



Manitoba Ombudsman

2014 Annual Report under The Ombudsman Act and The Public Interest Disclosure (Whistleblower Protection) Act

Independent, Impartial, Fair

Message from the ombudsman



This report covers a period during which Mel Holley was acting Manitoba Ombudsman. Mel retired after 32 years of public service, 17 of

them with Manitoba Ombudsman. As acting ombudsman for over three years, Mel led the office through a period of significant change. Mel oversaw changes to the office's intake system, organizational practice standards for both divisions of the office, use of technology to communicate with and report to the public, and to hiring practices through a significant period of staff rejuvenation. Mel guided the office's transition toward being more open, transparent and accountable. I would like to thank Mel for his leadership and years of dedicated service.

Over the last five years, Manitoba Ombudsman has seen a steady increase in the number of municipal complaints received under *The Ombudsman Act*. Several cases are summarized in this report. In past annual reports, we identified a number of resources available to assist municipalities in fair decision making, such as *Understanding Fairness*, our guide for municipal officials and administrators. We continue to make more information and tools available. In 2014, we produced our first special municipal edition of *OmbudsNews* to highlight issues and trends that affect municipalities. We also launched a new *Municipal Issues Series* with the release of two fact sheets – one about conflict of interest and the other about public hearings.

In 2014, the Manitoba government released a report resulting from its review of *The Public Interest Disclosure (Whistleblower Protection) Act*. After the release of the report, we approached the Civil Service Commission, the provincial body which administers PIDA, to discuss the report's recommendations and to

propose some practical amendments to the legislation. We discuss our proposed amendments in this annual report.

This is the third year in which we include a report under section 16.1 of *The Ombudsman Act* on the implementation of recommendations made by the children's advocate in reports of the deaths of children involved with the child welfare system. The children's advocate received the mandate to conduct special investigation reviews in 2008. Between 2008 to the end of December 2014, 71 per cent of recommendations have been implemented. Detailed statistics on the status of recommendations are presented later in this report.

As highlighted here and in our separate annual report on access and privacy matters, Manitoba Ombudsman has a significant and broad mandate. As a newly appointed ombudsman, I look forward to building on previous accomplishments and results as the office's role and responsibilities continue to grow and evolve in the coming years.

The Honourable Daryl Reid
Speaker of the Legislative
Assembly
Province of Manitoba
Room 244 Legislative Building
Winnipeg, MB R3C 0V8

Dear Mr. Speaker:

In accordance with section 42 of *The Ombudsman Act* and subsection 26(1) of *The Public Interest Disclosure (Whistleblower Protection) Act*, I am pleased to submit the annual report of the ombudsman for the calendar year January 1, 2014 to December 31, 2014.

Yours truly,

Charlene Paquin
Manitoba Ombudsman

About the office

Manitoba Ombudsman is an independent office of the Legislative Assembly of Manitoba and is not part of any government department, board or agency. The office has a combined intake services team and two operational divisions – the Ombudsman Division and the Access and Privacy Division.

Under *The Ombudsman Act*, the Ombudsman Division investigates complaints from people who feel they have been treated unfairly by government, including provincial government departments, Crown corporations, municipalities, and other government bodies such as regional health authorities, planning districts and conservation districts. The Ombudsman Division also investigates disclosures of wrongdoing under *The Public Interest Disclosure (Whistleblower Protection) Act* (PIDA). Under PIDA, 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 the life, health, or safety of persons or the environment, or gross mismanagement, including the mismanagement of public funds or government property.

Under *The Freedom of Information and Protection of Privacy Act* (FIPPA) and *The Personal Health Information Act* (PHIA), the Access and Privacy Division investigates complaints from people about any decision, act or failure to act relating to their requests for information from public bodies or trustees, and privacy concerns about the way their personal information or personal health information has been handled. "Public bodies" include provincial government departments and agencies, municipalities, regional health authorities, school divisions, universities and colleges. "Trustees" include public bodies and additional entities such as health professionals, medical clinics, laboratories and CancerCare Manitoba. Our office has additional powers and duties under FIPPA and PHIA, including auditing to monitor and ensure compliance with these acts, informing the public about the acts and commenting on the implication of proposed legislation, programs or practices of public bodies and trustees on access to information and privacy.

Information for municipalities

For the first time ever, we published a special municipal edition of *OmbudsNews* to coincide with the 2014 Association of Manitoba Municipalities (AMM) Annual Convention, in addition to the four regular issues of the newsletter that we publish annually.

In November 2014 we also launched a new series of fact sheets aimed at municipalities, which examine specific issues in greater depth. The first two fact sheets in our *Municipal Issues Series* included *Conflict of Interest for Municipalities* and *Public Hearings for Municipalities*. The conflict of interest fact sheet sets out what conflict of interest is, both from a *Municipal Council Conflict of Interest Act* perspective and from a procedural fairness perspective. The fact sheet also contains a checklist to help municipal officials determine if they have a conflict of interest, and some advice about what to do if a conflict exists. The public hearings fact sheet contains information about public hearings, when they're required, and some tips for ensuring public hearings are conducted fairly.

More fact sheets will be added to this series in 2015. Both the special issue of *OmbudsNews* and the fact sheets are available on our website.



Acting Manitoba Ombudsman Mel Holley presented *Changing Times – Changing Tools* at the 2014 AMM convention. The session for municipal delegates was about maintaining important relationships with both the public and oversight bodies such as the ombudsman's office in the face of changing public expectations.

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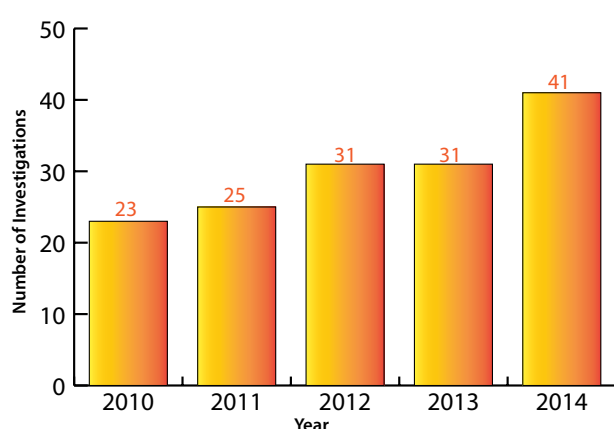
On the web:
www.ombudsman.mb.ca
www.facebook.com/manitobaombudsman

The Ombudsman Act

Complaints about municipalities

The concepts of accountability and transparency resonate with people, particularly when it comes to their expectations of elected officials. Everyone wants to know how, why and when decisions were made. People are also more technology-savvy and connected than ever before, and have expectations around being able to access information about government decision making in a timely manner.

Manitoba Ombudsman has seen a steady increase in the number of municipal complaints over the last five years – a trend that shows no sign of slowing. People are more aware of what their municipal governments are doing, and are more aware of the avenues available to them if they have a complaint.



In 2014, we dealt with a number of municipal cases that resulted in improvements to municipal administration – cases that help to clarify provisions in *The Municipal Act* and also present the opportunity to share best practices. All cases summarized below are available in full on our website.

Tax carefully: Collection of special-use taxes

The ability of municipalities to collect taxes is a significant power and must be exercised in a fair, transparent and lawful manner. Municipalities can impose taxes on residents by passing by-laws setting out the nature of the tax and how it will be collected. Municipalities also have the authority under provincial law to collect certain taxes that may also apply to visitors, such as taxes on motel and hotel accommodation, meals at restaurants, or on liquor.

If you stay in a hotel in The Pas, for example, you will be charged a special accommodation tax intended for the purpose of promoting the town via a destination marketing strategy. The collection of the accommodation tax was authorized by by-law and revenue collected was deposited in a specific fund. A special committee was established to manage and spend money collected for the sole purpose of destination marketing.

We received a complaint that the Town of The Pas was using the special tax revenues it had collected pursuant to its by-law for purposes unrelated to destination marketing. Our investigation revealed that this was, in fact, the case, and that the town acted unfairly, unreasonably and contrary to its own by-law and *The Municipal Act* when it reallocated its special-use accommodation taxes for unrelated purposes. The ombudsman recommended that the town return the tax revenues it used for other purposes to its Destination Marketing Fund. The town accepted the ombudsman's recommendation, and developed a plan to implement it.

People really do want to know: Reasons for decisions

Municipal councils and council committees make hundreds of decisions annually that affect individual rights. Understanding the reasons – the “why” – for which certain decisions were made can go a long way in creating positive relationships between residents and their municipal governments. Reasons are always important, but people especially want to know the reasons behind decisions when they don't get what they want or ask for. For some individuals affected by a decision, understanding the reasons for the decision can help them make a choice about exercising their formal right of review or appeal.

We received a complaint from a City of Winnipeg resident that the city's Board of Adjustment rejected a variance application without explaining why it believed the application did not meet the criteria for approving variances, as set out in *The City of Winnipeg Charter*. In this situation, the board was subject to the *Board of Adjustment By-law No. 5894/92*, which requires that it provide written reasons for decisions. The resident, however, received no explanation about which criteria were not met. The ombudsman's findings in this case were twofold – that the board should have provided reasons for its decision, but also that in this specific case, that the board based its decision on irrelevant considerations. By the end of the ombudsman investigation, the city advised us that it was changing its process of issuing variance and conditional use orders to include reasons, and for the resident, it waived the application costs associated with submitting a new variance application.

Policies that promote fair process and transparency

Residents in the City of Winnipeg expressed frustration with the process by which the city designates or alters truck routes. We received two complaints related to this issue – one about the specific re-designation of part of Plessis Road and Grassie Boulevard to a non-truck route, and another about the lack of transparency in the overall process for establishing and deleting truck routes. It was alleged that the overall process was unclear and unfair.

As a result of our investigation, the ombudsman recommended that the city develop and implement a policy on designating, altering or deleting truck routes to ensure that such decisions are fair and promote transparency. Our recommendation stated that the policy should include details such as:

- Specific notification requirements and a process by which affected residents will be given notice when a proposal is being considered.
- Details about the process including how and by whom decisions will be made.
- Acknowledge that reasons for decisions will be given to all parties and will be available to the public in a timely manner.

The city did not accept the ombudsman's recommendation. The city maintained that its current process already provides the public with opportunities to comment and provide input through committees of council. We remain of the view that the lack of policy and specific criteria for the process does not appear to be fair for the trucking industry, nor citizens affected by the decision.

Actions speak loudly: Codes of conduct

The public expects the highest standard of conduct from elected officials, and rightly so. All municipalities are required by *The Municipal Act* to establish a council code of conduct that sets out the standards and values council members are expected to meet in the performance of their duties on behalf of the municipality.

For the first time during a complaint investigation, Manitoba Ombudsman reviewed a municipality's code of conduct for its elected officials and determined that an elected official breached that code. We received a complaint that a council member of the RM of De Salaberry authorized a road repair expenditure without the authority to do so and that an elected official treated the complainant unfairly. While the ombudsman found that the road repair work was authorized by council as part of the municipality's financial plan, the ombudsman agreed that the complainant was treated inappropriately by an elected official of the municipality.

We often remind decision makers that people who feel like they have been treated poorly by government are less likely to believe that an action or decision affecting them is fair. Even if a decision has been made fairly, ignoring the relational aspects of fairness can result in the perception of unfair decision making and a loss of confidence in government.

Other complaints

Revisions to existing policy

Under *The Ombudsman Act*, the ombudsman can investigate a complaint about a “matter of administration.” We've developed the following criteria for the purpose of determining if a complaint relates to a matter of administration. A matter of administration could be:

- a practice, procedure or decision that is inconsistent with or contrary to policy, regulation, statute or by-law
- a failure to fulfill a statutory mandate or obligation.
- an act, decision or omission that is procedurally, substantively, or relationally unfair

We received a complaint from an injured worker about a Workers Compensation Board policy pertaining to loss of movement/function. The complaint was not about a decision that was contrary to the policy. In fact, the WCB decision prompting the complaint was consistent with existing policy. The complaint, however, raised the issue that the policy itself was flawed.

In this case, the injured worker's family physician and occupational health physician disagreed with the WCB's policy that range of motion be measured on a passive range, rather than an active range. When range of motion is calculated on the passive range, a practitioner manipulates the worker's joint through the range of motion. In contrast, an active range means that the worker moves their joint without assistance from the practitioner.

Using the passive range method, the WCB rated the worker's permanent partial impairment. The worker and his doctors disagreed with the rating, and as a result, they appealed the WCB decision. At a WCB Appeal Commission hearing, the commission recognized the physicians' concerns about the way the worker's functional capacity was measured, but stated that it was required to apply WCB policy as written.

The ombudsman noted that there have been advancements in the field of impairment assessment since the WCB policy was last revised in 1992, and that Manitoba's policy was inconsistent with

other provincial policies. As subsection 36(2) of *The Ombudsman Act* allows the ombudsman to make recommendations that any practice on which a decision is based be altered or reviewed, the ombudsman recommended that the WCB Board of Directors review the portion of their policy that deals with loss of movement/function. In response to the ombudsman's recommendation, the WCB reviewed and revised their policy. They also agreed to contact the complainant regarding a reassessment under the revised policy.

The importance of understanding the rules

If you're a game bird hunter and plan to share your harvest beyond our borders, it's important to understand the rules around inter-provincial transport. Hunting rules are set out in *The Wildlife Act* and regulations, and summarized in the *Manitoba Hunting Guide* published annually by Manitoba Conservation and Water Stewardship.

We received a complaint from a hunter who gave two legally-harvested game

birds to his son, who then transported the birds to another province. At a wildlife check-stop in the other province, it was determined that the son did not have an export permit for the birds. The father believed that the birds were being transported and not “exported,” and that the requirement for an export permit was inconsistent with *The Wildlife Act*. He also believed that the *Manitoba Hunting Guide* did not clearly inform the public about the requirements regarding inter-provincial transport of game birds.

After reviewing the facts of this case, the ombudsman found that the department's requirements for the inter-provincial transport of game birds from Manitoba are consistent with *The Wildlife Act*, and that the department informs the public about those requirements in a reasonable manner. The ombudsman suggested that the department consider adding contact information for the wildlife permits clerk to the hunting guide.

The Public Interest Disclosure (Whistleblower Protection) Act

PIDA: Proposed Legislative Amendments

In 2013, we were advised by the Manitoba Civil Service Commission that *The Public Interest Disclosure (Whistleblower Protection) Act* (PIDA) was under review. To assist in the review, we discussed our experience with PIDA with the person conducting the review. We also reported our recommended improvements in our 2013 annual report. As a result of the review, a report titled *Review of the Public Interest Disclosure (Whistleblower Protection) Act* was completed in April 2014.

The report included a number of recommendations intended to strengthen PIDA, to improve internal civil service processes for dealing with disclosures of wrongdoing, and to increase education and training related to disclosures.

After the release of the report, we approached the Civil Service Commission in the fall of 2014 to discuss the recommendations further and to propose some amendments to PIDA.

Designated Officers

The report recommended that consideration be given to a centralized training program for designated officers to ensure that they had attained the necessary expertise to fulfill their responsibilities under PIDA, such as receiving and managing internal disclosures.

We agreed with this recommendation and proposed some specific legislative amendments that we believe would strengthen the powers of designated officers as well as emphasizing their responsibilities under PIDA.

We recommended to the Civil Service Commission that consideration be given to increasing the power

of designated officers to collect and protect evidence when investigating a disclosure of wrongdoing. Under section 22 of PIDA (Conducting an Investigation), the ombudsman has powers to collect evidence arising from sections 30(1) and 32(2) of *The Ombudsman Act*. As well, evidence collected by the ombudsman is protected by section 12 (Secrecy) of *The Ombudsman Act* and section 4 of *The Freedom of Information and Protection of Privacy Act*. We noted that similar powers for designated officers are not explicit in PIDA.

Furthermore, we recommended that consideration be given to including a means for the ombudsman to decline to conduct an investigation into a disclosure if that disclosure had already been received or an investigation had been initiated by a designated officer. We also recommended that consideration be given to a more defined manner in which the ombudsman can refer the responsibility of the conduct of a PIDA investigation to a designated officer, in the right circumstances.

These amendments, we believe, would reinforce the important role of designated officers in the management and investigation of internal disclosures. We also believe that in addition to increased education and training related to PIDA in the civil service, these recommended amendments would create more confidence in, and satisfaction with, the internal disclosure process for both the whistleblower and the designated officer.

Investigating Alleged Reprisal

The report recommended that the ombudsman be given the authority to receive and investigate complaints of reprisal using the same procedure

we follow to investigate disclosures of alleged wrongdoing. Currently, PIDA directs those who have complaints of reprisal to the Manitoba Labour Board.

We supported this recommendation and noted that other jurisdictions, such as Alberta, have similar models where the public interest disclosure commissioner investigates and reports on allegations of reprisal. We believe that this is a more expedient manner to recommend corrective action to a public body when reprisal has been founded.

In addition, we recommended to the Civil Service Commission that consideration be given to adopting an adjudicator model similar to that in place under *The Freedom of Information and Protection of Privacy Act*. This would require an adjudicator to make decisions regarding remedy/discipline when reprisal is found to have occurred and the public body chooses not to adopt the ombudsman's recommendations for corrective action.

We believe that an adjudicator model could result in an expedient, non-adversarial, and cost effective method to resolve any arising dispute regarding corrective action related to reprisal, between the ombudsman and a public body.

Five Year Review

We were also pleased that the report recommended a review of PIDA every five years, a suggestion that we have previously endorsed.

Disclosures in 2014

Set out below are the number of disclosures received in 2014 under each category of wrongdoing identified in section 3 of PIDA, and the status of the disclosure at the end of the year.

PIDA subsection	Disclosure	Status
(3) (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;	No such disclosures were received in 2014.	N/A
(3)(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;	Neglect and risks to health/life.	Investigation ongoing.
	Risks to health and safety.	Investigation ongoing.
	Dangerous employment practices; employment of staff with improper certifications.	Declined. The disclosure was submitted anonymously with insufficient detail to warrant initiating an investigation. The applicable government department was advised of the matter.
	Danger to public health and life.	Investigation was initiated but was discontinued after determining that the subject matter of the disclosure resulted from a balanced and informed decision-making process.
(3)(c) gross mismanagement, including of public funds or a public asset;	Improper tendering practice and conflict of interest.	Investigation ongoing.
	Inappropriate spending, conflict of interest, and improper hiring practices.	As this disclosure was sent to a designated officer prior to our receipt, the designated officer took the lead on the investigation. Ongoing.
	Conflict of interest.	Declined. The organization that was the subject of the disclosure did not fall under the jurisdiction of PIDA.
	Improper hearing process and financial mismanagement.	Matter was pending on December 31, 2014. At the time of reporting, the matter was declined because the organization that was the subject of the disclosure did not fall under the jurisdiction of PIDA. The matter was referred internally to be reviewed under <i>The Ombudsman Act</i> .
	Financial mismanagement and conflict of interest.	Declined. The organization that was the subject of the disclosure did not fall under the jurisdiction of PIDA. The matter was referred to the Office of the Auditor General.
	Financial mismanagement, conflict of interest, inappropriate expenses and mismanagement of public assets.	Ongoing. Further investigation by our office is to be determined pending an audit completed by the public service.
	Ethical breach, conflict of interest, inappropriate payment of benefits.	Disclosure submitted anonymously and contained insufficient detail and clarity to be able to initiate an investigation. Discloser could not be contacted. The disclosure was declined.
(3)(d) knowingly directing or counselling a person to commit a wrongdoing described in clauses (a) to (c).	No such disclosures were received in 2014.	N/A

In some cases, a disclosure was made by more than one person. The disclosures above were made by 16 people. In addition, we received the following verbal allegations that did not result in formal disclosures, regarding:

- Directing a person to commit an offense under PIDA
- Improper spending
- Improper hiring practices, conflict of interest
- Mismanagement of funds, ethical breaches
- Dangers to health and safety

2014 statistics

2014 Statistical Overview of the Office	
Intake and Administration	
Information or referrals provided by administration staff in response to inquiries	637
Inquiries and concerns handled by Intake Services	2779
Ombudsman Division	
Complaints opened for investigation under <i>The Ombudsman Act</i>	102
Ombudsman-initiated investigations under <i>The Ombudsman Act</i>	2
Disclosures received under <i>The Public Interest Disclosure (Whistleblower Protection) Act</i> (PIDA)	16
Disclosures opened for investigation under PIDA	11
Child death review reports received under <i>The Child and Family Services Act</i>	59
Recommendations requiring follow-up	63
Inquest reports received under <i>The Fatality Inquiries Act</i>	6
Recommendations requiring follow-up	10
Access and Privacy Division	
Complaints opened for investigation under <i>The Freedom of Information and Protection of Privacy Act</i> (FIPPA) (part 5)	271
Ombudsman-initiated reviews and investigations under <i>The Freedom of Information and Protection of Privacy Act</i> (part 4)	27
Complaints opened for investigation under <i>The Personal Health Information Act</i> (PHIA) (part 5)	41
Ombudsman-initiated reviews and investigations under <i>The Personal Health Information Act</i> (part 4)	16
Comments, consultations and collaborative initiatives under FIPPA and/or PHIA (part 4)	13

2014/15 Office Budget	
Total salaries and employee benefits for 33 positions	\$2,816,000
Positions allocated by division are:	
Ombudsman Division	14
Access and Privacy Division	8
General	11
Other expenditures	\$523,000
Total Budget	\$3,339,000

Case Dispositions:

Pending: Complaint still under investigation as of January 1, 2015.

Information supplied: Assistance or information provided.

Declined: Complaint not accepted for investigation by Ombudsman, usually for reason of non-jurisdiction or premature complaint.

Discontinued: Investigation of complaint stopped by Ombudsman or client.

Not Supported: Complaint not supported at all.

Partly Resolved: Complaint is partly resolved informally.

Resolved: Complaint is resolved informally.

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

Completed: Case where the task of monitoring, informing or commenting has been concluded.



More Information

Manitoba Ombudsman has issued a supplementary 2014 report under *The Ombudsman Act*, section 16.1. As part of our mandate, Manitoba Ombudsman has responsibility for monitoring and reporting annually on the implementation of recommendations resulting from special investigations of child deaths by the Office of the Children's Advocate (OCA).

	Case Numbers			Case Dispositions								
	Carried over into 2014	New Cases in 2014	Total cases in 2014	Pending at 12/31/2014	Information Supplied	Declined	Discontinued	Not Supported	Partly Resolved	Resolved	Recommendation	Completed
This chart shows the disposition of 236 Ombudsman Division case files in 2014 under <i>The Ombudsman Act</i> , <i>The Public Interest Disclosure (Whistleblower Protection) Act</i> , and <i>The Fatality Inquiries Act</i> .												
The Ombudsman Act												
Agriculture, Food & Rural Development	1	3	4	2	1					1		
Conservation & Water Stewardship												
General	3	3	6	4			1	1				
Ombudsman's Own Initiative - OOI	1		1				1					
Family Services												
General		1	1				1					
Child & Family Services	1	1	2	1				1				
Social Services Appeal Board		1	1					1				
Ombudsman's Own Initiative - OOI	1		1									1
Finance												
General		3	3	1	1					1		
Securities Commission	1	4	5	5								
Health, Healthy Living & Seniors												
General		2	2		1					1		
Health Appeal Board		1	1							1		
Regional Health Authority	1	5	6	2	1	2				1		
Ombudsman's Own Initiative - OOI	2		2	2								
Housing & Community Development												
General		1	1	1								
Ombudsman's Own Initiative - OOI	1		1							1		
Infrastructure & Transportation	4	1	5	4						1		
[Innovation, Energy & Mines]*	1		1							1		
Jobs & the Economy												
Employment & Income Assistance		1	1		1							
Ombudsman's Own Initiative - OOI	1		1	1								
Justice												
Courts	1		1							1		
Brandon Correctional Centre	1	1	2	1						1		
Headingley Correctional Centre		1	1	1								
The Pas Correctional Centre	1		1	1								
Milner Ridge Correctional Centre		1	1	1								
Thompson Holding Cells	1		1				1					
Agassiz Youth Centre		1	1							1		
Maintenance Enforcement		1	1		1							
Human Rights Commission		1	1							1		
Legal Aid	2		2	2								
Ombudsman's Own Initiative OOI	7	1	8	6			1			1		
Labour & Immigration												
General	1	3	4					1		2	1	
Pension Commission		1	1		1							
Municipal Government												
Taxicab Board		1	1	1								
Water Services Board		12	12	12								
Tourism, Culture, Sport & Consumer Protection												
Automobile Injury Compensation Appeal Commission		1	1							1		
Office of the Provincial Registrar General		1	1					1				
Residential Tenancies Branch		1	1							1		
Corporate & Extra Departmental												
Manitoba Agricultural Services Corporation	2		2		1			1				
Manitoba Hydro		2	2	1						1		
Manitoba Public Insurance	3	5	8	2	2			3		1		
Workers Compensation Board	2	1	3					2			1	
WCB Appeal Commission	2	1	3	2		1						
Ombudsman's Own Initiative - OOI	2		2	1						1		
Municipalities												
City of Winnipeg	8	7	15	3	3			3	1	3	2	
Other RMs, Cities, Towns & Villages	29	28	57	34	3	2	4	5	2	7		
Local Planning Districts	1	5	6	4			1		1			
Ombudsman's Own Initiative - OOI	3	1	4	4								
Subtotal	84	104	188	99	16	5	10	19	4	30	4	1
The Public Interest Disclosure (Whistleblower Protection) Act												
Government department	7	3	10	7		2				1		
Health-care facility	2		2	2								
Personal care home	1	1	2	2								
Publicly-funded organization	3	5	8	3		4				1		
Regional health authority	2	1	3	1		1	1					
University	1	1	2	2								
Subtotal	16	11	27	17	7	1	1	2	4	2	4	3
Cases Resulting from Inquest Report Recommendations under The Fatality Inquiries Act												
Family Services	1	2	3	3								
Health	4	2	6	4								2
Justice	4	4	8	8								
City of Winnipeg	2	2	4	4								
Subtotal	11	10	21	19	16	12	11	19	4	32	4	2
TOTAL	111	125	236	135	16	12	11	19	4	32	4	3

*Former department name



Manitoba Ombudsman

The Ombudsman Act

Monitoring children's advocate's recommendations

16.1(1) The Ombudsman must monitor the implementation of recommendations contained in the reports provided to the Ombudsman by the children's advocate under section 8.2.3 of *The Child and Family Services Act*.

Report to assembly

16.1(2) In the annual report to the assembly under section 42, the Ombudsman must report on the implementation of the children's advocate's recommendations.

Aggregate Investigations

In 2011 – 2012, the Office of the Children's Advocate began grouping some special investigation reviews together thematically into one special investigation report (SIR). Called an aggregate report, this type of SIR groups together a number of child death investigations according to service delivery from particular agencies, or examinations of certain issues linking multiple agencies. Some of the systemic themes explored involve staff training, record-keeping, inter-organizational communication, the ability of agencies to respond to the needs of older youth, and gang interference in the lives of children.

Implementation of Recommendations Resulting from Special Investigations of Child Deaths by the Office of the Children's Advocate

Special investigations of child deaths in Manitoba are conducted by the Office of the Children's Advocate (OCA) in those cases where a child, or the child's family, had an open file with a child welfare agency or a file was closed within one year preceding the child's death.

In their special investigation reviews, the OCA may make recommendations to improve services, enhance the safety and well-being of children, and prevent deaths in similar circumstances in the future.

As part of our mandate, Manitoba Ombudsman has responsibility for monitoring and reporting annually on the implementation of the recommendations, directed at entities and organizations involved with the child welfare system.

After a reasonable period of time, our office follows up with the entity or entities to which the recommendations have been made to determine what action has been taken in response to the recommendations, and to report publicly on those actions to ensure accountability.

Since the OCA received their mandate to perform special investigation reviews on September 15, 2008, to the end of our reporting period December 31, 2014, the OCA has made 453 recommendations. It is notable that 328 recommendations have been implemented to date, or 71 per cent. We have observed that many of the recommendations that remain to be implemented relate to challenges that are long standing and systemic in nature or that require collaboration between departments involved in working with youth and their families.

Through our mandate to track and monitor the implementation of the OCA's recommendations, we have also noticed a recurring theme emerging specifically in relation to northern and remote communities in the province. The OCA has pointed to the ongoing challenge of accessibility of mental health and counselling services for youth in northern and remote communities, and made a number of recommendations for improvement in this area.

In response, the department of Family Services has informed our office that Manitoba Health and the Northern Regional Health Authority have developed a phased-in plan to enhance mental health and addictions services for youth in the north. We have been informed that services include immediate short-term support for children and youth, their family members as well as community members concerned about a young person experiencing a crisis. The enhanced services also include a mobile crisis component providing on-site support to persons within a 110-kilometer radius of Thompson.

Further, Manitoba Health reported to our office in January 2015 that the tendering process for a northern youth crisis facility to be built in Thompson is currently under way. The minister advised that Manitoba Health, Healthy Living and Seniors will be able to confirm

project timelines once the contract has been awarded, which is expected in early 2015. Our office will continue to monitor the implementation of this important resource for northern Manitoba's children and youth.

In last year's annual report, our office noted that the OCA's special investigation reviews demonstrate that the use of the Child and Family Services Information System (CFSIS) has continued to be a significant challenge in the effective provision of child welfare. Our office noted that a concerning result of the lack of CFSIS use is that detailed child welfare information is not readily available to workers across the province affecting basic case management. We are pleased to learn that the province is currently in the initial phases of adopting new case management software identified as "Curam" to replace CFSIS. We acknowledge this will be an enormous transformation project for child welfare in our province, and are hopeful that a new centralized information system will increase efficiency, and will improve service delivery and overall outcomes for the children, youth and families of Manitoba.

The following Table 1 illustrates the number of special investigation reports received by the office from the OCA by fiscal year from September 15, 2008 to December 31, 2014. Table 2 illustrates the status of special investigation report recommendations by calendar year and by the entity to which the recommendation was directed. For status definitions, please see page 6.

Glossary of acronyms used on pages 5 and 6

- CFS – Child and Family Services
- CFSIS – Child and Family Services Information System
- CFSSC – Child and Family Services Standing Committee
- CFS Act – *Child and Family Services Act*
- CPB – Child Protection Branch
- FS – Department of Family Services
- FSCA – Family Services and Consumer Affairs, former name of the department of Family Services
- FSL – Family Services and Labour, former name of the department of Family Services
- GA – General Child and Family Services Authority
- MA – Metis Child and Family Services Authority
- NA – First Nations of Northern Manitoba Child and Family Services Authority
- OCA – Office of the Children's Advocate
- OCME – Office of the Chief Medical Examiner
- SA – Southern First Nations Network of Care Child and Family Services Authority
- SIR – Special investigation report

Table 1: Special Investigation Reports received by the Ombudsman from the OCA by fiscal year – September 15, 2008 to December 31, 2014

Fiscal Year	Child Deaths Investigated	Special Investigation Reports Received	SIRS Received with Recommendations	Recommendations Received
2008 - 2009	7	7	7	40
2009 - 2010	21	21	19	141
2010 - 2011	27	26	16	63
2011 - 2012	154*	147	15	44
2012 - 2013	89	76	22	72
2013 - 2014	82	69	24	60
2014 - Dec 31, 2014	31	31	8	33
Total	411*	377*	111	453

* Notes: The number of child deaths investigated in 2011-2012 is significantly higher than other years due to cases carried from previous years, and is not reflective of the number of child deaths referred to the OCA by the OCME in that fiscal year. The number of Child Deaths Investigated and the number of Special Investigation Reports Received differ because some Special Investigation Reports, called Aggregate Reports, group together a number of child death investigations into one Special Investigation Report to address systemic issues.

Table 2: Special Investigation Reports received by the Ombudsman from the OCA by calendar year – September 15, 2008 to December 31, 2014

Calendar Year	Child Deaths Investigated	Special Investigation Reports Received	SIRS Received with Recommendations	Recommendations Received
2008	3	3	3	17
2009	19	19	17	83
2010	23	22	18	135
2011	148*	141	17	43
2012	78	65	20	69
2013	68	68	15	43
2014	72	59	21	63
Total	411*	377*	111	453

* Notes: The number of child deaths investigated in 2011 is significantly higher than other years due to cases carried from previous years, and is not reflective of the number of child deaths referred to the OCA by the OCME in that calendar year. The number of Child Deaths Investigated and the number of Special Investigation Reports Received differ because some Special Investigation Reports, called Aggregate Reports, group together a number of child death investigations into one Special Investigation Report to address systemic issues.

Status Definitions

Complete – The organization to which the recommendation is directed has demonstrated that it has taken all necessary steps to respond to the recommendation.

Complete: Alternate Solution – The organization to which the recommendation is directed has developed an alternate solution which addresses the concern. The organization has formulated an implementation plan to fully respond to the issue underlying the recommendation and has demonstrated that it has taken all necessary steps to respond to the recommendation.

In Progress – The organization to which the recommendation is directed has formulated an implementation plan to fully respond to the recommendation.

Pending – The organization to which the recommendation is directed has not yet completed an implementation plan to fully respond to the recommendation.

Not Accepted (unachievable) – The organization to which the recommendation is directed agrees with the recommendation but cannot implement the recommendation based on existing resources, legislation, or governance structure.

Rejected – The organization to which the recommendation is directed disagrees with both the foundation and substance of the recommendation.

“Response Under Review” – Manitoba Ombudsman has received information from the entity to which the recommendation is directed and is currently reviewing the information.

No Status Reported – The organization to which the recommendation is directed has not yet reported to Manitoba Ombudsman. Note that it is expected that entities would not report on recently issued recommendations.

Table 3 to the right encompasses the recommendations within the special investigation reports received by the ombudsman from the Office of the Children’s Advocate in special investigation reports by calendar year since January 1, 2009. The table illustrates the status of the recommendations as reported to the ombudsman’s office by the entities to which the recommendations were made using the status definitions as per Standing Committee (see Status Definitions for further information).

There were also 17 recommendations made in 2008; 14 have been implemented while 3 remain “in progress” or “pending” (one made to the Child Protection Branch; one made jointly to the Child Protection Branch and CFS Standing Committee; and one to the CFS Standing Committee).

Table Notes

* Note: Family Services includes former department names Family Services & Labour and Family Services & Consumer Affairs.

**Note: The 2012 Annual Report incorrectly attributed six total recommendations to Multiples instead of three. The three Multiples recommendations that were incorrect should have been attributed as follows: two to Family Services and one to the Southern Authority.

Table 3: Status of Special Investigation Report Recommendations Received by the Ombudsman from the OCA by Entity

January 1, 2009 to December 31, 2009						
Authority/Agency/Entity to which the recommendation was directed	NUMBER OF RECOMMENDATIONS	RECOMMENDATIONS "COMPLETE" OR "COMPLETE-ALTERNATE SOLUTION"	RECOMMENDATIONS "IN PROGRESS" OR "PENDING"	RECOMMENDATIONS "RESPONSE UNDER REVIEW"	NO STATUS REPORTED TO THE OMBUDSMAN	Status of Recommendations
Child Protection Branch	14	12	2	0	0	<p>In progress or pending 14%</p> <p>Complete 86%</p>
CFS Standing Committee	0	0	0	0	0	
CPB & CFS Standing Committee	1	1	0	0	0	
Family Services*	1	1	0	0	0	
Multiples - FS, CPB, NA, MA, SA, GA (more than one authority/agency/entity)	3	3	0	0	0	
Southern Authority	39	34	5	0	0	
Northern Authority	19	14	5	0	0	
General Authority	6	6	0	0	0	
Metis Authority	0	0	0	0	0	
External Organizations (other departments, private service providers)	0	0	0	0	0	
TOTAL NUMBER	83	71	12	0	0	
TOTAL PERCENTAGE		86%	14%	0%	0%	
January 1, 2010 to December 31, 2010						
Child Protection Branch	14	10	4	0	0	<p>In progress or pending 16%</p> <p>Complete 84%</p>
CFS Standing Committee	0	0	0	0	0	
CPB & CFS Standing Committee	0	0	0	0	0	
Family Services*	11	11	0	0	0	
Multiples - FS, CPB, NA, MA, SA, GA (more than one authority/agency/entity)	5	4	1	0	0	
Southern Authority	36	30	6	0	0	
Northern Authority	41	32	9	0	0	
General Authority	9	9	0	0	0	
Metis Authority	0	0	0	0	0	
External Organizations (other departments, private service providers)	19	18	1	0	0	
TOTAL NUMBER	135	114	21	0	0	
TOTAL PERCENTAGE		84%	16%	0%	0%	
January 1, 2011 to December 31, 2011						
Child Protection Branch	11	10	1	0	0	<p>In progress or pending 14%</p> <p>Complete 86%</p>
CFS Standing Committee	0	0	0	0	0	
CPB & CFS Standing Committee	0	0	0	0	0	
Family Services*	4	4	0	0	0	
Multiples - FS, CPB, NA, MA, SA, GA (more than one authority/agency/entity)	2	2	0	0	0	
Southern Authority	8	7	1	0	0	
Northern Authority	14	11	3	0	0	
General Authority	2	2	0	0	0	
Metis Authority	1	1	0	0	0	
External Organizations (other departments, private service providers)	1	0	1	0	0	
TOTAL NUMBER	43	37	6	0	0	
TOTAL PERCENTAGE		86%	14%	0%	0%	
January 1, 2012 to December 31, 2012						
Child Protection Branch	4	3	1	0	0	<p>In progress or pending 26%</p> <p>Complete 74%</p>
CFS Standing Committee	0	0	0	0	0	
CPB & CFS Standing Committee	0	0	0	0	0	
Family Services*	2**	1	1	0	0	
Multiples - FS, CPB, NA, MA, SA, GA (more than one authority/agency/entity)	3**	0	3	0	0	
Southern Authority	30**	21	9	0	0	
Northern Authority	22	18	4	0	0	
General Authority	4	4	0	0	0	
Metis Authority	3	3	0	0	0	
External Organizations (other departments, private service providers)	1	1	0	0	0	
TOTAL NUMBER	69	51	18	0	0	
TOTAL PERCENTAGE		74%	26%	0%	0%	
January 1, 2013 to December 31, 2013						
Child Protection Branch	3	1	2	0	0	<p>No status 12%</p> <p>Complete 46%</p> <p>In progress or pending 42%</p>
CFS Standing Committee	0	0	0	0	0	
CPB & CFS Standing Committee	0	0	0	0	0	
Family Services*	1	1	0	0	0	
Multiples - FS, CPB, NA, MA, SA, GA (more than one authority/agency/entity)	4	0	4	0	0	
Southern Authority	13	5	6	0	2	
Northern Authority	14	7	4	0	3	
General Authority	0	0	0	0	0	
Metis Authority	4	3	1	0	0	
External Organizations (other departments, private service providers)	4	3	1	0	0	
TOTAL NUMBER	43	20	18	0	5	
TOTAL PERCENTAGE		46%	42%	0%	12%	
January 1, 2014 to December 31, 2014						
Child Protection Branch	3	2	1	0	0	<p>Complete 32%</p> <p>No status 32%</p> <p>In progress or pending 36%</p>
CFS Standing Committee	0	0	0	0	0	
CPB & CFS Standing Committee	0	0	0	0	0	
Family Services*	3	2	1	0	0	
Multiples - FS, CPB, NA, MA, SA, GA (more than one authority/agency/entity)	1	0	1	0	0	
Southern Authority	15	2	0	0	13	
Northern Authority	31	10	15	0	6	
General Authority	2	2	0	0	0	
Metis Authority	7	2	4	0	1	
External Organizations (other departments, private service providers)	1	0	1	0	0	
TOTAL NUMBER	63	20	23	0	20	
TOTAL PERCENTAGE		32%	36%	0%	32%	

Table 4: Status of Special Investigation Report Recommendations Received by the Ombudsman from the OCA by Entity September 15, 2008 - December 31, 2014

Authority/Agency/Entity to which the recommendation was directed	RECOMMENDATIONS	RECOMMENDATIONS "COMPLETE" OR "COMPLETE-ALTERNATE SOLUTION"	RECOMMENDATIONS "IN PROGRESS" OR "PENDING"	RECOMMENDATIONS "RESPONSE UNDER REVIEW"	NO STATUS REPORTED TO THE OMBUDSMAN
Child Protection Branch	50	38	12	0	0
CFS Standing Committee	1	0	1	0	0
CPB & CFS Standing Committee	4	3	1	0	0
Family Services*	22	20	2	0	0
Multiples - FS, CPB, NA, MA, SA, GA (more than one authority/agency/entity)	18	9	9	0	0
Southern Authority	147	105	27	0	15
Northern Authority	142	95	38	0	9
General Authority	23	23	0	0	0
Metis Authority	20	13	6	0	1
External Organizations (other departments, private service providers)	26	22	4	0	0
TOTAL NUMBER	453	328	100	0	25
TOTAL PERCENTAGE		72%	22%	0	6%

