



Justice
 Courts Division
 236-405 Broadway, Winnipeg, Manitoba, R3C 3L6
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July 12, 2010

Hilary Henley
 Canadian Taxpayers Federation
 212-248 Portage Avenue
 Winnipeg MB R3C 0E2

Dear Ms Henley:

**Re: *Freedom of Information and Protection of Privacy Act*
*Our File No. 2010-66***

Thank you for your Application for Access under *The Freedom of Information and Protection of Privacy Act* (FIPPA) which was received by Manitoba Justice on June 11, 2010.

You requested:

"... .. Please provide documentation on the following:

- 1) The number of inmates mistakenly released from Manitoba correctional centres in 2007, 2008, 2009, 2010.
- 2) The financial penalties to staff members responsible for the inmates' mistaken release.
- 3) Instances of suspension or termination of staff members responsible for the inmates' mistaken release.
- 4) Instances of any other disciplinary measures taken against staff members responsible for the inmates' mistaken release... .."

No specific record exists relative to your first request. Accordingly, your request for access is refused. Subsection 12(1) of FIPPA states, in part:

12(1) In a response under section 11, the head of a public body shall inform the applicant

- (a) whether access to the record or part of the record is granted or refused;*
- (b) ... ; and*
- (c) if access to the record or part of the record is refused,*
 - (i) in the case of a record that does not exist or cannot be located, that the record does not exist or cannot be located,...*

Although your request is denied, section 9 of FIPPA states:

The head of a public body shall make every reasonable effort to assist an

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applicant and to respond without delay, openly, accurately and completely.

In 2007, three people were mistakenly released from a Manitoba correctional centre. In 2008, there were two and in 2009 there were six (although records are less complete, we can advise that ten years ago, there were at least five). To date in 2010, there have been four releases in error.

Adult correctional facilities average approximately 20,000 releases (discharges) per year. Based on the numbers, releases in error have accounted for .015% or 1.5 wrongful releases per 10,000.

A release in error is considered a significant event and is given highest priority. The appropriate police agency is notified immediately after a release in error is identified. Staff will examine the reasons for the wrongful release and, if necessary will make changes to procedures or provide additional training to those directly involved in creating the release documents.

Managing the legal file of an individual is a complex process involving various court personnel, Sheriff's Officers, justices of the peace, corrections staff and specialized police units such as the Winnipeg Police Services Arrest and Processing Unit. It is not uncommon that a single individual may be in custody on some criminal charges while having bail granted on others. In addition, individuals may have charges dealt with in Provincial Court and others in Queen's Bench, court appearances scheduled in Winnipeg and others in a rural court. An individual in custody often has new criminal charges laid against them while old charges are brought forward.

While procedures such as double-check systems are in place to protect against human error, mistakes still occur on rare occasions.

Your application also requested information regarding disciplinary measures taken against staff members who are found responsible for inmates mistakenly released. Please be advised that access to such records is refused. This information falls within the following exceptions to disclosure in *The Freedom of Information and Protection of Privacy Act*.

Disclosure harmful to a third party's privacy

17(1) The head of a public body shall refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's privacy.

Disclosures deemed to be an unreasonable invasion of privacy

17(2) A disclosure of personal information about a third party is deemed to be an unreasonable invasion of the third party's privacy if

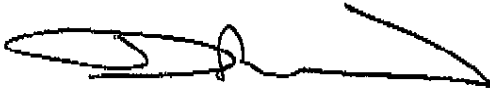
- (e) the personal information relates to the third party's employment, occupational or educational history;
- (h) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations.

If you have any questions or concerns about this letter, please contact the departmental Access Coordinator, Ms Mary Loepp at 945-2892 or by mail at 1110 - 405 Broadway, Winnipeg, MB R3C 3L6.

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about our decision respecting your request for access to the Manitoba Ombudsman. You have 60 days from the receipt of this letter on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1

Yours truly,



Dave Brickwood
Assistant Deputy Minister and
FIPPA Access & Privacy Officer