints related to provincial government departments.

Access to information investigation reports

Our investigation reports describe the issues we considered in the case, explain our interpretation of provisions of FIPPA and PHIA, and contain any findings and recommendations the ombudsman considers appropriate about the complaint. We publish reports with recommendations on our website, along with a selection of other reports where we have supported, partly supported, or not supported complaints, as well as when complaints have been resolved without making findings. In 2020, we published four access-related reports, including one that contained recommendations. It and some other reports are highlighted on the following pages.

FIPPA

Case 2020-0634

Recommendation made

9 Duty to assist applicant

11(1) Time limit for responding

FIPPA requires that a public body make every reasonable effort to respond to an access request within 30 days of receipt (subsection 11(1)), unless it extends the time period (section 15) or transfers the request to another public body (section 16).

Manitoba Executive Council Office received a request for records on November 27, 2019. It did not transfer the request, extend the 30-day time limit for responding, or make a request to the ombudsman for a longer extension. Therefore, its 30-day time limit for responding to the request was December 27, 2019.

The public body did not respond to the applicant by December 27, 2019. Instead, on February 21, 2020, it issued a fee estimate totaling \$1,200, which the applicant paid in full. At this point, the public body should have responded promptly and without delay. It did not. Our office received a complaint about the public body's lack of response on June 9, 2020.

Our office made several attempts to determine when the public body would respond to the request but it did not provide us with specific details. We found that the public body failed to respond within the time period as set out in FIPPA and did not fulfil its duty to make every reasonable effort to assist an applicant and to respond openly, completely, and without delay.

On November 6, 2020, the ombudsman made two recommendations to the public body: first, that the public body provide a response to the applicant no later than November 30, 2020; and second, that the public body provide us with a copy of its response. The public body accepted the recommendations and it made its access decision on December 4, 2020. As this was later than the date specified in the recommendation, the public body did not comply with the recommendation.

**FIPPA
Case 2019-0225**

**Complaint not
supported**

**23(1)(a) Advice to
a public body**

Manitoba Families refused access to records about the compliance of each CFS agency with mandated standards of performance. It made the refusal on the basis that disclosure would reveal advice and analyses developed by and for the public body.

The department explained to our office that information in its Child and Family Services Information System (CFSIS) compliance reports is used to inform policy and program options and for recommendations on courses of action that the department takes. The department maintained that data analysis took place in order to generate the figures showing compliance with a ministerial directive. It explained that information in the records was not maintained in the form in which it appears in the compliance reports and that a specific way of querying data was developed by a data analyst.

We acknowledged that data analysis had taken place in that data requirements were determined, data was collected and processed (organized on a spreadsheet) and a mathematical formula was applied (percentages were calculated to determine compliance). However, in our view, the data analysis produced numbers (percentages of compliance), which is information or facts. That information, in and of itself, did not have the effect of revealing advice, which speaks to the formulation of a particular policy or the making of a particular decision.

It was our view that analyses in the context of FIPPA (clause 23(1)(a)) must involve the development of advantages and disadvantages of possible courses of action in support of decision making. We observed that if mathematical calculations (data analyses) generated by public bodies, without any advice relating to those calculations, were subject to clause 23(1)(a), then a significant amount of public bodies' records would fall under this exception. This would clearly be contrary to the purpose of this exception, which is to protect the advice (not simply information or data) developed by or for the public body or the minister.

As our office was of the view that FIPPA did not apply to the information at issue in this complaint, we asked the public body to reconsider its decision to withhold this information. The department agreed to release the previously withheld information to the complainant.

**FIPPA
Case 2020-0645**

**Complaint
supported**

**18(1)(b) Disclosure
harmful to a third
party's business
interests**

The Winnipeg Regional Health Authority refused access to a request for copies of unannounced personal care home standards inspection reports for a five-year period. It made the refusal on the basis that disclosure would harm the business interests of third parties. The inspection reports contained observations and conclusions made by inspection teams from Manitoba Health, Seniors and Active Living relating to each personal care home's compliance with standards set out in the Personal Care Home Standards Regulation.

Our review did not identify any information in the reports that met the definition of commercial information as described in FIPPA. Based on this, we were of the opinion that if disclosed, the withheld information would not be harmful to a third party's business interests. As we found that the provision relied on by the health authority did not apply to the withheld information, we supported the complaint. We provided our analysis to the health authority to review and consider.

The health authority advised our office that Manitoba Health, Seniors and Active Living decided to post all personal care home standards inspection reports online, making them available to the public through proactive disclosure. The health authority informed our office that it would release all of the previously withheld reports to the complainant, as these reports would be made publicly available within 90 days.

Proactive disclosure of information, such as by publishing it on a website or making it available at an office, is an important way to inform citizens about a public body's programs and activities. Proactive disclosure fosters an environment where public bodies routinely release information, which could reduce the need to make FIPPA requests to access information. Each public body should determine what type of information to release proactively by evaluating what information is frequently requested and if there is value in its release.

**FIPPA
Cases 2019-0392
2019-0393
2019-0418
2019-0503**

Our office investigated several complaints about the Rural Municipality of Lac du Bonnet. Each of these complaints arose when the municipality refused access to the records requested by the applicant on the basis that the information was already publicly available and therefore outside of the scope of FIPPA.

Complaints not supported

In one of the complaints, the municipality refused access to a list of attendees to the Federation of Canadian Municipalities' (FCM) conference in Quebec and a listing of all expenses for each attendee. The municipality explained to our office that all expenses (i.e., travel, accommodation, meals and incidentals) are claimed by individual council members on a specific form and these claims are routinely provided in cheque listings on council meeting agendas. The complainant was of the view that the municipality used a "piecemeal" approach to listing the requested information on its website. Our investigation, however, was limited to whether FIPPA applied to the information and was not about the way in which the municipality presented the information.

3(a) Scope of this Act

6(2) Part does not apply to publicly available information

In another complaint, the municipality refused access to the total cost of office renovations in 2019. In a third complaint, the municipality refused access to a request for a copy of its harassment and anti-bullying policies. The municipality explained that the harassment policy on its website contained information about anti-bullying as well.

Our office did not support any of these complaints because in each case, the requested information was publicly available on the municipality's website.

These cases serve as a reminder that both citizens and public bodies have roles to play in making the FIPPA process work well. Citizens are encouraged to see if the information is available on a public site or through informal processes before making a formal FIPPA request. Similarly, if a person makes a FIPPA request because they are unfamiliar with what information is publicly available or how it is organized, the public body should explain how the information can be located or accessed without requiring a request under the act. Helping citizens understand when information is publicly available or providing information about how records are organized are examples of the public body's duty to assist an applicant under the act. Reasonable efforts by citizens and public bodies can promote access to information and avoid unnecessary use of the access process under FIPPA.

Longer extensions of the time limit for responding to FIPPA requests

FIPPA requires a public body to respond to an access request within 30 days of receiving it. The public body may extend the time limit for up to an additional 30 days in certain circumstances, such as:

- when a large number of records is requested or must be searched and when responding within the time limit would interfere unreasonably with the operations of the public body
- when time is needed to consult with a third party or another public body before deciding whether to give access to a record

If the public body determines that responding to the request will require more than a total of 60 days, it may request approval from the ombudsman for a longer extension. For a longer extension to be approved, the public body must demonstrate that an extension is permitted under FIPPA and that the amount of additional time being sought is reasonable.

In 2020, our office received 20 requests from public bodies for approval of longer extensions. We noted that 16 of the 20 longer extension requests related to issues caused by the COVID-19 pandemic such as staff and resources being redeployed, limited access to records while working from home, increased workloads as a result of changes that occurred during the pandemic, and third parties requiring more time during the consultation process. While a public health emergency such as the COVID-19 pandemic is not, on its own, a basis to extend the time limit, some issues caused by the pandemic may be relevant to the determination of the reasonableness of the amount of time needed for an authorized extension. Of the 20 requests for longer extensions, we approved eight in full or in part.

Seeking authorization from our office for a longer extension is a time-sensitive process. To assist public bodies, we have:

- a Longer Extension Request Form, which can be submitted online through our website or filled out electronically and submitted by email or fax
- a practice note, *Making a Submission to the Ombudsman for an Extension Longer than 30 Days under the Freedom of Information and Protection of Privacy Act*, to provide more detailed information

These resources can be found on our website.

Business continuity plans and exceptional circumstances

The COVID-19 pandemic highlighted that many public bodies were unprepared to respond to access requests within legislated time frames. In the past, our office has noted that the Freedom of Information and Protection of Privacy Act ought to include extenuating circumstances for longer extensions, such as public health emergencies or natural disasters. We note that amendments to both FIPPA and PHIA are coming that will enable public bodies to extend time limits to respond to access requests on the basis of exceptional circumstances that warrant the extension.

Our office notes, however, that while this amendment will allow public bodies to consider taking longer extensions in turbulent times, more importantly, public bodies should do the work to prepare for such times. Public bodies should consider their obligations under FIPPA and PHIA in their business continuity plans and be prepared to respond to access requests within legislated time frames precisely during times when the public's need for information may be substantial, significant, and time-sensitive.

PRIVACY MATTERS

2020 trends:

- » Our office received many public inquiries about privacy issues relating to the COVID-19 pandemic, including the collection, use and disclosure of their personal information and personal health information such as employers' requests for doctor's notes, exemptions to wearing face masks and coverings, and employers' disclosing personal health information about individuals to other employees.
- » Many public bodies and trustees consulted with our office regarding the privacy implications of working remotely and off-site, conducting virtual meetings, and emailing sensitive personal information and personal health information.

Privacy reviews and investigations

Our office investigates privacy matters in response to both complaints to our office from citizens, and we may initiate investigations on matters of broader concern. In 2020, we published one privacy-related report. It and some other reports are highlighted on the following pages.

FIPPA Case 2019-0561

Manitoba Liquor and Lotteries – Controlled Entrance Initiative

Throughout 2019, Manitoba Liquor and Lotteries (MBLL) considered initiatives to enhance security in Liquor Mart retail outlets in response to an increase in Liquor Mart thefts. The MBLL Controlled Entrance Initiative was implemented in November 2019. It had been standard procedure that MBLL employees asked customers appearing under 25 years of age to show identification to confirm proof of age for the purchase of liquor. Under the Controlled Entrance Initiative, all customers now have their ID scanned and verified prior to entering a Liquor Mart.

In December 2019, our office began to receive questions from the public about MBLL's authority to collect personal information in connection with the Controlled Entrance Initiative. Individuals who contacted our office questioned the need for MBLL to scan rather than just visually inspect ID. The public wondered about MBLL's authority to keep a scanned electronic record of their personal information. They also had questions about the amount of personal information being kept, given that ID cards may contain more information than what was required to establish age and identity. Some individuals also told our office that they did not have enough information about what would happen with their scanned personal information. As MBLL had plans to implement the Controlled Entrance Initiative at all Liquor Mart retail outlets in Winnipeg, our office recognized that this project would ultimately impact many Manitobans.

As a public body under FIPPA, MBLL is required to comply with the privacy and access to information provisions set out in the act. In response to the concerns expressed by the public, our office initiated a review to assess and comment on the protection of privacy in the context of the Controlled Entrance Initiative and to ensure that the collection, use and disclosure of personal information is compliant with FIPPA. MBLL advised our office that it was already in the process of assessing the privacy implications of the Controlled Entrance Initiative using the Privacy Impact Assessment (PIA) Tool developed by our office.

The purpose of completing a PIA is to assess and manage the impacts of a program or initiative on individual privacy, and to ensure compliance with privacy protection rules and responsibilities under FIPPA and PHIA. Manitoba's FIPPA and PHIA do not impose any requirements for PIAs to be completed, even when new initiatives are being considered or undertaken that have significant implications for the privacy of citizens' sensitive personal or personal health information, including identification cards. Although PIAs are not mandatory in Manitoba, our office considers completion of a PIA to be a responsible practice that assists a public body to anticipate and prevent risks to personal and personal health information entrusted to it. Privacy should not be an afterthought, bolted onto a new initiative. Privacy should be considered and integrated in the planning phase so it can be embedded in the design and delivery of public services to citizens.

In describing the scope of the initiative, MBLL stated that security officers stationed at Liquor Mart entrances obtain valid photo identification from customers and use the dedicated PatronsCan system to scan, authenticate and verify the validity of the presented ID and capture limited personal information. Once an individual's ID is validated, the security officer will unlock the door to the Liquor Mart and allow entry. If the ID is not validated (expired, underage, fake, or flagged for another reason), the security officer informs the individual that they will not be permitted to enter the Liquor Mart.

Although photo identification may contain a large quantity of personal information, MBLL advised our office that its scanners use software to extract and collect only three pieces of personal information from customer ID: full name, birthdate and photo. If an individual is involved in an incident, their scanned photo will be matched against surveillance video to enable an identification. In these circumstances, the scanned personal information will be extracted from the PatronsCan system and added to an internal MBLL application, which is used in the management of security investigations. All other personal information collected as part of this program will be actively deleted after 24 hours. Access to retained personal information connected with incidents is restricted to staff with responsibility for liaising with the Winnipeg Police Service on criminal investigations. MBLL also explained that the retained personal information may be disclosed to the Winnipeg Police Service for investigative purposes.

Based on our review, our office concluded that MBLL was authorized to collect the personal information of patrons and that this collection was limited to the minimum necessary as required under FIPPA. We provided comments to MBLL to strengthen notice to individuals about the collection of personal information to ensure people are fully informed about what information is being collected.

**PHIA
Case 2018-0195**

**Privacy breach
report**

**Use and security
of personal health
information**

A Winnipeg Regional Health Authority (WRHA) employee working on a ward at Grace General Hospital noted what appeared to be a co-worker's inappropriate use of the Emergency Department Information System (EDIS) while on shift. At the time the records were accessed, the co-worker was not providing care to emergency department patients at Grace General Hospital. The co-worker in question was a nurse who also worked on a casual basis at Seven Oaks General Hospital. As a result of her work at Seven Oaks, she had been provided with login credentials to access EDIS, an electronic patient record system which contains information pertaining to current and historical emergency department visits within the WRHA. Accessing and viewing such records without an employment need to do so is an unauthorized use of personal health information and is considered a privacy breach.

At Grace General Hospital, the employee reported her concerns about her co-worker's EDIS use to their manager and the privacy officer was informed. The WRHA immediately began an investigation.

As a result of its investigation, the WRHA determined that EDIS records for 1756 individuals had been accessed (used) without the required authority under PHIA. The WRHA reported the unauthorized use to our office, and we conducted a review of the WRHA's response to this privacy breach. Our office determined that the WRHA has adequate policies and procedures in place regarding the security of personal health information under PHIA, including procedures to appropriately address privacy breaches. We found that the WRHA moved to respond to this privacy breach immediately and it commenced an investigation promptly. Nonetheless, the nurse in question continued to have access to EDIS for three weeks after she was observed acting inappropriately by a co-worker.

We recognize that comprehensive audits of user access must be undertaken to conduct a full investigation and determine the full extent of a breach. However, in cases such as this where the nurse was observed by a co-worker, the time of inappropriate access could be determined with certainty. The suspicion of unauthorized use could have been confirmed through an audit of recent access to EDIS, enabling a quicker decision about the temporary removal of the nurse's login credentials. Such an approach would strengthen the protection of personal health information and ensure that personal health information is used only for authorized purposes.

Under PHIA it is an offence for an employee, without the authorization of the trustee, to wilfully use, gain access to or attempt to gain access to another individual's personal health information. In this case, we did not pursue charges under PHIA as we did not receive any complaints from affected individuals. PHIA requires the consent of the individual in order to disclose their personal health information to the justice minister for the purpose of pursuing potential charges under PHIA.

**FIPPA
Case 2019-0345**

**Complaint
supported**

**42(1) General
duty of public
bodies**

**42(3) Limit on
employees**

An individual complained to our office that an unauthorized disclosure of his personal information appeared to have been made by one educational body to others. The individual had made access requests under FIPPA for statistical information to a number of educational bodies. The individual decided to withdraw the request made to one of the educational bodies because the information was determined to be publicly available. Subsequently, the individual was contacted by one of the other educational bodies about the withdrawal, leading him to believe that his personal information had been disclosed.

FIPPA prohibits the disclosure of personal information of any individual, including access applicants, unless the disclosure is authorized under provisions of the act. Public bodies are required to take all reasonable measures to protect the identity of access applicants. Generally, an applicant's identity should only be shared when there is a clear need to do so in order to perform duties and functions related to FIPPA, such as when individuals request their own personal information and their name needs to be shared to search for responsive records about them.

The educational body explained to our office that it is a member of an association of similar educational bodies and it frequently consults with others on the application of FIPPA. In doing so, it may share general information about the subject of access requests it has received. The educational body acknowledged that, in this case, it had consulted with others about the request for access to statistical information. It explained that the individual's name was never disclosed to the other educational bodies. However, the educational body did reveal to at least one other educational body that the access request under discussion had been withdrawn. On receiving notification of our complaint investigation, the educational body realized that even though the individual's name was not mentioned, the individual was identifiable from the limited information about the access request that had been discussed.

Our office notes that consultation to seek advice on the interpretation and application of FIPPA is not inherently wrong and can enhance public body compliance with the legislation. Our office recognizes that, in order to make good access decisions, public body access and privacy coordinators may need to seek outside expertise.

In addition to the risk of inadvertently revealing the identity of access applicants, there are other risks associated with consultations. One such risk is that there may be a perception by access applicants, whether founded or not, that a public body engaged in this type of consultation may not have acted independently when making access decisions under FIPPA. When public bodies engage in consultation they should take steps to preserve their independent discretion, making each access decision impartially and in compliance with FIPPA.

In this case, the applicant's identity was revealed because requests for the same information were received by the public bodies involved in the consultations. Consultations involving a group of related public bodies may increase the risk that an individual will become identifiable. These are important considerations for public bodies choosing to consult or coordinate a response because the value of applicant anonymity lies not only in protecting the privacy of access applicants but also in ensuring impartiality in the processing of access requests.

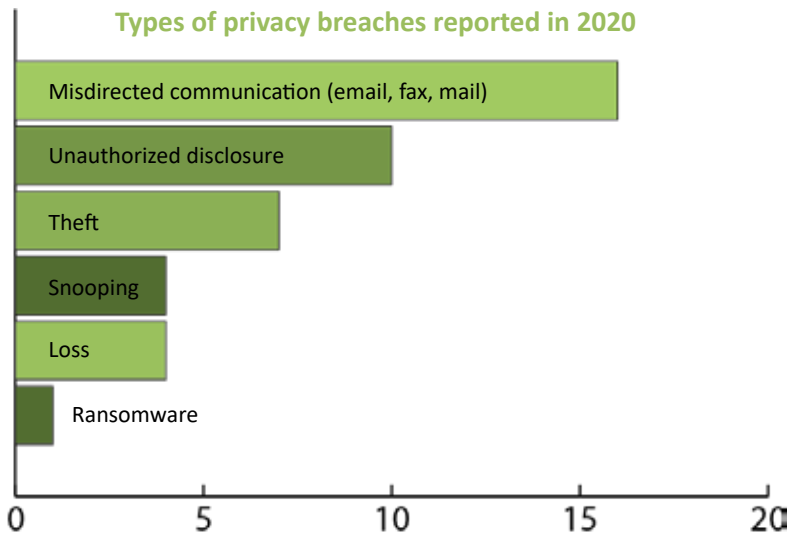
Reviews of privacy breaches reported to the ombudsman

Reporting privacy breaches to our office is not currently mandatory under Manitoba’s FIPPA and PHIA. In response to the Manitoba government’s legislative reviews of FIPPA and PHIA in 2017, we recommended that public bodies and trustees be required to notify the ombudsman of a privacy breach when there is risk of significant harm to an individual. Proposed amendments to FIPPA and PHIA, including reporting of privacy breaches to the ombudsman, are currently being considered by the legislature. We encourage public bodies and trustees to self-report privacy breaches to our office specifically where there may be a risk of significant harm to citizens affected by the breach.

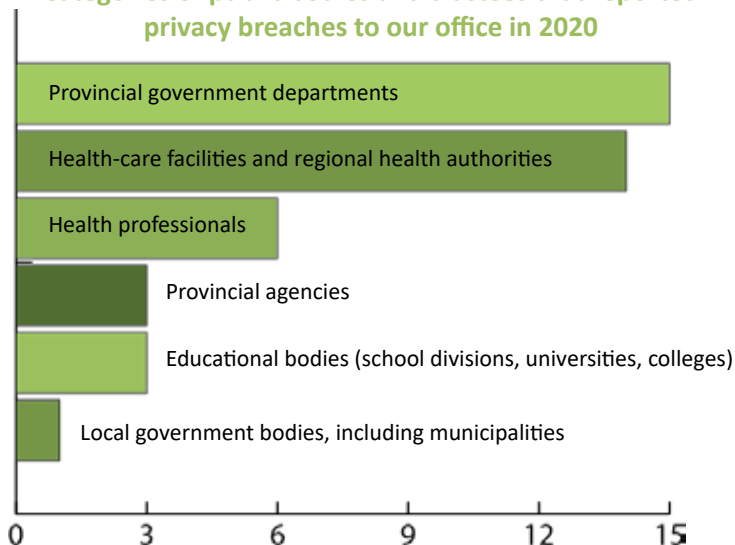
Privacy breaches reported in 2020

42	Privacy breaches were proactively reported to our office – 18 involved personal information and 24 involved personal health information
30	Privacy breach reviews were completed

Types of privacy breaches reported in 2020



Categories of public bodies and trustees that reported privacy breaches to our office in 2020



Misdirected communication – email, fax, mail – is preventable!

- Have clear policies and procedures about communications for staff, posters or other visual notices, and periodic reminders.
- Check and double check addresses, call recipients to ensure accuracy, send a test email or fax first to confirm receipt. Call the recipient in advance of sending a fax if the fax machine is available to others.
- Ensure that any personal or personal health information is password protected or encrypted.
- Avoid using email distribution lists to send personal and personal health information.
- Always use a fax cover sheet that includes both the sender’s and recipient’s names and telephone numbers.
- Always include a confidentiality notice with emails and faxes.

We have the following practice notes on our website:

- *Privacy Considerations for Emailing Personal and Personal Health Information*
- *Privacy Considerations for Faxing Personal and Personal Health Information*
- *5-Minute Privacy Checkup: Personal Information and Personal Health Information*

Benefits of reporting a privacy breach

Public bodies and trustees	They can receive guidance from our office about their response to the breach and steps that can be taken to prevent future breaches. Reporting a breach demonstrates accountability for the management of personal and personal health information entrusted to its care by citizens.
Citizens	It provides assurance that serious breaches by public bodies and trustees will be independently reviewed, including a review of the decisions on whether to notify affected individuals so they can take steps to reduce the impact of the breach. Our review also considers steps that can be taken to better protect citizens' information and prevent breaches from occurring.
Ombudsman	Receiving reports about breaches enables us to respond more proactively, by reviewing the response to the breach and providing guidance on steps that can be taken to mitigate the harm to individuals and prevent future breaches. It also enables us to prepare to respond to potential complaints that may be made from affected individuals.

After receiving a privacy breach report, we conduct a review of how the public body or trustee responded to the breach in the context of these four key steps. We review whether:

- all reasonable steps have been taken by the public body or trustee to contain the breach
- the risks associated with the breach have been thoroughly considered
- affected individuals have been notified
- all appropriate measures are being implemented to prevent future occurrences

In some cases, we may decide to conduct our own investigation of a breach.

To assist public bodies and trustees, we have the following resources on our website:

- a practice note, *Key Steps in Responding to Privacy Breaches under FIPPA and PHIA*
- a practice note, *Privacy Breach Notification Letter Checklist*, which outlines information to provide to affected individuals being notified of a breach
- a Privacy Breach Reporting Form for submitting a breach report to our office

Outcomes of the 30 privacy breach reviews completed in 2020

26 cases*	Resulted in the implementation of administrative safeguards (the policies and procedures that help protect against a breach ex: the development and/or review of policies and procedures and staff training)
25 cases	Resulted in the public body or trustee notifying the affected individuals about the breach
13 cases	Resulted in the implementation of physical safeguards (physical controls that protect personal and personal health information ex: security systems, door/window locks, and visitor access controls)
9 cases	Resulted in the implementation of technical safeguards (the technology and related policies that protect personal and personal health information from unauthorized access ex: encryption, passwords, and user access)

* An individual case may have multiple outcomes

SUPPORTING THE WORK OF PUBLIC BODIES AND TRUSTEES: INFORMAL CONSULTATIONS AND OUTREACH

Public bodies and trustees contact our office for guidance to assist them in dealing with challenging access and privacy issues. During these consultations we may discuss factors to consider in interpreting and applying provisions of FIPPA and PHIA, provide guidance on best practices to follow, and refer them to investigation reports or practice notes or other resources on our website. Although we cannot provide an advance ruling on a matter (as we may receive a complaint about the decision that the public body or trustee ultimately makes) we can provide advice to assist them in their decision-making process.

We also initiate informal consultations with public bodies as a result of new initiatives or programs with potential privacy implications being reported in media stories. This helps us learn about the initiatives and understand the steps being taken by the public body to address privacy implications.

During 2020, we had informal consultations about 105 access and privacy matters – 57 related to matters under FIPPA, and 46 related to matters under PHIA, and two relating to access and privacy matters that did not fall under FIPPA or PHIA. Unique to 2020, of the 105 informal consultations, 20 involved the COVID-19 pandemic.

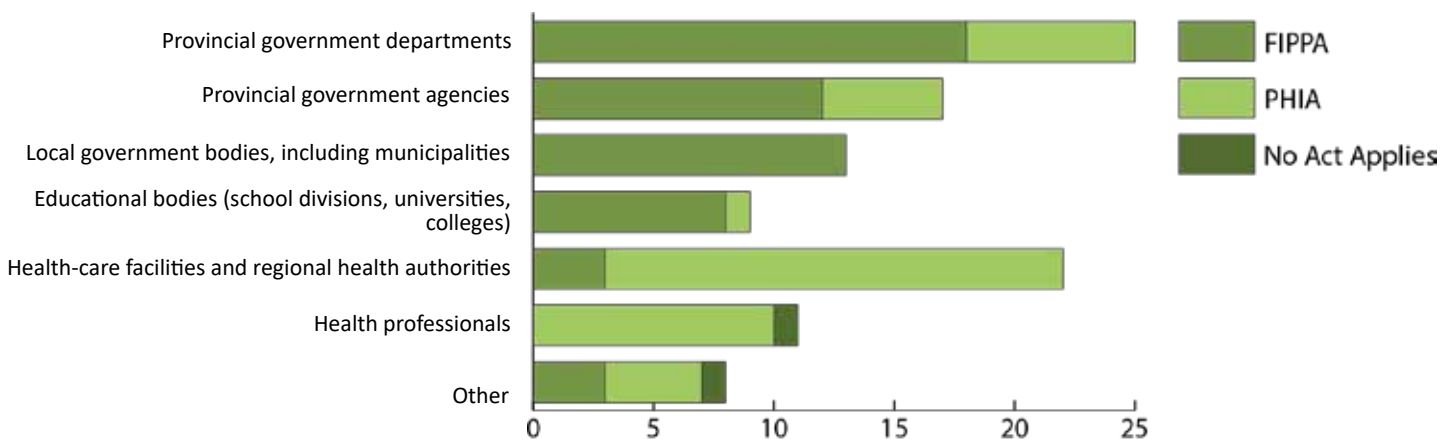
38 consultations related to privacy matters, including:

- Factors to consider in interpreting the privacy provisions under FIPPA and PHIA and how the provisions apply in circumstances of collection, use and disclosure of personal and personal health information
- Considerations of reasonable safeguards to protect personal and personal health information
- Requirements relating to the retention of personal and personal health information
- How to respond effectively to privacy breaches
- Guidance on how to protect personal and personal health information while working off side during COVID-19
- How to best protect privacy when implementing new systems and processes as a result of COVID-19
- Questions about the use of emailing personal information or personal health information as a result of COVID-19

65 consultations related to access to information matters, including:

- Factors to consider in interpreting sections of FIPPA and PHIA and how the sections apply in the processing of access requests
- Preparing fee estimates related to access requests
- Options and best practices for dealing with requests for large volumes of records
- Considerations about the circumstances and requirements for taking extensions of the time limit for responding to access requests
- Guidance on how to respond to FIPPA applications during COVID-19, including questions about longer extension requests as a result of COVID-19

Categories of public bodies and trustees who consulted our office on access and privacy matters in 2020



Access and privacy guidance during the COVID-19 pandemic

Practice notes

To support public bodies and trustees with their access and privacy responsibilities, we publish practice notes and other resources on our website.

In April 2020 we updated our practice note, *Protecting Personal Information and Personal Health Information when Working Off-Site*, to provide updated guidance in response to many public body employees shifting to remote working.

Advisories

Our office issued two advisories under FIPPA and PHIA to public bodies and trustees in 2020 in response to the COVID-19 pandemic and inquiries to our office. One titled *Advisory for public bodies about extensions under FIPPA during the COVID-19 pandemic* is discussed in the section of this report on longer extensions under FIPPA.

The second advisory, *Advisory for trustees about responding to individuals' access requests under PHIA during the COVID-19 pandemic*, provides guidance to ensure individuals are informed about how they may exercise their right of access to their personal information in circumstances of office closures. It also suggests ways in which access requests can be tracked and processed in a timely manner.

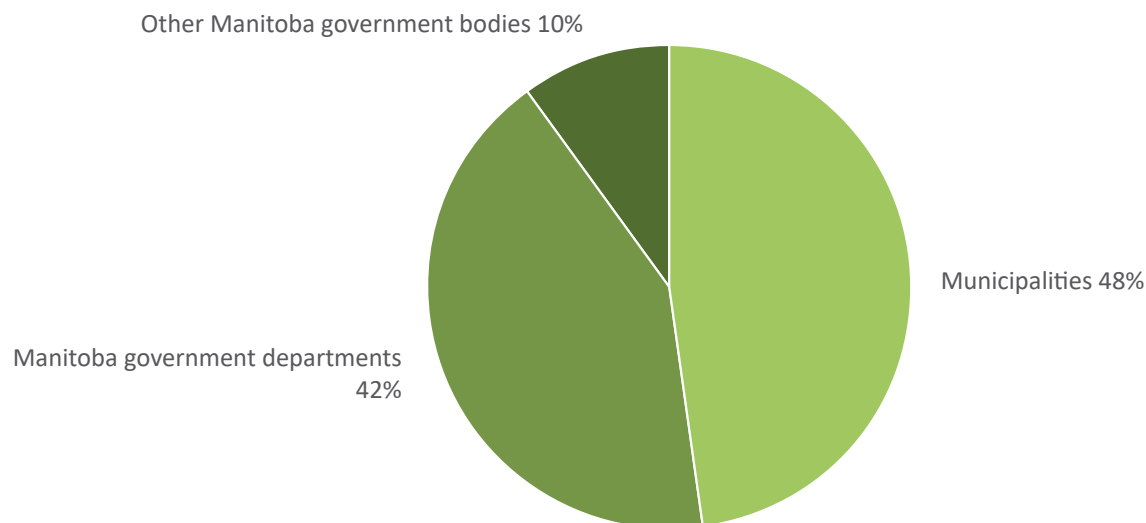
OMBUDSMAN ACT

A core function of the ombudsman is to investigate complaints from citizens about the actions and decisions made by public entities such as government departments and agencies, and municipalities, and their officers and employees. In other words, citizens make complaints to the ombudsman when they believe that an action or a decision by a government body is contrary to law or policy and affects them in some way; for example, when they disagree with a decision or action and feel like they have been treated unfairly. The ombudsman has the discretion to initiate her own investigation, without having received a complaint, if the ombudsman believes there is a matter of administration by which a person or the broader public may be aggrieved.

Under the authority of the Ombudsman Act, our office will determine whether the complaint can be resolved informally. Where early resolution is not possible, our office will open an investigation into the matter. Our investigations assess actions taken or decisions made in the context of provincial legislation or municipal bylaws. We also consider the fairness of the action or decision. If a complaint is supported, we may make recommendations to the government body complained about. We may also identify areas where improvements may be suggested to a government body.

During 2020 we investigated provincial and municipal public bodies involving a range of issues. On the following pages are highlights of some of the investigations we completed in 2020.

Distribution of cases opened under the Ombudsman Act in 2020



For more detailed information about Ombudsman Act complaint investigations, please see the table on page 45.

COMPLAINT INVESTIGATIONS

Ombudsman Act case summary

We received a complaint that a municipality did not follow proper procedure in approving a conditional use application by the local fish and game association for a firearms range. The complainant in this case felt that the municipality favoured the association and did not give opponents a fair chance to have their views heard and considered.

Conditional use application for a firearms range in a municipality

A key component of the conditional use process in all municipalities is a public hearing. Public hearings provide an opportunity for citizens to state their views and positions and at the same time see the information on which council is basing its decision. This ensures transparency and accountability.

Supported in part

Administrative suggestion made

Our office found that the municipality followed the procedure required by the Planning Act – the municipality gave notice and held a public hearing on the firearms range. Council then tabled the matter to receive further information, including operating rules and regulations, detailed site maps, information from the RCMP about the design and operation of shooting ranges, and requirements set by the chief firearms officer of Manitoba. After obtaining this information, council met and passed a resolution approving the conditional use application.

The complainant raised concerns that opponents of the range were not given advance notice of the council meeting in which council ultimately approved the firearms range.

Our office found that while the municipality had no legal requirement under the Planning Act to notify the complainant of the meeting, the process was not as fair as it could have been. Residents, particularly opponents to the application, were not given an opportunity to review and comment on all of the information that was considered by council in making its decision at the meeting. The firearms range was a contentious issue in the community and council could have taken extra effort to ensure the process was open, transparent and accessible.

As such, we partly supported the complaint. While we did not make a formal recommendation in this case, we suggested that in the future the municipality ensure that information related to all conditional use applications is shared broadly with the community in various ways, such as by updating its website with relevant information.

“Making further inquiries after a hearing is one of the areas where following the rules of procedural fairness is critical to making a decision that will stand up to scrutiny. If you have already conducted a public meeting or hearing and then conclude that you need further information, how do you proceed fairly? If you obtain further information, is it necessary to share that information with the parties before you make a decision? Generally, the answer will be yes. If there is information that is adverse to one party’s interest, they should have a chance to respond. If the information changes things in a material way, you are really considering a different issue. People should have the chance to speak to that issue.”

Understanding Fairness, Manitoba Ombudsman, 2013

**Ombudsman Act
case summary**

**City of Winnipeg
local improvement
projects and
development
agreements**

Supported

**Recommendations
made**

A real estate developer in the City of Winnipeg proposed a local improvement project that would make existing residents financially responsible for a share of the costs of new water and sewer main installations for a new development. Existing residents challenged and successfully defeated the proposal in 2015.

In 2016, the city informed existing residents that they were required to connect their properties to the new sewer installation at their own expense. They also had the option of connecting to the water main.

In 2017, the city also informed existing residents that they were responsible for additional “connection charges,” payable to the city, associated with the installation of the sewer and water mains for the new development. The connection charges assessed by the city were identical to the costs proposed in the local improvement project that had been defeated in 2015.

Our investigation found that the city had two separate processes by which property owners could become responsible for the costs of installing sewer and/or water mains. One process was the local improvement project, defeated by the existing residents. The second process was through the city’s sewer and water bylaws, which allow the city to charge a connection charge for either service. We found that the city did not provide existing residents with information that was understandable to them about how the connection charge related to, and was different from, the local improvement project that was defeated.

As a result, we made two recommendations to the city for administrative improvements. The first related to developing a more robust and coordinated communication plan for neighbourhoods under development to ensure that residents are provided with complete and timely information on the progress of the development and how it will alter the neighbourhood and impact the residents financially. Our second recommendation related to eliminating the ability for a developer to initiate a local improvement proposal when the development agreement also allows for the city to initiate a connection charge to benefitting property owners.

The city advised our office that it is exploring options to ensure the development process is as open and transparent as possible. Further, the city advised that a new development procedures bylaw was being drafted to improve clarity around the development application process. With respect to the second recommendation, the city noted that the change would require an amendment to the City of Winnipeg Charter by the legislative assembly.

Strengthening administration, public trust and confidence

Council for a rural municipality passed a bylaw directing the operation of off-road vehicles, including specific limitations within one community. The complainant, a resident, was of the view that the municipality passed this bylaw without proper notice or hearing concerns from the community.

When we looked into this complaint, we found that council passed the bylaw in accordance with its procedures bylaw and that there were no legal requirements for a public hearing under the Municipal Act or the Planning Act.

While we did not support this complaint, we noted that when an issue impacts a number of people in a community, municipalities can demonstrate good governance by considering steps beyond the minimum requirements set out in law for the purpose of engaging the community. While the municipality in this case did receive public input at three council meetings, it may have been helpful to hold a public meeting to address community concerns. Community engagement can strengthen administration and build public trust and confidence in municipal decision making.

Ombudsman Act case summary

We received a complaint about the timeliness of Manitoba Sustainable Development's communication of soil quality test results in the south St. Boniface area in Winnipeg. Manitoba Sustainable Development (now Conservation and Climate) had received soil test results in spring 2018 showing elevated levels of lead and other toxic metals in soil in this area.

Timely communication by Manitoba Sustainable Development (now Conservation and Climate) about soil test results

The complainant in this case was concerned that the department was aware of the soil test results several weeks before it shared them with St. Boniface residents and the public. The local residents' association also shared concerns that the communication delay happened at the time of year when residents were planting their gardens and children would be playing outside.

Supported

During our investigation, we reviewed evidence that confirmed the department received the St. Boniface soil test results two months before they were shared with affected residents on July 13, 2018. We were satisfied, however, that the department engaged public health doctors in a timely manner as they provided the soil test results to Manitoba Health, Seniors and Active Living by May 14, 2018, approximately one week after receiving the complete results data. The public health doctors did not believe the soil test results demonstrated a public health emergency. In their view, even the highest soil exceedance in the results presented a low risk.

Recommendation made

The department also advised us that the minister needed to be briefed before the department shared the soil test results with residents. A ministerial briefing on this matter occurred on June 21, 2018. We did not find this timeframe for a ministerial briefing to have been unreasonable in the circumstances.

As a result of our investigation, we recommended that to ensure future test results are shared with affected individuals in a timely manner, the department work with Manitoba Health, Seniors and Active Living to finalize a cross-departmental communications protocol as soon as possible. The departments accepted our recommendation and provided us a final version of the communications protocol.

Ombudsman Act case summary

We received seven complaints about the length of time it took the Manitoba Human Rights Commission to investigate the matter each complainant brought to its attention.

Length of time taken by the Manitoba Human Rights Commission to investigate complaints

In the years prior to these complaints, the commission explained that it experienced a shift in the availability of resources and a growth in volume of complaints. These changes led to a backlog and delays, and affected the commission's ability to set realistic time frame targets and maintain ongoing communication with complainants.

Supported

When we looked at how long it took the commission to deal with our complainants' matters, we concluded that the length of time raised issues of fairness. All of our complainants had expectations about how the process would unfold based on information provided to them by the commission itself, and none of their expectations were met.

Recommendations made

While delays in the provision of public services may at times be unavoidable, delays should not be burdensome or infringe on rights or entitlements. For example, a delay could result in a complainant missing a deadline to file a complaint with another body. Individuals are entitled to sufficient information to make educated and realistic decisions about their matter, including weighing the repercussions of potential administrative delays.

While the Human Rights Code does not legislate a time frame within which the commission must complete its work, it is reasonable to expect that the commission, in the interest of delivering its services fairly, would ensure that information provided to the public and complainants about time frames be clear, current, accurate and accessible. As a result of our investigation, we recommended that the commission:

- Clarify its process and identify key points to routinely track processing times.
- Ensure public information regarding process and time frames is accurate and current.
- Develop procedures to standardize:
 - when and how complainants are updated throughout the process, and
 - when and how complainants are updated if there are changes to the anticipated time frame.

The commission accepted our recommendations and advised us that it had implemented changes to reduce the average time to complete the formal review process of a complaint.

Property tax assessment

We received a complaint from a property owner that a municipality had unfairly collected property taxes on an unserviced lot in an incomplete development.

When we looked into this complaint, we found that the municipality had been collecting the amount of property tax assessed by the Manitoba Assessment Branch and that the branch had assessed the property in accordance with the process set out in the Municipal Act.

While we did not support this complaint, the municipality in this case agreed with the property owner that the assessment over-valued the lot and advocated for a re-assessment by the Manitoba Assessment Branch. The branch reviewed the property and discounted the assessed value of the property for the 2020 assessment rolls. We shared this information with the complainant.

Ombudsman Act case summary

Information about hearing costs and fee waivers at the Public Utilities Board

Supported

Recommendations made

After receiving a water bill much higher than expected, a resident wrote to the municipality in which she lived explaining her view that the charges were unfair. The municipality advised the resident that she could make a complaint to the Public Utilities Board (PUB), which sets rates for public utilities in Manitoba and considers appeals and formal complaints.

The resident was advised by the PUB that she could make a complaint to get the charges reduced. While there were no fees or costs to submit a complaint, the PUB explained there may be costs related to the hearing. The PUB further explained that the amount owing would be determined once the hearing was complete and it made a decision.

Based on the information provided by the PUB, the resident understood that it was not possible to either confirm the costs or estimate the potential costs of proceeding with a formal complaint. She decided not to continue with a formal complaint due to the cost uncertainties and the reality of her personal financial circumstances. She made a complaint about the PUB to our office.

Our investigation found that the PUB has the legal authority to assign costs. Further, the board may waive costs if a complainant self-identifies as low income in the material they provide to the board. When we looked at how the PUB communicates information on costs, we noted that:

- Individuals are not given information about how to qualify for a cost waiver, what information should be submitted to be considered for a cost waiver or how the decision is made.
- Neither the online complaint form or the PUB's disconnection policy refers to costs.
- Information regarding costs is in the rules and the act. Both are available on the PUB's website and written with language that is legal in tone and presentation without clearly explaining matters of cost in a manner accessible for the general public.

Our review raised concerns about the PUB's expectation that complainants or applicants read, interpret and apply policy and legal documents in order to make a decision about what is in their best interest. That onus is the same whether the complainant or applicant is an individual (like our complainant) or a utility provider (with resources and experience navigating such systems). In the case of our complainant, the information she received was not sufficient to make an informed decision about pursuing a PUB complaint, which limited full and meaningful participation in the PUB process. For low-income parties in particular, uncertainty around costs may constitute a restriction, whether real or perceived, to access.

Administrative tribunals make decisions that have the potential to affect an individual's rights, interests, or privileges, and can have legal consequences. The authority to make such decisions is accompanied by the responsibility to ensure that the tribunal's administrative framework prioritizes fairness throughout all aspects of administration. This includes processes and services which enable the public to understand and access the tribunal. Accessible information contributes to an accessible process because complainants can make informed, realistic and constructive decisions about how they may proceed with that public body.

We encouraged the PUB to consider its processes and policies in light of the Council of Canadian Administrative Tribunals guiding principles that administrative justice should ensure that the dispute resolution process is accessible, affordable, understandable and proportionate to the abilities and sensibilities of users.

We recommended that the PUB clarify the information that should be provided to citizens about tribunal costs that may be charged back to the individual applicant and the process of applying for a waiver. We also recommended that the PUB develop a public document outlining the intake process for formal complaints from individuals. The PUB accepted and implemented the recommendations. We believe the steps taken by the PUB will enhance citizen access to administrative justice.

OMBUDSMAN-INITIATED INVESTIGATION: FOLLOW-UP ON RECOMMENDATIONS

In 2018, our office completed an ombudsman-initiated review of the use of pepper spray and segregation in Manitoba's youth correctional facilities, issuing a report in early 2019 that included 32 recommendations. The investigation was in response to concerns raised with our office by the Manitoba Advocate for Children and Youth (MACY). Youth and others had raised concerns with MACY about the use of pepper spray and segregation at Manitoba Youth Centre (MYC) and Agassiz Youth Centre (AYC).

We found that AYC and MYC's standing orders for pepper spray and segregation use did not contain a number of elements required by the Correctional Services Regulation or Corrections policies. In many instances, our office was unable to assess AYC and MYC's compliance with pepper spray or segregation use standards because the facilities did not fully meet their reporting and documentation requirements, or those requirements were lacking. Better documentation and data collection were necessary.

With respect to pepper spray, we found that divisional policy and the facilities' respective pepper spray standing orders addressed the mental and emotional health of staff who deploy pepper spray, but did not do the same for youth who had been pepper sprayed.

With respect to segregation, we found the facilities did not maintain an accurate list of youth who have been segregated, when, for what reasons and for how long. In addition, AYC's Lakewood unit operated in segregation conditions, but was not considered a segregation placement. Further, neither facility consistently complied with the requirements to review segregation use as set out in standing orders and the Correctional Services Regulation.

Our office considered that many of the shortcomings identified in our review could be addressed through the recommendations we made as a result of our investigation. Some of our recommendations included:

- incorporating missing elements from Corrections regulations and policies into the pepper spray and segregation standing orders
- addressing youth's mental health after pepper spray is used
- better data collection and documentation
- compliance with documentation requirements

Manitoba Justice accepted all 32 recommendations. As of spring 2021:

- 24 of 32 recommendations have been fully implemented
- a modified version of the recommendation was implemented for five of the 32 recommendations
- two recommendations were overtaken by larger process changes in the facilities
- one recommendation was accepted, but not implemented as it did not work in practice

INQUEST REPORTING

Under the Fatality Inquiries Act, the chief medical examiner may direct that an inquest be held into the death of a person. Inquests are presided over by provincial court judges. Following the inquest, the judge submits a report and may recommend changes in the programs, policies and practices of government that in his or her opinion would reduce the likelihood of a death in similar circumstances.

Since 1985, Manitoba Ombudsman has been responsible by way of an agreement with the chief medical examiner for following up with the provincial government department, agency, board, commission or municipality to which inquest recommendations are directed, to determine what action has been taken. The status of the responses to the recommendations by the public bodies are available on our website.

In 2020, we concluded our follow up on a total of five recommendations made in one inquest report (R.D.). We also began follow up on three recommendations made in one inquest report (Russell Andrew Spence) released by provincial court judges in 2020.

Since 2008 when we first began sharing our final reports publicly, we have reported on the status of recommendations made in 63 inquests.

PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) ACT

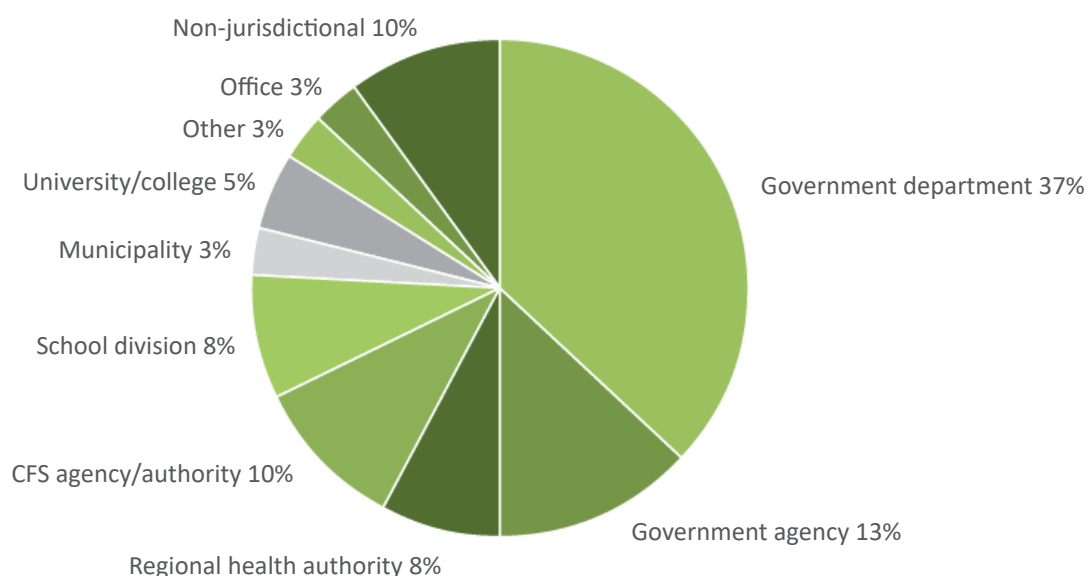
Under the Public Interest Disclosure (Whistleblower Protection) Act (PIDA), our office investigates disclosures of wrongdoing in or relating to the public service. A wrongdoing is a very serious act or omission that is an offence under another law, an act that creates a specific and substantial danger to life, health or safety of persons or the environment, or gross mismanagement including the mismanagement of public funds or government assets.

The act also provides reprisal protection to those who seek advice about making a disclosure, make a disclosure, or co-operate in an investigation under PIDA. Our office is responsible for receiving and investigating complaints of reprisal under PIDA.

Overview of 2020 PIDA Case Files

File type	Received 2020	Closed 2020
Disclosures of wrongdoing	33	32
Reprisal complaints	2	2
Procedure reviews (assistance requested by public body)	1	0
Procedure reviews (ombudsman requested)	2	0
Total	38	34

Distribution of PIDA cases in 2020 by type of public body



DISCLOSURES OF WRONGDOING

Disclosures of wrongdoing in 2020

33

Disclosures referred to PIDA designated officer in public body

1

Assessment of disclosures of wrongdoing

We assess disclosures to determine if an allegation meets the definition of wrongdoing, if there is enough information to support the allegation at face value, and whether PIDA is the most appropriate process to have the matter investigated. Our assessment may result in a decision to investigate the matter as wrongdoing under PIDA or it may result in a decision to decline to investigate for various reasons, some of which are:

- The matters are not significant and serious and therefore the allegations do not meet the definition of wrongdoing
- The disclosures relate to matters more appropriately dealt with according to a procedure under another act
- The disclosures relate to employment matters more appropriately handled through a human resources process

Case examples of files closed in 2020

While PIDA designated officers within public bodies can receive and deal with disclosures made by their employees, our office may receive disclosures from employees in any public body and from non-employees who believe they have information about a wrongdoing.

Assessment of a disclosure from a non-employee

Our office received a disclosure from a non-employee (a citizen) who was concerned about several decisions made about care by psychiatric health-care providers within two medical facilities. The care decisions at issue included the discloser's admissions to psychiatric facilities under the Mental Health Act as well as medication prescribed during the discloser's stay in these facilities. The discloser also raised concerns about the state of one facility.

We determined that the allegations about the state of the facility were not serious enough to warrant investigation under PIDA and we advised the discloser that they also have the option of bringing their concerns to the client relations office of the regional health authority involved in the matter.

This case also highlighted an issue of jurisdiction. Under PIDA the ombudsman does not have authority to review medical decisions made by physicians. Issues regarding medical decision making and care can be addressed through the College of Physicians and Surgeons of Manitoba. Additionally, the Mental Health Review Board has the jurisdiction to review care decisions made under the Mental Health Act.

Section 3 of PIDA sets out what a wrongdoing is and establishes the types of matters that we may investigate:

Wrongdoings to which this Act applies

3 This Act applies to the following wrongdoings in or relating to a public body:

- (a) an act or omission constituting an offence under an Act of the Legislature or the Parliament of Canada, or a regulation made under an Act;
- (b) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of an employee;
- (c) gross mismanagement, including of public funds or a public asset;
- (d) knowingly directing or counselling a person to commit a wrongdoing described in clauses (a) to (c).

Assessment of a disclosure from an employee of a government body

Our office received a disclosure from an employee of a government body alleging that the executive director practised nepotism and created a toxic workplace environment. The disclosure stated that the actions of the executive director resulted in high staff turnover, and suggested the matter to be a wrongdoing defined in the act as “creating a substantial and specific danger to life, health or safety of a person or the environment.”

A risk to life, health and safety requires both a specific (identifiable) and substantial threat. In this case, the allegation that the workplace environment was creating a risk to clients of the government body was non-specific and speculative in nature. PIDA also provides that the ombudsman may decline to investigate if a disclosure relates to matters that are better addressed according to procedures under a collective agreement or employment agreement. For these reasons, we declined to investigate.

Notification to public body of a disclosure received and request for information

Our office received a disclosure alleging that a government body was not following appropriate human resource and labour practices in the use of volunteers and temporary employees. It was alleged that, in addition to being a violation of employment standards and internal policy, this could present a risk to individuals using the government body’s services. The discloser said the issues had been reported internally but had not been adequately addressed.

Before investigating we are required to inform the chief executive of our intent to investigate. In some cases, an initial request for specific information from the public body will assist us in establishing whether there is merit to the allegation as a matter of wrongdoing, and whether further investigation by our office is required.

We contacted the government body to clarify the steps it had taken when the allegation was reported internally. We confirmed that some practices had been corrected to bring them into compliance with internal policy. Our office determined that the government body had taken appropriate steps in addressing the risks identified in its internal report, and that there were no outstanding items requiring investigation by our office. We declined to investigate further under PIDA and advised the discloser of the result of our independent review.

Wrongdoing investigations

We launched one new investigation into a disclosure of wrongdoing, ceased one and concluded two investigations.

PIDA case summary

Our office received a disclosure alleging that inventory in the control of a government department was being mismanaged. The disclosure described a general lack of appropriate controls over the inventory, as well as misuse of the assets for personal gain. The allegations were investigated under the wrongdoing definition of gross mismanagement.

Wrongdoing investigation concluded

Our office reviewed relevant legislation and internal policies, reviewed documents used for inventory control, and counted inventory present that was allegedly at risk of being misused. While we did not find evidence of widespread misuse of the inventory, we did find some inconsistencies in tracking the assets.

No wrongdoing found

Due to the limited scale of these inconsistencies and the impact of them, we did not find that wrongdoing had occurred. We did, however, make four recommendations for administrative improvements. The department accepted our recommendations and is working towards implementation.

**PIDA
case summary**

**Wrongdoing
investigation
ceased**

Through the process of our investigation into an allegation of wrongdoing within a government agency, we determined that the disclosure related to a matter that was a result of a balanced and informed decision-making process that contemplated the obligations of the government agency under applicable legislation, policies and procedures. We found no matter of wrongdoing that would require further involvement by our office and we discontinued the investigation. We notified the discloser, the government agency and the respondent of our decision to discontinue and the basis for our decision.

REPRISAL COMPLAINTS

Under PIDA, employees are protected from reprisal for seeking advice, making a disclosure or cooperating in an investigation into alleged wrongdoing(s). Reprisal means any measure taken against an employee such as a disciplinary measure, a demotion, termination, or any measure that adversely affects employment or working conditions, including making threats to do so.

When we decline to investigate a reprisal complaint, we will explain the reasons and the employee or former employee may make a further complaint about the alleged reprisal to the Manitoba Labour Board, which will be handled using procedures under the Labour Relations Act. Our reasons to decline to investigate a reprisal complaint include:

- there was no evidence of the complainant’s involvement in a matter under PIDA
- the measure (termination or disciplinary measure) was taken against the employee prior to any involvement under PIDA or for other documented reasons
- the complainant was not in an employee/employer relationship with the public body

When we launch an investigation, sufficient evidence exists to confirm that the actions that occurred may be linked to the employee’s participation under PIDA. We did not initiate any investigations into reprisal in 2020.

Reprisal complaints in 2020

2

For more detailed information about PIDA disclosures and reprisal complaints, please see the table on page 46.

OMBUDSMAN’S OBLIGATION TO REPORT ABOUT DISCLOSURES

As a public body under PIDA, our office is required to report on any disclosures of wrongdoing that have been made internally. We did not receive any disclosures in 2020.

Number of disclosures received	0
• acted on	N/A
• not acted on	N/A
Number of investigations commenced as a result of a disclosure	N/A

OFFICE OPERATIONS

SERVICE DELIVERY DURING THE COVID-19 PANDEMIC

In 2020 we changed the way our services were delivered as a result of the COVID-19 pandemic. During periods when our office was closed to in-person services or services were limited, we were able to adapt and serve the public in other ways; primarily by phone, email and online.

As part of our business continuity planning efforts, we developed a comprehensive pandemic policy to support and guide employees and our work during this time. Information technology staff, who support the independent offices and staff of the legislative assembly, were able to implement the necessary technology and training to make flexible working arrangements possible.

As we implemented various working arrangements throughout the year, we produced a variety of internal communications to keep employees informed and connected:

- a weekly newsletter
- guidance documents for maintaining health and safety while working in the office
- a variety of documents to help employees use new processes and technologies that enabled us to work with each other and deliver services differently

CORPORATE INITIATIVES

In 2020 we began a review, redesign and development of our office policies related to human resources, workplace safety and health, information technology, business continuity and corporate administration. Policy redesign occurred in consultation with staff, leadership, and the ombudsman and were subjected to a thorough review and approval process. A new Manitoba Ombudsman Operational Policy Manual with all policies and forms was implemented in early 2021.

We also continued with the organizational design review that we began in 2019 in order to determine the best way to respond to the growing demands for service, increase the value we provide to administrators and citizens, and enhance the experience of our various clients. As part of our review, we looked closely at how complaints move through our system and we used the technique of client journey mapping to better understand the perspective of our clients. We identified opportunities for improvement and began working on changes to our information systems that will support future changes to our business processes.

2020/21 Office Budget (numbers reported in thousands)

Total salaries and employee benefits	3,366.0
Other expenditures	677.0
Total budget	4,043.0

STAFF

Manitoba Ombudsman has offices in three locations – Brandon, Thompson and Winnipeg.

The organization has two divisions – the Access and Privacy Division for FIPPA and PHIA matters, and the Ombudsman Division for Ombudsman Act and PIDA matters. The divisions are supported by the Community Relations and Corporate Services team.

Winnipeg Office

Jacqueline Bilodeau, *Manager, Access and Privacy Investigations*
Shannon Bunkowsky, *Business Transformation Specialist*
Angie Cleutinx, *Administrative Support Clerk*
Patti Cox, *Investigator*
Judy Dandurand, *Manager, Systemic Investigations and Audits*
Lourdes De Andrade, *Manager, Administration*
Kristen Fogg, *Investigator*
Leanne Fraser, *Complaints Analyst*
Meghan Gallant, *Investigator*
Laurie Gordon, *Investigator*
Rachel Gotthilf, *Investigator*
Jannie Gulakow, *Complaints Analyst*
Cindy Holloway, *Manager, Community Relations and Corporate Services*
Cary Jackson, *Investigator*
Lena Joseph, *Administrative Support Clerk*
Cydney Keith, *Investigator*
David Kuxhaus, *Manager, Ombudsman Act Investigations*
Marie Langton, *Investigator*
Justine Lapointe, *Investigator*
Heather Lessard, *Intake Manager*
Mary Loepp, *Investigator*
Nancy Love, *Deputy Ombudsman, Access and Privacy Division*
Alyson McFetridge, *Investigator*
Maggie Nighswander, *Investigator*
Robyn Osmond, *Investigator*
Maria Palattao, *Administrative Support Clerk*
Felicia Palmer, *Complaints Analyst*
Shelley Penziwol, *Communications, Education and Training Coordinator*
Jill Perron, *Ombudsman*
Lori Roberts, *Manager, Public Interest Disclosure Investigations*
Jackie Sedor, *Investigator*
Dayna Van Caeyzeele, *Investigator*
Chris Watson, *Investigator*
Linda White, *Investigator*
Jessie Zillman, *Investigator*

Brandon Office

Chris Baker, *Investigator*
Karen Bertrand, *Administrative Support Clerk*
Wanda Bryant, *Investigator*

Thompson Office

Ila Miles, *Administrative Support Clerk*

DETAILED STATISTICS

FIPPA INVESTIGATIONS OF INDIVIDUAL COMPLAINTS (UNDER PART 5)

	Case Numbers			Case Dispositions							Recommendations
	Carried over into 2020	New cases in 2020	Total cases in 2020	Pending at 12/31/2020	Declined	Discontinued	Not supported	Partly supported	Supported	Resolved	
Provincial government											
Agriculture & Resource Development	1	5	6	3	-	1	-	-	-	2	-
Central Services	-	15	15	7	-	-	-	-	8	-	-
Civil Service Commission	2	7	9	6	-	-	-	1	1	1	-
Conservation & Climate	3	6	9	4	-	-	4	1	-	-	-
Crown Services	1	1	2	-	1	-	-	-	1	-	-
Economic Development & Training	-	6	6	3	-	-	1	-	2	-	-
Education	1	3	4	1	-	-	3	-	-	-	-
Executive Council	2	29	31	24	-	-	1	-	5	-	1
Families	18	18	36	12	-	1	6	10	4	3	-
Finance	10	28	38	22	-	2	2	1	9	2	-
Health, Seniors & Active Living	1	5	6	2	2	-	1	1	-	-	-
Indigenous & Northern Relations	2	2	4	3	-	-	-	-	-	1	-
Infrastructure	-	8	8	6	-	-	-	-	-	2	-
Intergovernmental Affairs	1	-	1	1	-	-	-	-	-	-	-
Justice & Attorney General	8	11	19	11	-	-	3	2	2	1	-
Municipal Relations	1	5	6	2	-	-	1	-	1	2	-
Government agency											
CFS Agency/Authority	-	3	3	3	-	-	-	-	-	-	-
Efficiency Manitoba	-	2	2	-	-	-	2	-	-	-	-
Manitoba Housing & Renewal Corporation	2	1	3	-	-	-	2	-	-	1	-
Manitoba Hydro	7	14	21	7	-	-	2	-	4	8	-
Manitoba Liquor & Lotteries	1	3	4	-	-	1	2	1	-	-	-
Manitoba Public Insurance	2	1	3	-	-	-	3	-	-	-	-
Tax Appeals Commission	1	-	1	1	-	-	-	-	-	-	-
Travel Manitoba	-	1	1	1	-	-	-	-	-	-	-
Workers Compensation Board	2	5	7	2	-	-	1	2	1	1	-
Local government body											
City of Brandon	1	-	1	-	-	-	-	1	-	-	-
City of Thompson	-	1	1	-	-	-	-	-	-	1	-

FIPPA INVESTIGATIONS OF INDIVIDUAL COMPLAINTS (UNDER PART 5)

	Case Numbers			Case Dispositions							Recommendations
	Carried over into 2020	New cases in 2020	Total cases in 2020	Pending at 12/31/2020	Declined	Discontinued	Not supported	Partly supported	Supported	Resolved	
Local government body, continued											
City of Winnipeg	24	25	49	19	-	-	19	5	3	3	-
Red River Planning District	1	-	1	1	-	-	-	-	-	-	-
RM of Gimli	3	-	3	2	-	-	-	-	-	1	-
RM of Kelsey	-	1	1	1	-	-	-	-	-	-	-
RM of Lac du Bonnet	5	4	9	3	-	-	4	-	1	1	-
RM of Pembina	-	4	4	-	-	-	4	-	-	-	-
RM of St. Andrews	1	-	1	-	-	-	-	-	1	-	-
RM of St. Laurent	2	-	2	-	-	-	1	-	1	-	-
RM of Springfield	3	-	3	1	-	-	1	1	-	-	-
RM of Victoria Beach	-	3	3	-	3	-	-	-	-	-	-
RM of West St. Paul	4	-	4	-	-	-	-	3	-	1	-
Town of Teulon	2	1	3	-	-	-	-	1	2	-	-
Town of Winnipeg Beach	-	1	1	1	-	-	-	-	-	-	-
Western Interlake Planning District	-	1	1	1	-	-	-	-	-	-	-
Educational body											
Assiniboine Community College	-	3	3	3	-	-	-	-	-	-	-
Brandon School Division	-	1	1	1	-	-	-	-	-	-	-
Red River College	-	2	2	1	-	-	-	1	-	-	-
Sunrise School Division	1	-	1	-	-	-	-	1	-	-	-
University of Manitoba	2	6	8	4	-	-	2	2	-	-	-
University of Winnipeg	-	1	1	1	-	-	-	-	-	-	-
Winnipeg School Division	1	2	3	2	-	-	-	-	1	-	-
Health-care body											
Concordia Hospital	1	-	1	-	1	-	-	-	-	-	-
CancerCare Manitoba	-	2	2	2	-	-	-	-	-	-	-
Interlake-Eastern Regional Health Authority	-	4	4	2	2	-	-	-	-	-	-
Northern Health Authority	-	1	1	1	-	-	-	-	-	-	-
Prairie Mountrain Health	-	2	2	2	-	-	-	-	-	-	-
St. Boniface Hospital	3	1	4	-	3	-	-	-	-	1	-
Shared Health Inc.	1	12	13	8	-	-	1	1	1	2	-
Southern Health-Santé Sud	1	6	7	-	-	-	6	-	-	1	-
Winnipeg Regional Health Authority	17	7	24	1	13	2	4	2	1	1	-
TOTAL											
	139	270	409	178	25	7	76	37	49	36	1

PHIA INVESTIGATIONS OF INDIVIDUAL COMPLAINTS (UNDER PART 5)

	Case Numbers			Case Dispositions								
	Carried over into 2020	New cases in 2020	Total cases in 2020	Pending at 12/31/2020	Declined	Discontinued	Not supported	Partly supported	Supported	Resolved	Recommendations	
Provincial government												
Families	-	7	7	4	-	-	-	-	3	-	-	
Justice and Attorney General	1	6	7	1	-	-	-	-	6	-	-	
Government agency												
Manitoba Public Insurance	1	-	1	-	-	-	-	-	1	-	-	
Workers Compensation Board	-	2	2	2	-	-	-	-	-	-	-	
Educational body												
Assiniboine Community College	2	-	2	-	-	-	2	-	-	-	-	
Health-care body												
Grace General Hospital	2	1	3	-	-	-	2	-	-	1	-	
Medical clinic	1	1	2	-	-	-	1	-	1	-	-	
Northern Regional Health Authority	1	2	3	2	-	-	1	-	-	-	-	
Personal care home	-	1	1	1	-	-	-	-	-	-	-	
Prairie Mountain Health	-	4	4	1	-	1	2	-	-	-	-	
Shared Health Inc.	2	-	2	2	-	-	-	-	-	-	-	
Southern Health-Santé Sud	-	2	2	2	-	-	-	-	-	-	-	
Winnipeg Regional Health Authority	5	3	8	3	-	-	4	1	-	-	-	
Health professional												
Occupational therapist	-	1	1	1	-	-	-	-	-	-	-	
Pharmacist	-	1	1	1	-	-	-	-	-	-	-	
Physician	3	5	8	2	-	-	3	-	1	2	-	
TOTAL												
	18	36	54	22	-	1	15	1	12	3	-	

Complaint dispositions used in the tables on pages 42-44:

Supported: Complaint fully supported because the decision was not compliant with the legislation.

Partly supported: Complaint partly supported because the decision was partly compliant with the legislation.

Not supported: Complaint not supported at all.

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

Resolved: Complaint is resolved informally before a finding is reached.

Discontinued: Investigation of complaint stopped by ombudsman or client.

Declined: Decision by ombudsman not to investigate complaint, usually based on a determination that the circumstances do not require investigation.

Pending: Complaint still under investigation as of December 31, 2020.

OMBUDSMAN ACT INVESTIGATIONS

	Case Numbers			Case Dispositions							Administrative suggestions made	Recommendations made	Both administrative suggestions and recommendations made	
	Carried over into 2020	New cases in 2020	Total cases in 2020	Pending at 12/31/2020	Case resolved early	Declined or discontinued	Not supported	Partly resolved or resolved	Partly supported or supported	Other				
Manitoba government departments														
Agriculture & Resource Development	2	-	2	1	-	1	-	-	-	-	-	-	-	-
Central Services	-	1	1	1	-	-	-	-	-	-	-	-	-	-
Civil Service Commission	1	2	3	2	1	-	-	-	-	-	-	-	-	-
Conservation & Climate	5	3	8	5	-	2	-	1	-	-	-	1	-	-
Economic Development & Training	1	-	1	-	-	1	-	-	-	-	-	-	-	-
Families	5	1	6	1	1	3	-	1	-	-	-	-	-	-
Finance	4	2	6	4	-	2	-	-	-	-	-	-	-	-
Health, Seniors & Active Living	2	2	4	3	-	1	-	-	-	-	-	-	-	-
Infrastructure	1	-	1	1	-	-	-	-	-	-	-	-	-	-
Justice & Attorney General	18	2	20	1	3	5	1	3	7	-	1	7	-	-
Other Manitoba government bodies														
Interlake-Eastern Regional Health Authority	1	-	1	-	1	-	-	-	-	-	-	-	-	-
Liquor, Gaming & Cannabis Authority of Manitoba	2	1	3	3	-	-	-	-	-	-	-	-	-	-
Manitoba Hydro	2	-	2	1	-	-	-	-	1	-	-	1	-	-
Manitoba Public Insurance	3	1	4	2	1	1	-	-	-	-	-	-	-	-
Public Utilities Board	1	-	1	1	-	-	-	-	-	-	-	-	-	-
Winnipeg Regional Health Authority	1	-	1	-	1	-	-	-	-	-	-	-	-	-
Workers Compensation Board	3	1	4	-	-	2	2	-	-	-	-	-	-	-
WCB Appeals Commission	1	-	1	-	1	-	-	-	-	-	-	-	-	-
Municipalities														
City of Winnipeg	18*	5	23	8	3	9	1	1	1	-	-	1	-	-
Other cities, RMs, towns, villages	65*	10	75	36	2	16	10	5	6	-	4	3	-	-
Planning districts	1	-	1	-	-	-	-	-	1	-	-	-	-	-
TOTAL														
	137	31	168	70	13	44	14	11	16	-	5	13	-	-
Pending: Complaint still under investigation as of December 31, 2020.				Not Supported: Complaint not supported at all.										
Case resolved early: Case resolved before proceeding through a full formal investigation process.				Partly Resolved or Resolved: Complaint is partly or fully resolved through investigation.										
Declined or discontinued: Investigation ceased as complaint was withdrawn or due to issues of jurisdiction or the existence of other avenues of appeal or resolution.				Partly Supported or Supported: Investigation found administrative issues that needed to be addressed.										
				Other: Monitoring and follow-up in previous cases where recommendations had been made, has been concluded.										

*These numbers were incorrectly reported as 17 files and 66 files pending at the end of 2019.

PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) ACT CASES

	Assistance provided	PIDA case files carried over into 2020	New PIDA case files opened in 2020	Total PIDA case files pending at 12/31/2020	Declined investigation	Ceased investigation	Referred to designated officer	Investigation completed – no wrongdoing	Procedure review completed	Recommendations made in 2020	Recommendation follow-up in 2020	
Government department		8	14	14	7	-	-	1	-	4	-	
Government bodies	Government agency	3	5	3	2	1	1	1	-	-	-	
	Regional health authority	3	3	-	6	-	-	-	-	-	-	
	Child and family services agency	3	2	4	1	-	-	-	-	-	-	
	Child and family services authority	2	2	2	2	-	-	-	-	-	-	
	School division	4	3	4	3	-	-	-	-	-	-	
	By regulation	Municipality	1	1	-	2	-	-	-	-	-	-
		Publicly funded service provider	2	-	1	1	-	-	-	-	-	6
		Health related body	1	-	-	1	-	-	-	-	-	-
University/college		-	2	2	-	-	-	-	-	-	-	
Other	-	1	1	-	-	-	-	-	-	-	-	
Office	-	-	1	1	-	-	-	-	-	-	-	
Non-jurisdictional	-	2	4	1	5	-	-	-	-	-	-	
TOTAL	44	29	38	33	30	1	1	2	-	4	6	

Assistance provided: Assistance or information supplied to public body or to individual upon being contacted regarding PIDA matters. Of the 44 inquiries made in 2020, 5 resulted in written disclosures being made to our office.

PIDA case files carried over into 2020: Case files that were unresolved at the end of 2019.

New PIDA case files opened in 2020: A written disclosure or complaint of reprisal is received. Case files also include public body PIDA procedure reviews underway by request from the ombudsman, and by request for assistance from the public body.

Total PIDA case files pending at December 31, 2020: PIDA case files unresolved in 2020 and carried over into 2021. These may be ongoing investigations, or files with disclosures or complaints of reprisal still pending assessment to determine if an investigation is required.

Declined investigation: Disclosure not investigated by the ombudsman. Disclosures are declined for non-jurisdiction or when the allegations did not pertain to wrongdoings as defined by PIDA. In many of these cases, the matter may be referred to the applicable public body for internal review and action, or the whistleblower is advised of a more appropriate procedure to have the matter reviewed or addressed.

Investigation ceased: Investigation of disclosure ceased under PIDA. These may represent matters investigated by Manitoba Ombudsman under another act.

Referred to designated officer: Disclosure referred to the designated officer of the public body subject to the allegations for internal handling under PIDA, when deemed appropriate by the ombudsman.

Investigation completed – no wrongdoing: Upon completion of investigation, no wrongdoing, as defined by PIDA, was found.

Recommendations made: As a result of an investigation, recommendations were made to one or more public bodies, whether wrongdoing was found or not.

Recommendation follow-up in 2020: Monitoring the completion of a public body's commitment to our recommendations has concluded. Completion of the monitoring can be for recommendations made in the previous year.