



MINISTER OF
CULTURE, HERITAGE AND TOURISM

Room 118
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

The Honourable George Hickey
Speaker of the Legislative Assembly
Province of Manitoba

Mr. Speaker:

In accordance with section 83 of *The Freedom of Information and Protection of Privacy Act*, I am pleased to submit the second annual report of the administration of the Act and Regulation by departments and agencies of the Manitoba Government for the period from January 1, 1999 to December 31, 1999.

Respectfully submitted,

A handwritten signature in cursive script, reading 'Diane McGifford'.

Honourable Diane McGifford
Minister of Culture,
Heritage and Tourism



THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

The second annual report of the Minister responsible for central administration of *The Freedom of Information and Protection of Privacy Act (F 175)* summarizes statistically the activities of Manitoba government departments, Crown agencies and the City of Winnipeg in responding to applications for access to records and in protecting personal information under the *Act* during the period January 1, 1999 through December 31, 1999.

The Freedom of Information and Protection of Privacy Act was passed on June 27, 1997. It was proclaimed for provincial government departments and Crown agencies on May 4, 1998 and for the City of Winnipeg on August 31, 1998. Preparations and training were undertaken among local governments, educational bodies and health care bodies leading to proclamation in April 2000.

The Freedom of Information and Protection of Privacy Act, like its predecessor statute *The Freedom of Information Act*, provides a legal right of access to a record in the custody or under the control of public bodies. The right of access is additional to any rights of access already available under existing provincial laws.

Access to any record is subject to four mandatory and twelve discretionary exceptions to disclosure under *The Freedom of Information and Protection of Privacy Act*. If an applicant is dissatisfied with the response of a public body to an application for access, the *Act* provides for review by the Manitoba Ombudsman and, ultimately, recourse to the Court of Queen's Bench.

The Freedom of Information and Protection of Privacy Act provides privacy protection for personal information held by public bodies, based on internationally recognized principles of fair information practices. It imposes obligations on public bodies respecting the collection, protection, use and disclosure of personal information in their custody or under their control. It also provides individuals with the right to request a correction to their personal information held by government, government agencies and other public bodies.

Applications Processed

Manitoba government departments and agencies received a total of 407 applications for access in the period from January 1, 1999 to December 31, 1999. This was the lowest number received since 1992 (*Table 1*). There were 86 requests for personal information, 21% of the total number, compared to 121 (27%) in the previous year (*Table 2*).

Private citizens submitted 259 requests for access to records, which represented 64% of the total number received in 1999. Media organizations made 82 requests (20%), a slight increase over last year. Political parties made 20 applications (5%), almost twice as many as in 1998. Businesses and other organizations submitted 46 requests (*Table 3*).

Among the departments, Justice received the largest number of applications (42), compared to 47 in 1998. Natural Resources and the newly-formed Conservation Department together received 46 applications. Labour received 33 and Health had 26. (*Table 8*). Among Crown agencies, the largest number of applications was received by the Workers Compensation Board which had 76, followed by the Manitoba Public Insurance Corporation with 17 (*Table 6*).

Three hundred and seventeen (90%) of the 354 processed applications were completed within 30 days (*Tables 1, 5 and 6*). This is a slightly improved overall response time over the previous year and indicates that Manitoba departments and agencies are continuing to respond to access requests in a timely manner. Another 8% of the applications were completed within 60 days, using the statutory extension period. Only 2% of the applications were not responded to within the extended time period.

Access Decisions

In 1999, 37% of the applicants were granted access to all the information they wanted. An additional 18% were given access to some of the information requested (*Table 4*).

Table 7 indicates the number of applications in which each of the exceptions was used under *The Freedom of Information and Protection of Privacy Act*. Protection of personal information, a mandatory exception to access, continued to be the most frequent reason for denying access, although it was reported to have been used only in 45 applications in 1999 compared to 234 applications in 1998.

Reported use of most of the 12 discretionary access exceptions declined in 1999.

Complaints About Access Decisions

Manitoba government departments and agencies reported that the Office of the Ombudsman received 89 complaints about their responses to access applications in 1999, a two per cent increase over 1998. This represents 25% of all processed access applications. Departments reported 46 complaints and agencies reported 43. Finance, Justice and Natural Resources had 8 complaints each. Workers Compensation Board reported 37 complaints to the Ombudsman, the majority from the same individual.

Departments and agencies reported no appeals to the Court. Two decisions dealing with access to documents under *The Freedom of Information and Protection of Privacy Act* from earlier appeals were handed down in the Court of Queen's Bench in 1999: *Jaslowski vs. Minister of Justice* (August 1999) which was dismissed; *Kattenberg vs. Minister of Industry, Trade and Tourism* (December 1999) which found primarily in favour of the department.

The Manitoba Ombudsman reports annually to the Speaker of the Assembly on the performance of the duties and function of this office under *The Freedom of Information and Protection of Privacy Act*. This report is issued separately.

Costs of Access

Under *The Freedom of Information and Protection of Privacy Act*, there is no fee for making an application or for the time spent by officials reviewing records to determine if any exceptions to disclosure apply. There is also a free records search and preparation period of two hours. However, the *Access and Privacy Regulation (64/98)* does require that fees be charged for additional search and preparation time, copying, and computer programming and data processing costs. In 1999, a total of only \$460 was collected, a substantial (66%) decrease over the amount collected in 1998. Search and preparation fees accounted for 65% and copying fees for the remainder (*Table 9*).

Almost all (99%) of the fees collected in 1999, a sharp increase from previous years, were from general information requests.

The Freedom of Information and Protection of Privacy Act provides that the head of a public body has the discretion to waive all or part of the fees in some situations, if requested to do so by the applicant. No departments reported requests for fee waivers in 1999.

Departments and government agencies reported that processing applications cost a total

of \$26,327.00, compared to \$56,162.00 for the previous year. Requests for general information accounted for 78% of these costs. Processing applications accounted for 92% of all costs of handling applications in 1999. Copying costs remained similar to last year (3%) while the reported cost of responding to Ombudsman's investigations increased by two percent (*Tables 10 and 11*). Finance (\$2,979) and the Manitoba Public Insurance Corporation (\$940) reported the highest costs associated with the Ombudsman's investigations.

The average cost of responding to a request for access to information in 1999 was \$ 74.00, significantly down from 1998 when the average was \$126.00.

The costs of legal and administrative advice to departments and agencies provided by Civil Legal Services and the Provincial Archives are not included in these figures.

Application Topics

Following is a sample of the information requested from Manitoba government departments and agencies under *The Freedom of Information and Protection of Privacy Act* in 1999:

- ***Commerce***

Financial reports and investment portfolios for registered pension funds; government grants to particular companies; privatization agreement for Manitoba Telephone System.

- ***Education***

Technology Trends Report written for the Technology Education Review Project Team; information about the delivery agents of the Self-Employment Programs; evaluations of the Science Learning Resources (K-4) videotape and print resources.

- ***Environment and Natural Resources***

Directives and protocols for the 1997 Red River Flood Proofing program; the cost of construction of a particular dike; a consultant's report on the administration of the Red River flood recovery program; communications regarding Atomic Energy of Canada Ltd.; satellite photo showing drainage ditches built in southeast Manitoba since 1993; records of water levels on Lake St. Martin and the operation of the Fairford Water Control Structure; climate change action plan prepared in response to the 1994 Kyoto agreement; costs of the 20th anniversary event at Hecla; licence granted to Manitoba Hydro to regulate the level of Lake Winnipeg; agreements in effect with Ducks Unlimited; reports by government departments on the lagoon project in the Rural Municipality of Tache.

- **Health Administration**

Cost per meal under the frozen food system and under the previous hospital kitchen system; suicide rates for all youth in Manitoba and for aboriginal youth in Manitoba as well as youth suicide rates in other provinces; amount spent on overtime pay for nurses each year from 1995 to 1998 and the total number of hours nurses worked on overtime and triple time rates; the numbers of patients in Winnipeg hospitals being treated in hallways.

- **Law Enforcement**

Specific criminal prosecution files; complaints about the Portage Correctional Centre; records related to the decision to convert a building into a court facility for a particular trial.

- **Personal Information**

Records relating to applicants' Autopac claims; applicants' Employment and Income Assistance Files; documentation related to an application for a permit to construct a road in a provincial park; records of a particular job competition.

- **Social Services**

Consultant's reports about the Taking Charge program; specific daycare facility files; a list of child daycares operating on provisional licences; information on the Homeowner Emergency Loan Program; records of the Mothers Allowance Commission (1903-1954).

- **Workplace**

Reports on particular workplace accidents and fires.

- **Other**

Repairs and renovations to Government House; minutes and program files of the Manitoba Arts Council; construction contract for the theatre at McPhillips Street Station; use of the government's fleet vehicles; ministerial out-of-province travel expenses; funds allocated and spent for Y2K compliance testing systems.

Protection of Privacy

The Freedom of Information and Protection of Privacy Act requires that government departments and agencies implement new standards and procedures in their day-to-day management of the personal information in their custody or under their control. It covers matters such as why and how personal information may be collected, the need to maintain its accuracy and allow people to correct their own information, its storage and protection, its use by the department or agency, and disclosures outside the public body.

There were no requests for correction of personal information in 1999.

Individuals who believe that their personal information has been collected, used or disclosed in violation of the privacy protection provisions of *The Freedom of Information and Protection of Privacy Act* may complain to the Ombudsman. There were six complaints of privacy violations to the Ombudsman in 1999: one each for the Civil Service Commission, Education and Training, Manitoba Public Insurance Corporation, Manitoba Securities Commission (Consumer and Corporate Affairs), and two for Family Services.

Local Public Bodies

On August 31, 1998, *The Freedom of Information and Protection of Privacy Act* was extended to the City of Winnipeg. For the previous four years, the City had operated under an Access to Information Bylaw.

Between August 31, 1998 and December 31, 1998, the City of Winnipeg received 25 applications for access to records under *The Freedom of Information and Protection of Privacy Act*.

In the calendar year 1999, the City received a total of 80 applications under the Act. There were 12 complaints to the Office of the Ombudsman about access to information.

Central Administration

The Provincial Archives, through the Government Records Office, is responsible for central administration and coordination of *The Freedom of Information and Protection of Privacy Act*. It provides procedural advice to the Access Officers and Coordinators in the government departments and agencies, assists members of the public who wish to make

applications for access to information held by the government, and compiles statistics on use of the Act.

The Government Records Office is also responsible for training officials of departments, government agencies and local public bodies on how to respond to access applications and implement privacy protection under *The Freedom of Information and Protection of Privacy Act*. In 1999, training was provided through 35 workshops and 87 awareness sessions to 2,267 people within government and in the various local public bodies throughout the province.

The Office also compiles, edits, and distributes directories of records for the Government of Manitoba and the local public bodies, under Section 75 of *The Freedom of Information and Protection of Privacy Act*. These directories are designed to assist both the public and the staff of these bodies. In 1999, with a view to proclamation in 2000, directories of records were prepared for various local public bodies including municipalities, conservation and planning districts and school divisions. Larger public bodies such as the City of Winnipeg and the University of Manitoba have prepared their own records directories.

The web site for the Manitoba *Freedom of Information and Protection of Privacy Act* currently is being redesigned to include a variety of information for both the general public and public bodies, including the various record directories.

W:\chcpra\Pam\Admin\Gov't Records\FIPPA\Reporting\1998 Annual Report.doc\1998 Annual Report - Text.doc

TABLE 1

APPLICATIONS RECEIVED AND PROCESSED*		
Year	Received	Processed
1999	407	354
1998 (FIPPA & FOI)	444	422
1997 (FOI)	682	654

TABLE 2

PERSONAL/GENERAL DISTRIBUTION OF APPLICATIONS RECEIVED		
Year	Personal	General
1999	86	321
1998 (FIPPA & FOI)	121	323
1997 (FOI)	169	513

* The difference between the number of applications received and processed reflects withdrawn and abandoned applications, as well as applications carried forward for processing in the following year.

TABLE 3

TYPE OF APPLICANT								
Year	Private Citizens		Media		Political Parties		Other	
1999	259	64%	82	20%	20	5%	46	11%
1998 (FIPPA & FOI)	321	72%	67	15%	12	3%	44	10%
1997 (FOI)	451	66%	62	9%	132	19%	37	6%

TABLE 4

ACCESS DECISIONS												
Year	Granted		Partly Granted		Denied		Doesn't Exist		Not Confirmed or Denied		Repetitive	
1999	132	37%	62	18%	63	18%	78	22%	0	0%	19	5%
1998(FIPPA & FOI)	193	46%	118	28%	47	11%	64	15%	N/a		N/a	
1997 (FOI)	334	51%	149	23%	87	13%	84	13%	N/a		N/a	

TABLE 5

**APPLICATIONS PROCESSED BY DEPARTMENTS IN 1999
UNDER FIPPA**

DEPARTMENT	APPLICATIONS				ACCESS DECISIONS						RESPONSE TIME			COMPLAINTS	
	Rec'd	Brought From 1998	Carried To 2000	Withdrawn/ Abandoned	Granted	Partly Granted	Denied	Doesn't Exist	Not Confirm Deny	Repetitive	Within 30 days	Within 60 days	More than 60 days	Ombudsman	Court
Aboriginal and Northern Affairs	2		2												
Agriculture	0														
Agriculture and Food	5		3			1	1				2			1	
Civil Service Commission	4	1		1	2			2			2		2		
Conservation	15		7	1	9	1					7	3			
Consumer and Corporate Affairs	8		2		1	2	2	1			6			1	
Culture, Heritage and Citizenship	4			3	1				1		1				
Culture, Heritage and Tourism	2		1						1		1				
Education and Training	13		4	2	3	3	1				7			1	
Energy and Mines	1						1				1				
Environment	12				11	1					12			2	
Executive Council	9		3	1	3			2			5				
Family Services	13			2	4	7					8	3		4	
Family Services and Housing	10		5	1	4						4				
Finance	11		2	1	1		5	2			7	1		8	
Government Services	13		1		6	1	2	3			7	4	1	6	
Health	26		3		10	3	4	6			22	1		3	
Highways	5		2		1		2				2	1			
Highways and Transportation	10	1			2	1	8				8	3		2	
Housing	4				3	1					3	1			
Industry, Trade and Mines	4		1		3						3				
Industry, Trade and Tourism	5			1	3			1			4				
Intergovernmental Affairs	6		2		1		1	2			3	1			
Justice	42	1			8	8	10	12	3		40	1		8	
Labour	33	2	1		11	12	6	5			31	3		1	
Natural Resources	31		1		21	1	4	4			30			8	
Northern Affairs	1			1										1	
Rural Development	5	2			3	2	1	1			5	1	1		
Urban Affairs	0														
TOTAL	294	7	40	14	111	44	48	42	3	0	221	23	4	46	0

TABLE 6
APPLICATIONS PROCESSED BY GOVERNMENT AGENCIES IN 1999
UNDER FIPPA

CROWN AGENCY	APPLICATIONS				ACCESS DECISIONS						RESPONSE TIME			COMPLAINTS	
	Rec'd	Brought From 1998	Carried To 2000	Withdrawn/ Abandoned	Granted	Partly Granted	Denied	Doesn't Exist	Not Confirm Deny	Repeti- tive	Within 30 days	Within 60 days	More than 60 days	Ombuds- man	Court
Addictions Foundation of Manitoba	1					1					1				
Communities Economic Development Fund	2				2						2				
Crown Corporations Council	1				1						1				
Keewatin Community College	1		1												
Legal Aid Services Society of Manitoba	1					1					1				
Liquor Control Commission of Manitoba	1		1												
Manitoba Arts Council	2		1		1							1			
Manitoba Centennial Centre Corporation	1				1						1				
Manitoba Crop Insurance Corporation	2				1		1				1	1			
Manitoba Housing Authority	1				1						1				
Manitoba Human Rights Commission	1				1						1				
Manitoba Lotteries Corporation	4		1		1	1	1				1	2			
Manitoba Public Insurance Corporation	17				3	10	1	3			13	4		6	
Seniors Directorate	1		1												
Status of Women	1		1												
Workers Compensation Board of Manitoba	76	5	4	1	6	5	13	33		19	74	1	1	37	
TOTAL	113	5	10	1	18	18	16	36	0	19	97	9	1	43	0

No applications were received by: Assiniboine Community College, Centre culturel franco-manitobain, Credit Union Deposit Guarantee Corporation, Economic Innovation and Technology Council, Leaf Rapids Town Properties Ltd., Manitoba Agricultural Credit Corporation, Manitoba Development Corporation, Manitoba Housing and Renewal Corporation, Manitoba Hydro, Red River College, Venture Manitoba Tours Ltd.

TABLE 7

REASONS FOR DENIAL OF ACCESS UNDER THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT			
EXCEPTIONS TO DISCLOSURE	FIPPA SECTION NUMBER	NUMBER OF APPLICATIONS IN WHICH THE EXCEPTION WAS APPLIED	
		MAY 4 - DEC. 31, 1998	1999
MANDATORY			
Third party's privacy	17	234	45
Third party's business interests	18	10	14
Cabinet confidences	19	16	14
Information provided in confidence by another government	20	7	5
DISCRETIONARY			
Harmful to relations between Manitoba and other governments	21	6	0
Local public body confidences	22	1	1
Advice to a public body	23	45	23
Harmful to individual or public safety	24	3	1
Harmful to law enforcement or legal proceedings	25	17	15

TABLE 9

FEES COLLECTED						
Year	Search & Preparation	Computer Costs	Copying Service	TOTAL	Personal Information	General Information
1999	\$300.00	\$0.00	\$ 160.45	\$ 460.45	\$4.35	\$456.10
1998 (FIPPA & FOI)	\$980.00	\$0.00	\$ 385.00	\$1,365.00	\$840.00	\$525.00
1997 (FOI)	\$3,140.00	\$8.00	\$1,605.00	\$4,753.00	\$2,219.00	\$2,534.00

TABLE 10

REPORTED COSTS OF PROCESSING APPLICATIONS (Calculated at hourly salary levels)					
Year	DEPARTMENTS		GOVERNMENT AGENCIES		TOTAL
	Personal	General	Personal	General	
1999	\$ 4,767.00	\$17,938.00	\$1,044.00	\$2,578.00	\$ 26,327.00
1998 (FIPPA & FOI)	\$ 9,834.00	\$43,623.00	\$1,083.00	\$1,622.00	\$ 56,162.00
1997 (FOI)	\$26,092.00	\$75,569.00	\$2,064.00	\$1,809.00	\$105,534.00

TABLE 11

PERCENTAGE DISTRIBUTION OF REPORTED COSTS BY ACTIVITY				
Year	TOTAL	Processing	Copying	Investigation and Appeal
1999	\$ 26,237.00	92%	3%	5%
1998 (FIPPA & FOI)	\$ 56,162.00	94%	3%	3%
1997 (FOI)	\$105,534.00	95%	3%	2%

TABLE 8

DEPARTMENTS AND GOVERNMENT AGENCIES RECEIVING LARGEST NUMBER OF APPLICATIONS								
1999			1998 (FIPPA & FOI)			1997 (FOI)		
Workers Compensation Board	76	19%	Natural Resources	107	24%	Natural Resources	105	15%
Natural Resources (from Jan) and Conservation (from Oct.)	46	11%	Health	52	12%	Health	103	15%
Justice	42	10%	Justice	47	11%	Justice	83	12%
Labour	33	8%	Labour	33	7%	Workers Compensation Board	54	8%
Health	26	6%	Family Services	28	6%	Labour	46	7%
Manitoba Public Insurance Corporation	17	4%	Workers Compensation Board	26	6%	Family Services	46	7%