



Justice

Community Safety Division
8th Floor – 405 Broadway, Winnipeg, Manitoba, R3C 3L6
T 204 945-7291 F 204 945-5537
<http://www.gov.mb.ca/justice.ca>

March 29, 2021

Justin Piché

Dear Justin Piché:

**Re: Your Access Request under The Freedom of Information and Protection of
Privacy Act – Access Request # 2021-115**

On February 25, 2021, Manitoba Justice received your request for access under *The Freedom of Information and Protection of Privacy Act* (FIPPA) for the following:

FIPPA # 2021-115 – I am requesting all records outlining the results of (a) health and (b) labour inspections, assessments and audits of provincial correctional institutions and probation offices in Manitoba related to COVID-19.

One of the purposes of FIPPA is to allow any person a right to access records in custody or under the control of a public body, subject to limited and specific exceptions set out in the Act.

Please be advised that access is granted in part to your request and the responsive records are enclosed.

As required by subsection 7(1) and 7(2) of FIPPA, the department has severed information excepted from disclosure providing you with as much information as possible. Section 7 of FIPPA states:

Right of access

7(1) Subject to this Act, an applicant has a right of access to any record in the custody or under the control of a public body, including a record containing personal information about the applicant.

Severing information

7(2) The right of access to a record does not extend to information that is excepted from disclosure under Division 3 or 4 of this Part, but if that information can reasonably be severed from the record, an applicant has a right of access to the remainder of the record.

Some information in the records has been withheld as the information falls within the following exceptions under FIPPA:

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;

Section 17 is a mandatory exception to disclosure. This section ensures an individual's right to privacy with respect to their own personal information. The application of this section is necessary to protect personal information of an identifiable individual.

Disclosure harmful to law enforcement or legal proceedings

25(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to

(e) endanger the life or safety of a law enforcement officer or any other person;

Section 25 is a discretionary exception to disclosure. This section provides that the public body has the discretion to refuse to disclose information that could reasonably be expected to harm law enforcement activities and other specified functions of a public body in carrying out law enforcement or legal proceedings.

Subsection 59(1) of FIPPA 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 to make a complaint on the prescribed form to the Manitoba Ombudsman, at 750-500 Portage Avenue, Winnipeg, Manitoba, R3C 3X1. Telephone (204) 982-9130 or toll-free at 1-800-665-0531.

If you have any questions please contact Ms. Carol Harrison, FIPPA Coordinator at (204) 945-2984 or by mail at 1110-405 Broadway, Winnipeg, Manitoba, R3C 3L6.

Yours truly,

Scott Kolody
Associate Deputy Minister and
Access and Privacy Officer

c. C. Harrison, FIPPA Access and Privacy Coordinator

Report on Compliance

Department of Finance
WORKPLACE SAFETY AND HEALTH

WS&H Officer: 17(1), 17(2)(e)
 E-mail: _____
 Phone #: _____
 Fax #: _____

****Please complete all required information below:**

		(204)
<u>Legal</u> Name of Recipient of Improvement Order(s)		Office Phone Number
		(204)
<u>Common</u> Name of Recipient of Improvement Order(s)		Cellular Phone Number
		(204)
Recipient's Complete Mailing Address (including postal code)		Fax Number
Contact Person & Position	# of Workers	Email Address
Worksite Location (if different than above)		

Pursuant to Section 26(1) of the Workplace Safety & Health Act W210, a Safety and Health Officer issued an Improvement Order(s). Pursuant to Section 35 of the Workplace Safety and Health Act, the recipient of this Order(s) shall provide **written confirmation of the measures taken and any measures yet to be taken** to remedy the contravention(s) noted on the Improvement Order(s) within 7 days of the compliance date specified on the Improvement Order.

Order Number	Compliance Action – What corrective actions have been taken? (attach additional sheets if necessary)

This Report on Compliance correctly identifies all actions completed to date, and any measures yet to be taken, to comply with the Improvement Order(s) issued under Section 26(1) W210 of the Act. **Compliance of Improvement Order(s) is not achieved until the Safety & Health Officer confirms compliance.**

 Recipient's Representative and Title (Please Print)

 Signature of Recipient's Representative

Copy of Report on Compliance provided to:

DATE of Report: _____

 Name and Title of Person Representing Workers (Please Print)

 Signature of Person Representing Workers

A copy of this report must be shared with the Safety & Health Committee, or if there is no Committee, then a Worker Safety and Health Representative. If there is no Worker Representative, then a copy must be posted in the workplace. A copy of this report must be sent to the Workplace Safety & Health Branch to the attention of the Safety and Health Officer who made the Order(s).



Department of Finance
Workplace Safety and Health
200-401 York Avenue
Winnipeg, Manitoba, Canada R3C 0P8

17(1), 17(2)(e)

Improvement Order Form

Employer / Person Name	Work Site Address
Government of Manitoba - Department of Justice - Custody	405 Broadway Winnipeg MB R3C 3L6

Date of Inspection	Site Contacts
08 June 2020	17(1), 17(2)(e), 25(1)(e) Greg Skelly - Executive Director - Custody - Management

Improvement Order(s)

Pursuant to **Section 26 of the Workplace Safety and Health Act (WSHA)**, the following improvement orders are issued:

Order Number	Explanation	Compliance Date
1	<p>Chemical and Biological Substances - Safe Work Procedures Workplace Safety and Health Regulation 36.3</p> <p>Observation: While a safe work procedure has been developed for the Disinfectant Anolyte Fogger, it was not created in consultation with the workplace safety and health committee. The safe work procedure does not include reference to the use or handling of the specific chemicals that are intended to be used in conjunction with the fogging equipment to ensure the safety or health of workers.</p> <p>NOTE: The employer states they are transitioning from the use of Environize ANK-Neutral Anolyte to the use of Ultra-Lyte in the workplace however both products may be in use on-site at present. A copy of the Safety Data Sheet and Material Safety Data Sheet for both the Environize ANK-Neutral Anolyte and the Ultra-Lyte product were provided for review. Hazard information and preventative measures are contained therein.</p> <p>Requirement: The employer must develop and implement safe work procedures respecting the use, production, storage, handling and disposal of any chemical or biological substance that an assessment has determined creates or may create a risk to the safety or health of a worker in the workplace. The employer must also that ensure workers are trained in the safe work procedures and comply with the safe work procedures.</p> <p>Reference: 'Guideline for Chemical and Biological Substances in the Workplace'</p>	03 July 2020

Other Comments and Request for Information:

1. During the teleconference, the employer stated that the Anolyte product is no longer used for the purpose of fogging or spraying workers upon entrance into the workplace(s) or for the purpose of disinfecting clothing/protective barriers while a worker is donned in same. A written statement of commitment is requested to outline this change to process.

2. During the teleconference, the employer indicated that there was an opportunity to launder all re-usable gowns, coveralls and clothing used as protective barriers on-site rather than spraying same with the Environize ANK-Neutral Anolyte or Ultra-Lyte product for the purpose of disinfection. A written statement of commitment is requested to outline this change to process.

Date Served: 28 May 2020

Stop Work Warnings (SWW)

Where a safety and health officer believes that the contravention involves or is likely to involve serious risk to the safety or health of any person in or about the workplace, it may be specified that if the contravention is not remedied within the period mentioned therein, a stop work order may be issued. (Section 26(2) of the WSHA)

How to Comply

In consultation with workers, the employer or person named in this order must provide documentation to the issuing Safety and Health Officer stating what corrective action(s) have been taken (Section 35 of the WSHA).

How to Appeal

Anyone directly affected by this order has the right to appeal to the Director of the Workplace Safety and Health Branch within 14 days of date served (Section 37 of the WSHA).

To appeal an order, written notice must be sent to the attention of the Director of Workplace Safety and Health. This must include reasons for the appeal and a list of persons interested in the appeal. Supporting documentation may also be requested.

17(1), 17(2)(e)

Further Enforcement Actions

Non-compliance with these orders may result in stoppage of work (Section 26(2) of the WSHA), an administrative penalty (Section 53(1) of the WSHA) and/or prosecution (Section 54 of the WSHA).

For matters not related to this document, please contact Workplace Safety and Health at 204-957-SAFE, toll free at 1-855-957-SAFE, or wshcompl@gov.mb.ca.



Department of Finance
Workplace Safety and Health
200-401 York Avenue
Winnipeg, Manitoba, Canada R3C 0P8

17(1), 17(2)(e)

Report Form

Employer / Person Name	Work Site Address
Department of Justice	Winnipeg MB

Date of Inspection	Site Contacts
22 May 2020	N/A - Worker Greg Skelly - Management

Date Served: 22 May 2020

The above referenced officer completed a follow up with the employer to address concerns received regarding the use of Environize Anolyte Product in the workplace. Further, documentation was received and reviewed May 21 and 22, 2020. Refer to the following:

The workplace has been in consult with Public Health with respect to COVID-19 and the implementation of general provisions. The employer states that the custody centres have been designated as closed communities with an at risk population and have been asked to comply with the long term care requirements for personal protective equipment.

- When gowns are used in the workplace, it is expected that they are used in accordance with manufacturer's specifications and in accordance with any additional direction provided by Public Health. The Shared Health Provincial Requirements for Personal Protective Equipment (PPE) Document dated May 7, 2020 refers to the following with respect to gown use in long term care facilities:

- Type of PPE for COVID-19 Non-Suspect: Gowns are to be used as per routine practices (e.g. MRSA, Scabies, blood or body fluid contact or excessive soiling) AND in situations requiring additional precautions

- Type of PPE for COVID-19 Positive and COVID-19 Suspect:
With COVID-19 positive patients, extend use of gowns except in situations when Gowns should be used as per routine practices (e.g. MRSA, Scabies, blood or body fluid contact or excessive soiling) AND in situations requiring additional precautions. Remove gown prior to leaving the COVID-19 positive unit.

- With COVID-19 suspect patients, gowns are to be used as per routine practices and additional precautions(e.g. MRSA, Scabies, blood or body fluid contact or excessive soiling).

- There is a provision in place at the workplace for the laundering of coveralls and gowns on-site OR for the spraying of coveralls and gowns with the Environize Anolyte product prior to being re-donned by workers.

- The Safety Data Sheet for the product states that the active ingredient (hypchlorous acid) is approved by EPA, FDA and Health Canada for the disinfection of hard non-porous surfaces. The information does not state that the product is approved for the purpose of disinfection of porous materials. Safe work procedures

 - for the appropriate donning and doffing of re-usable gowns and coveralls should take into consideration

that

the product may not disinfect porous materials. If the manufacturer has provided documentation or a statement to identify that the product is able to disinfect porous materials, please submit the document for review.

- The Environize Anolyte product Safety Data Sheet states that the product may cause mild irritation to skin and eyes and does not identify that it is intended for use in occupied spaces or on persons. If the manufacturer has provided documentation or a statement to identify that the product is intended for use in occupied space or on persons please submit the document for review.

NOTE: If public health has provided comment on the extended use of gowns or use of the Environize Anolyte product in the workplace, a copy of the response is requested for review.

For matters not related to this document, please contact Workplace Safety and Health at 204-957-SAFE, toll free at 1-855-957-SAFE, or wshcompl@gov.mb.ca.



Department of Finance
Workplace Safety and Health
200-401 York Avenue
Winnipeg, Manitoba, Canada R3C 0P8

17(1), 17(2)(e)

Report Form

Employer / Person Name	Work Site Address
Government of Manitoba - Department of Justice	405 Broadway Ave Winnipeg MB R3C 1L6

Date of Inspection	Site Contacts
09 November 2020	17(1), 17(2)(e), 25(1)(e) Greg Skelly 17(1), 17(2)(e), 25(1)(e) - Management

Date Served: 18 November 2020

The above referenced officer completed a pandemic plan review with respect to reducing worker exposure to COVID-19 in the workplace. Note that this follow up is based on the current pandemic situation, information and recommendations initiated by Public Health respecting COVID-19 transmission available at the date of this report. Employers are encouraged to keep up to date with Public Health recommendations and to communicate with WSH if uncertain about current recommendations.

The employer indicates that a risk assessment has been completed and the following control measures have been implemented in the workplace:

1) High Risk Workers

- Workers are informed of the high risk categories as outlined by MB Public Health (60 years of age and older, workers living with chronic health conditions, and workers with weakened immune systems) and resource materials have been provided for reference.
- When a worker identifies as being in a high risk category, an assessment would be completed with the worker to determine risk and appropriate follow up.

2) Health Screening

- Workers have been provided with information on the symptoms of COVID-19. A screening process has been implemented, where workers are required to self assess prior to the start of each shift. Signage is posted as a visual reminder of the screening symptoms of COVID-19.
- If ill, workers are asked to remain at home and contact Health Links or public health for follow up and direction on testing and self-isolation. Workers who become ill during a work shift are asked to inform their supervisor and make arrangements to go home.
- Workers who have travelled are required to isolate as per the requirements outlined in the Self Isolation Order.
- It is documented that contractors and other non-Corrections staff are required to complete the screening assessment with the Duty Office or similar area.
- A process has been implemented to manage contact tracing, if required.

3) Physical Distancing + Other Control Measures

- Workers are encouraged to maintain distancing and reduce direct contact where reasonably practicable in the facilities. Workers are instructed to maintain distancing during direct supervision and while conducting searches (Ex. officers should be 1-2m apart while searching open areas and only one officer should be searching in cells)

- Shifts are staggered to help facilitate distancing and there is a concerted effort to reduce movement through common areas such as dining halls and corridors.

4) General Hygiene Measures

- Enhanced cleaning and sanitizing is conducted on shared items and high touch surfaces. Fogging equipment is used in large high traffic areas. Areas are also fogged prior to searching where practicable.
- Workers have access to bleach and water spray in addition to analyte used in the fogging equipment for disinfection. (1:10parts) There is access to hand sanitizer and hand wash facilities, where practicable.
- It is documented that escort vehicle PTCUs are cleaned after each escort and the area where workers are located is cleaned at the end of every shift. Bleach and water solution is used on all surfaces within the PTCU keeping a 10min contact time.
- Workers have been asked to change in and out of personal uniforms at work and to keep uniforms separate from regular street clothing.

5) Personal Protective Equipment (PPE)

- Reusable cloth face coverings have been issued to workers with the expectation that they be worn for the duration of the work shift. Information has been provided on how to properly clean and care for the face coverings.
- Workers who are responsible for shifts in units with confirmed contacts will be issued face shield, surgical mask and gown. Note that medical personnel may vary the use of PPE based on risk assessment. Shared Health PPE Guidelines are used as a reference point.
- Reusable gowns are provided where indicated and must remain on-site at the custody centre and are to be laundered on site. When indicated by risk assessment, workers may be issued eye protection and/or face shields. This PPE is to be cleaned and disinfected at the end of each shift or when removed during a shift. (Ex. kitchen, central laundry, canteen)
- Officers who are required to take inmates for medical appointments or hospital supervision will be issued a medical mask for use. N95 will be issued to "essential" staff where indicated by assessment and when completing or in proximity to aerosol generating medical procedures. (Ex. directly involved with resuscitation efforts or to maintain security. Process is implemented for workers who are required to collect CPAP machines from individual cells.

6) General Education and Training

- Workers have been provided with COVID-19 related education and resource materials. COVID-19 materials are available on the Government intranet for worker access.
- Workers who are required to handle hazardous products have received WHMIS education.
- See above comment regarding training provided for donning and doffing PPE.

Documentation Reviewed:

- Pandemic Operation Plan (Updated: Nov.5.2020)

For matters not related to this document, please contact Workplace Safety and Health at 204-957-SAFE, toll free at 1-855-957-SAFE, or wshcompl@gov.mb.ca.

THIS DOCUMENT MUST BE POSTED AT THE WORKPLACE



Department of Finance
Workplace Safety and Health
200-401 York Avenue
Winnipeg, Manitoba, Canada R3C 0P8

17(1), 17(2)(e)

Improvement Order Form

Employer / Person Name	Work Site Address
Manitoba Justice	1-141 Kennedy St Winnipeg MB R3C 4N5

Date of Inspection	Site Contacts
27 November 2020	17(1), 17(2)(e), 25(1)(e)

Improvement Order(s)

Pursuant to **Section 26 of the Workplace Safety and Health Act (WSHA)**, the following improvement orders are issued:

Order Number	Explanation	Compliance Date
1	<p>Personal Protective Equipment – Employer Obligations re Equipment Provided Fit For Intended Purpose Workplace Safety and Health Regulation 6.4</p> <p>Observation: Personal protective equipment meeting the requirements prescribed in this section have not been provided to workers.</p> <p>Requirement: The employer must ensure that;</p> <p>(a) before providing personal protective equipment to a worker, the equipment is fit for its purpose, as determined by the employer inspecting it and testing it or carrying out any pre-use procedure in accordance with the manufacturer's specifications;</p> <p>(b) the equipment provided fits the worker correctly and can be used by the worker without an adverse effect to the worker's safety or health from the use of the equipment; and</p> <p>(c) the worker is informed of and understands the safety or health risk for which the equipment is designed and the limitations, if any, in the protection it provides.</p> <p>The employer has indicated that immediate temporary provisions will be engaged to ensure that the use of the required equipment(gown) may proceed by eliminating the risk presented by the presence of ties around the neck.</p>	04 December 2020

	Communication and implementation of long term remedies for the PPE will be required for compliance.	
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Date Served: 27 November 2020

Stop Work Warnings (SWW)

Where a safety and health officer believes that the contravention involves or is likely to involve serious risk to the safety or health of any person in or about the workplace, it may be specified that if the contravention is not remedied within the period mentioned therein, a stop work order may be issued. (Section 26(2) of the WSHA)

How to Comply

In consultation with workers, the employer or person named in this order must provide documentation to the issuing Safety and Health Officer stating what corrective action(s) have been taken (Section 35 of the WSHA).

How to Appeal

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To appeal an order, written notice must be sent to the attention of the Director of Workplace Safety and Health. This must include reasons for the appeal and a list of persons interested in the appeal. Supporting documentation may also be requested.

17(1), 17(2)(e)

Further Enforcement Actions

Non-compliance with these orders may result in stoppage of work (Section 26(2) of the WSHA), an administrative penalty (Section 53(1) of the WSHA) and/or prosecution (Section 54 of the WSHA).

For matters not related to this document, please contact Workplace Safety and Health at 204-957-SAFE, toll free at 1-855-957-SAFE, or wshcompl@gov.mb.ca.

Date: June 9, 2020

To: All Correctional Centre
Staff

From: Greg Skelly
Executive Director, Custody
Community Safety Division

Subject: Workplace Safety and Health Report- Fogging, Anolyte Solution

You will see attached a Report Form from the Workplace Safety and Health Division (WPSH) dated on May 22, 2020. It is my understanding that a complaint arose from the Manitoba Government Employee's Union.

I do apologise for the delay in posting this report however, there were numerous communications between the Department and WPSH in which we attempted to have the document clarified and accurately reflect the product and processes we are using with the fogging of the Anolyte solution. The WPSH informed us that they were unwilling to change the report but that the employer could post response information.

In terms of clarification of the Report Form, I offer the following for your consideration. The Department has done extensive research on this and similar products. We have had to do this without the benefit of time during the crisis of a pandemic and without any assistance of other government departments (such as WPSH). The first point I will make regarding the report is that we are transitioning from Environize Anolyte produce to Ultra Lyte Anolyte (essentially the same product with a small amount less concentration) due to supply issues. This is what occurs in a pandemic - supplies run out and alternatives need to be found. We have experienced this with almost all types of supplies.

The Report Form notes that the product may not disinfect porous materials however, it is important to add that there is no approved list of products for disinfecting porous surfaces. Because Shared Health is supplying re-usable gowns, disinfecting strategies are implied but not defined. Moreover, there is scientific literature that supports the effectiveness of Anolyte on porous surfaces.

While the Safety Data Sheet (SDS, Environize) notes that the product may cause irritation, this is specific to the "strongest wet solution" (>500ppm). We do not use concentrations above S00ppm.

We believe that important information from the Safety Data Sheet was left out of the Report Form. On the second page, it states:

"The Environize Anolyte product Safety Data Sheet states that the product may cause mild irritation to skin and eyes and does not identify that it is intended for use in occupied spaces or on persons."

We believe a fairer representation should have said (and this is in the SDS):

"The Environize Anolyte product Safety Data Sheet states that the product may cause non-harmful mild irritation to skin and eyes, but no instances have been reported. The SDS does not identify that it is intended for use in occupied spaces or on persons, nor does it caution against it. As non-hazardous and non-toxic, this product is not controlled under WHMIS Controlled Products Regulation. Splash goggles are recommended when using."

I appreciate you taking the time to review this clarification. The Divisional Management group and your Superintendent and Deputy Superintendent take the Health and Safety of all staff very seriously and we thank you for your patience as we deal with this unprecedented time in Manitoba Corrections and your commitment to your profession.

Thank you,



Greg Skelly
Executive Director, Custody