

COLLECTION: WHERE PRIVACY BEGINS

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Access and Privacy Division
Manitoba Ombudsman



COLLECTION CONSIDERATIONS & PRESENTATION OUTLINE

- purpose of collection
- limit on amount of collection
- manner of collection (“direct” or “indirect”)
- notice of collection (for direct collection only)



WHAT IS COLLECTION UNDER FIPPA?

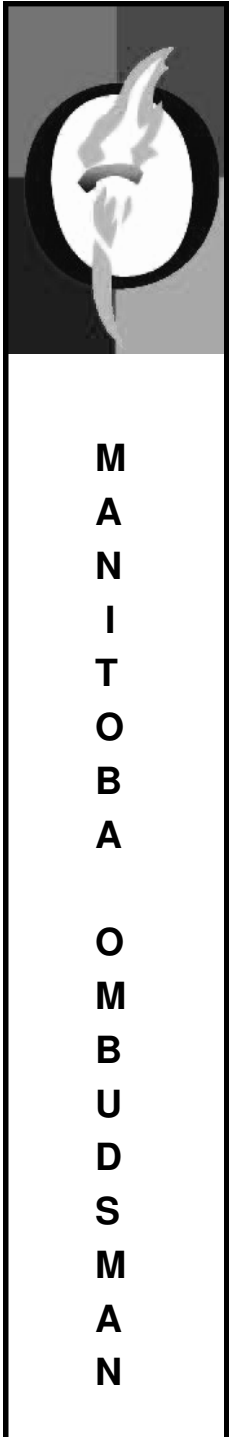
- “collection” is not defined in FIPPA
- understood as gathering or obtaining personal information by a public body
- “personal information” is recorded information about an identifiable individual (definition does not include “personal health information” which is handled under PHIA)
- “public body” includes provincial government departments and agencies, municipal governments, school divisions, universities, regional health authorities



PURPOSE OF COLLECTION UNDER FIPPA

- the collection must be authorized by a law of Manitoba or Canada **OR**
- the information must
 - relate directly to and
 - be necessary for an existing program or activity of the public body **OR**
- the collection must be for law enforcement or crime prevention

FIPPA, s 36(1)



PURPOSE OF COLLECTION EXAMPLE 1

- the lawful collection of the social insurance number (SIN)
- collection is authorized by a law of Canada
- employers (including “public bodies”) are required by the federal Employment Insurance Regulations to collect SINs from new employees in order to provide them with records of employment and T-4 slips for income tax purposes and Canada Pension Plan (CPP) purposes



PURPOSE OF COLLECTION EXAMPLE 2

- the case of Manitoba Transportation (Taxicab Board) collecting passenger photos in Winnipeg taxicabs
- the collection relates directly to and is necessary for an activity of the public body



PURPOSE OF COLLECTION EXAMPLE 3

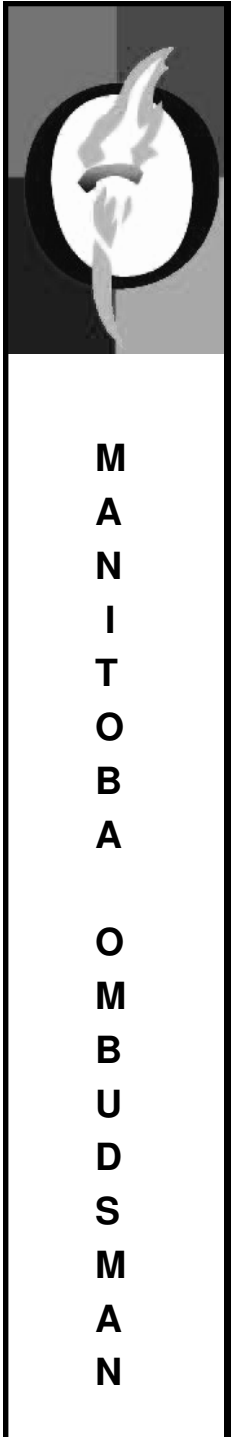
- the reported plan of Winnipeg Police Service to utilize close circuit cameras in public spaces
- can be one or both: law enforcement, crime prevention
- other considerations? best practices?



LIMIT ON THE AMOUNT OF COLLECTION

- only the amount of personal information reasonably needed for the purpose of collection shall be collected
- in other words, what do you need to do the particular task at the particular time?
- in other words, need to know, not want to know

FIPPA, s 36(2)



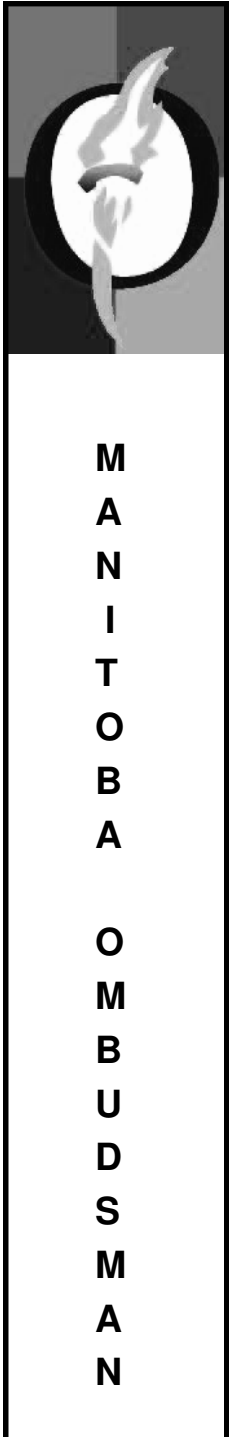
LIMIT ON COLLECTION EXAMPLE

- the case of Manitoba Education verifying family finances for student aid



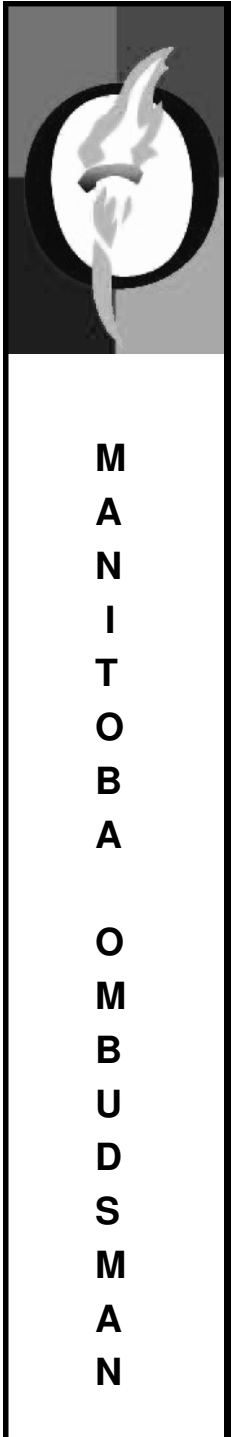
“DIRECT COLLECTION” AND “INDIRECT COLLECTION”

- these terms are not defined in FIPPA
- working definitions are suggested under “Manner of Collection,” *FIPPA s 37 (1)*
- “direct collection”: gathering or obtaining personal information directly from the individual the information is about
- “indirect collection”: gathering or obtaining personal information from a source other than the individual the information is about
- these terms are relevant to the ideas of consent to collection and notice of collection



MANNER OF COLLECTION UNDER FIPPA

- personal information must be collected directly from the individual the information is about, except
- in one or more of about 17 different situations of “indirect collection” listed in *FIPPA, s 37(1)*
- some examples of these situations are where:
 - the individual consents to the indirect collection
 - the individual’s information is collected for law enforcement or crime prevention
 - the individual’s information is collected to determine their eligibility for a program or benefit of a public body¹¹



NOTICE OF COLLECTION UNDER FIPPA

- if the personal information is collected directly from the individual, the public body must give notice of its collection practices by informing the individual of:
 - the purpose for which the information is collected
 - the legal authority for the collection
 - business title, address and telephone number of an employee who can answer the individual's questions about the collection

FIPPA, s 37(2)



WHEN NOTICE OF COLLECTION IS NOT REQUIRED UNDER FIPPA

- another notice is not required if the public body has “recently” provided notice to the individual of collection of the same or similar information for the same or related purpose
- this does not prevent a public body from still choosing to provide notice when it makes another collection of the same information



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SAMPLE NOTICE OF COLLECTION

- the Manitoba government has suggested a sample notice of collection:

*This personal information is being collected under the authority of **[identify the Act, regulation program or activity]** and it will be used for **[state the purposes for which the information is being collected]**.*

*It is protected by the Protection of Privacy provisions of The Freedom of Information and Protection of Privacy Act. If you have any questions about the collection contact **[provide title, business address and telephone number of responsible official or employee]**.*

www.gov.mb.ca/chc/fippa/formsletters/letters/cpi4.html



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