



Legislative Assembly of Alberta

The 29th Legislature
Third Session

Standing Committee
on
Families and Communities

Missing Persons Act Review

Wednesday, September 13, 2017
1 p.m.

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**Legislative Assembly of Alberta
The 29th Legislature
Third Session**

Standing Committee on Families and Communities

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Also in Attendance

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LeRoy Brower

Assistant Commissioner

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Standing Committee on Families and Communities

Participant

Ministry of Justice and Solicitor General
Kelly Hillier, Barrister and Solicitor, Legislative Reform

1 p.m. Wednesday, September 13, 2017

[Ms Goehring in the chair]

The Chair: I'd like to call this meeting to order. Welcome to members, staff, guests in attendance for this meeting of the Standing Committee on Families and Communities. My name is Nicole Goehring, and I'm the MLA for Edmonton-Castle Downs and chair of this committee.

I'd ask the members and those joining the committee at the table to introduce themselves for the record, and then I will go on to those joining us via teleconference. I'd like to start to my right.

Mr. Smith: Mark Smith, Drayton Valley-Devon.

Ms Sorensen: Rhonda Sorensen, manager of corporate communications with the Legislative Assembly Office.

Mr. Orr: Ron Orr, MLA, Lacombe-Ponoka.

Mr. Brower: LeRoy Brower, Assistant Information and Privacy Commissioner.

Ms Hillier: Kelly Hillier with Justice and Solicitor General.

Mr. Horne: Trevor Horne, MLA for Spruce Grove-St. Albert.

Mr. Carson: Good afternoon. Jon Carson, MLA for Edmonton-Meadowlark.

Mr. Shepherd: David Shepherd, MLA, Edmonton-Centre.

Ms Robert: Good afternoon. Nancy Robert, research officer.

Dr. Massolin: Good afternoon. Philip Massolin, manager of research and committee services.

Ms Rempel: Good afternoon. Jody Rempel, committee clerk.

The Chair: And on the phone.

Drever: Deborah Drever, MLA for Calgary-Bow.

The Chair: Mr. Hinkley? I think Mr. Hinkley is muted.

Mrs. Pitt: Angela Pitt, MLA, Airdrie.

Ms Jansen: Sandra Jansen, Calgary-North West.

Ms Luff: Robyn Luff, MLA for Calgary-East.

Ms Miller: Good afternoon. Barb Miller, MLA, Red Deer-South.

Ms McKittrick: Bon après-midi. Annie McKittrick, MLA, Sherwood Park.

Mr. Yao: Tany Yao, Fort McMurray-Wood Buffalo.

The Chair: Is there anyone else on the phone lines that I missed?

I'd like to note for the record the following substitution. Mrs. Pitt is here for Mrs. Aheer.

A few housekeeping items to address before we turn to the business at hand. The microphone consoles are operated by *Hansard* staff, so there's no need for members to touch them. Please ensure that all electronic devices are in silent mode. Audio and video of committee proceedings are streamed live on the Internet and recorded by *Hansard*. Audio access and meeting transcripts are obtained via the Legislative Assembly website.

Up next is the approval of the agenda. Would a member move a motion to approve?

Mr. Yao: Agreed.

The Chair: Moved by Mr. Yao that the agenda for the September 13, 2017, meeting of the Standing Committee on Families and Communities be adopted as circulated or as revised. All in favour of the motion, say aye. On the phones? Any opposed? The motion is carried.

I believe Mr. Rodney has just joined the conference. Mr. Rodney, would you like to introduce yourself?

Okay. Next on the agenda is the approval of the meeting minutes. We have the minutes from our last meeting. Are there any errors or omissions to note? On the phone?

Mr. Rodney: Sorry, Chair. I just wanted to make sure that you heard what I just said.

The Chair: I heard you now, Mr. Rodney.

Mr. Rodney: Oh, okay. I was just saying that I had a little trouble dialing in and sincere apologies. I'm glad to be with you folks now. Go ahead.

Thanks.

The Chair: Thank you for joining us.

Hearing no concerns with the minutes, would a member move adoption of the minutes, please? Mr. Orr. Moved by Mr. Orr that the minutes of the June 28, 2017, meeting of the Standing Committee on Families and Communities be adopted as circulated. All in favour of this motion, please say aye. On the phones? Any opposed? Thank you. The motion is carried.

Next on the agenda is the review of the Missing Persons Act, the technical briefings. At our previous meeting we agreed to invite technical briefings on the Missing Persons Act from the Ministry of Justice and Solicitor General and from the office of the Information and Privacy Commissioner. Following each presentation there will be time allowed for committee members seeking any additional information or clarification on the presentation. Then, once we have heard both presentations, I will open the floor for further questions.

One quick reminder for everyone before we proceed: the presentations requested today are technical briefings, not stakeholder presentations. The committee will be discussing requests from stakeholder input later today and will consider this input in future meetings.

With that, I will turn the floor over to Ms Kelly Hillier from the Ministry of Justice and Solicitor General for our first presentation of the day.

Ms Hillier, you have 15 minutes. Please go ahead.

Ms Hillier: Thank you. Good afternoon. The Missing Persons Act was developed in response to a 2010 resolution of the Alberta Association of Chiefs of Police. Alberta was the first jurisdiction in Canada to introduce legislation dedicated to assisting police with missing persons investigations, and the Missing Persons Act was proclaimed in 2012.

The Missing Persons Act addresses a narrow range of issues that had been arising and causing problems in police agencies' investigation of missing persons cases. When police agencies begin a missing persons investigation, they often have no reason to suspect that a crime has occurred. In these situations the police agencies are not able to obtain a court production order under the Criminal Code in order to access records and information. Before the Missing Persons Act police agencies had no ability in those

situations to compel individuals or corporations to release personal information about the missing person. This inability to access information concerning the missing person stalled and sometimes completely halted police missing persons investigations.

The Missing Persons Act allows police agencies to apply for a court order to access personal information relevant to a missing persons investigation when there is no reason to believe that a crime has been committed. When there is a reason to suspect that a crime has occurred, the police agency must proceed under the federal criminal law, not under the Missing Persons Act.

In emergency situations the Missing Persons Act also allows police agencies to obtain a limited amount of information by a written demand.

A couple of examples of missing persons investigations where there would be no reason to suspect that a crime had occurred: for example, if a teenager goes missing unexpectedly or, in another case, if a senior citizen with health problems goes missing unexpectedly. Both of those could be started as missing persons investigations under the Missing Persons Act.

I'd like to just go through the sections of the Missing Persons Act quickly. The act itself is not that long.

Section 1 is the definition section.

Section 2 says that the Crown is bound by the act. This means that if the Crown is holding records that are responsive to a court order, the Crown would be required to release those.

Section 3 is the most vital section of the act. This section allows a police agency to apply for a court order to access records relating to a missing person. This section also allows that when the missing person is a minor or represented adult, the court order can authorize entry into a dwelling place or other place if there's a reasonable belief that the missing person can be located there.

Section 3(2) sets out the types of records that can be the subject of the court order.

Section 3(4): when the missing person is a minor or a represented adult who is believed to be in the company of another individual, the court can order access to that other individual's records. For example, if they believe a 13-year-old is travelling with a 21-year-old, the court can order access to the 21-year-old's records in order to locate the minor.

Sometimes the search for a missing person is an emergency. Section 4 of the Missing Persons Act allows for the police agency to make an emergency demand for a limited range of records when there is a risk of imminent harm or death of the missing person. This is intended for use when the emergency doesn't allow time to apply for the court order. For example, the section itself lists out what records can be subject to that emergency demand. One of them is cellphone records. The last tower that a cellphone pinged off could indicate where a missing person is located, for example, in an emergency or at least very much narrow their search area.

1:10

Section 5 applies when a person who's been served with one of those emergency written demands refuses to comply with it. The police agency could choose to go under section 3 and apply for a court order to access the records; however, section 5 allows for another option. Section 5 allows for a court order to force the person who refused to comply with the demand to insist that they comply. The purpose of section 5 was as an option for the police agencies if for some reason a person or a corporation repeatedly refused to comply with the written demand.

Police agencies are subject to privacy legislation, and that legislation provides authority for certain uses and disclosures of the information that police agencies collect. Sections 6 and 7 of the Missing Persons Act further narrow the permitted uses and

disclosures that police agencies can make of information and records collected under the Missing Persons Act. In a nutshell, the available uses and disclosures that police agencies can make with information they obtain under the Missing Persons Act are narrower and smaller than the uses and disclosures they can make of information they collect through other means.

Section 8 retains the authority of the Information and Privacy Commissioner.

Section 9 protects privileged records and states that you can't get access to those by a court order through the Missing Persons Act.

Section 10 clarifies that the Missing Persons Act doesn't affect any other authority that a police agency has to collect information.

Section 11 says that any action or lack of action by a person in good faith under the act can't be the basis of a court action against that person.

Section 12 provides the offence section for breaches of those privacy restrictions and use restrictions in sections 6 and 7. That offence section is modelled after the offence section in the FOIP Act.

Section 13 is the required review of the act.

Section 14 sets out the subjects that can be included and dealt with under a regulation under the act. Currently, there is one regulation under the Missing Persons Act.

That's all the information I have with respect to the operations of the act. I'd be pleased to answer any of your questions.

The Chair: Thank you, Ms Hillier.

Up next we have Mr. LeRoy Brower from the office of the Information and Privacy Commissioner. Mr. Brower, you also have 15 minutes. Please go ahead.

Mr. Brower: Okay. Thank you very much. Thank you for the invitation to be here. I'm pleased to be here on behalf of Commissioner Clayton and participate in this important review of the Missing Persons Act.

In my comments I want to briefly describe who we are in our office, what laws we regulate, talk a little bit about our mandate, and also some of the overarching principles of Alberta's access and privacy laws, in particular how those laws relate to the review that you're undertaking here.

The office of the Information and Privacy Commissioner is responsible for the oversight and regulation of three laws in Alberta. The first law that was passed in Alberta that is an access and privacy law is the Freedom of Information and Protection of Privacy Act, known as the FOIP Act, and it was enacted in 1995. The FOIP Act applies to information in the custody or control of public bodies. Public bodies include government departments, municipalities, schools, universities, police services, and so on. The FOIP Act regulates the sharing and protection of personal information in the public sector.

The second privacy act that was passed in Alberta is the Health Information Act, and it was enacted in 2001. That act applies to health information in the custody or control of what we term in the act "custodians." Custodians include Alberta Health, Alberta Health Services, and regulated health professionals that are designated as custodians in the regulation, such as physicians and pharmacists, nurses, chiropractors, and optometrists, to name a few.

The final privacy law that was enacted in Alberta was the Personal Information Protection Act in 2004. That act applies to personal information in the custody or control of private-sector organizations. That means that PIPA regulates the sharing and protection of personal information within the private sector.

Access and privacy laws have been characterized as quasi-constitutional. They define the fundamental information rights of

Canadians, and the three laws that apply here in Alberta are, of course, for Albertans. The Supreme Court described these rights by saying, “The ability of individuals to control their personal information is intimately connected to their individual autonomy, dignity and privacy. These are fundamental values that lie at the heart of a democracy.”

Essentially, our access and privacy laws include core purposes to, first of all, regulate the collection, use, and disclosure of Albertans’ personal or health information; secondly, to provide Albertans with the right of access to or correction of their personal or health information and, in the case of records that are held by public bodies, to ensure openness and transparency by providing the right of access to records in the custody or control of a public body subject to limited and specific exceptions that are set out in the FOIP Act; and, lastly, across all three of our privacy laws, they all require that reasonable safeguards are maintained to protect personal or health information that’s held by the organizations that are subject to the act.

The commissioner has a number of powers and responsibilities under the laws to ensure that these purposes are achieved, including reviewing responses to an individual’s access or correction request. Albertans have an ability to seek access to records, and in situations where they don’t believe they obtained the records that they were legally entitled to, that more records exist, or that perhaps some records were withheld partially or that the time frame in which a response should have been provided was not met, Albertans can ask the commissioner to review the actions and decisions made, and our office does that.

We also investigate privacy complaints. Individuals can make a complaint to our office if they believe that their personal or health information has been collected, used, or disclosed in contravention of one of the acts. The commissioner can also open an investigation on her own motion even in situations where a complaint has not been filed with our office.

When our office receives a request for review or a privacy complaint, we will investigate and will try to mediate and resolve the matter, and we make recommendations with an intent to create awareness and improve practices. However, where a matter is not resolved through mediation, it can also proceed to an inquiry, where a formal process resolves the matter and results in a binding order issued by the commissioner.

Our office also reviews and comments on privacy impact assessments. We call them PIAs. A PIA documents an organization’s assessment of privacy risk and also the controls that they, then, plan to implement to mitigate the risks that have been identified, and that applies for any system or project that’s being implemented where there is a possible impact to the privacy of Albertans.

PIAs are required under the Health Information Act. Custodians in Alberta, prior to implementing a new system or practice or making any changes to an existing system or practice, must complete and submit a PIA to the Privacy Commissioner for review and comment. Our office then reviews that privacy impact assessment. We examine whether or not due diligence has been undertaken by the custodian who has submitted it to ensure that there is authority for all the information flows and that risks have been properly identified and that they have a good plan in place for how they’re going to mitigate those risks.

PIAs are not required under the FOIP Act or under PIPA. However, we do receive PIAs under those laws, and we review and comment on them as well. Since 2001, when the HIA was proclaimed in Alberta, our office has reviewed more than 6,000 privacy impact assessments. It’s a significant component of the work that we do.

We also review self-reported breaches to ensure Albertans are notified about incidents that impact their privacy and so that they can also then take steps to protect themselves from harm. Reporting a breach of privacy that presents as a real risk of significant harm is required under our PIPA law in the private sector. Mandatory breach reporting has been passed but is not yet proclaimed and is not yet in force for the Health Information Act, and it is not required for our FOIP Act.

Another important aspect of our office’s work is developing awareness of legislation by informing and educating Albertans about their access and privacy rights.

Then, finally, and what brings me here today, is the commissioner’s mandate to comment on implications of information or for protection of privacy of legislative schemes or programs. The commissioner can be asked to review proposed legislation that can impact access to information or privacy or can also be involved in the review of existing legislation, like we’re doing here today.

1:20

These types of consultation can be completed in an open setting or confidentially, depending on the situation. Where a government department decides to share draft legislation with our office prior to it being introduced, we conduct those types of consultations confidentially with that ministry.

When our office reviews legislative schemes or programs, there are a number of areas that we consider, including that we look at whether there is legislative authority for the collection, use, and disclosure of personal or health information; we consider whether the collection, use, and disclosure are limited to the extent necessary to meet the purposes set out in law; and we examine whether there are reasonable safeguards in place to protect the information.

In 2011 Alberta Justice confidentially consulted our office on the draft Missing Persons Act and then again in 2012 on the draft regulation. The Legislature has provided the commissioner with a mandate to comment on proposed legislation. We encourage these types of consultations as they give our office an opportunity to highlight where there are privacy considerations that should be undertaken prior to introduction of a bill. Consultation on the Missing Persons Act was one of these confidential consultations that I referred to, and therefore I can’t speak to the details of that consultation. However, what I can say is that our office did provide comments that were fairly considered and led to some revisions to the act prior to it being introduced.

That’s all of my comments, and I look forward to the committee’s discussion and to any questions that you may have, which I’ll try my best to answer.

The Chair: Thank you both for your presentations.

At this point I would now like to open it to questions and comments from the committee members, and for those on the phones I will periodically check in to see if there are any questions arising from you.

I’ll start a list if anybody has any questions. Mr. Horne.

Mr. Horne: Yeah. Thank you both for taking the time to present to the committee. I just have a couple of questions at the moment, specifically for Ms Hillier. You know, in the work that the justice system does in Alberta and that justice systems across the world do, they work in conjunction with other jurisdictions, and that’s very valuable, especially on the issue of missing persons. We all want to see that continue and be improved where there is room for improvement.

I just had a couple of quick questions. In regard to the police and their ability to demand personal information, do we know how

many such demands were made by police services in Alberta for each year since the legislation was passed?

Ms Hillier: We do not. The way that the act is designed, the way it works, the police agency makes their application directly to the court, and they make their demand directly. The police agencies may have that information, but the Department of Justice does not, and actually none of the departments of the government of Alberta have a role in that process. So we don't have that information.

Mr. Horne: Okay. On a similar note, do we know how many missing persons cases were successfully solved with the aid of information provided?

Ms Hillier: I'm sorry. I don't, for the same reason.

Mr. Horne: Okay. Fair enough.

Ms Hillier: I'd suggest, though, that you talk, if you're curious, to the police agencies, who would of course know that.

Mr. Horne: I'm sure they'll probably make a submission. I imagine this is one that they would be interested in.

Just one more question. Both B.C. and Manitoba have legislation that requires public reporting by police services of the number of times they've used their law to require information and the outcome of that information. Would Justice and Solicitor General recommend a similar provision for Alberta?

Ms Hillier: I would point out that the Alberta act was done before both of those, and they are both modelled on the Alberta legislation. Their provisions were not available as any kind of model. There were no models and particularly not that. It wasn't there to be looked at. You are quite correct that there is no reporting requirement within the act as it is. The most I can say to you is that whatever recommendations the committee makes and are approved in instructions, Justice will ensure get done.

Mr. Horne: Okay. Thank you.

The Chair: Anybody on the phones wishing to ask a question at this point?

Ms Miller: Could I get put on the list?

The Chair: Go ahead, Ms Miller.

Ms Miller: Okay. I've got a couple of questions. Can you talk a bit about what Justice and Solicitor General does to alert the public to missing persons?

Ms Hillier: That role belongs specifically to the police agencies. Justice and Solicitor General itself doesn't have any role in the actual administration of the act. The administration of the act is handled by the police agencies themselves and also through application directly to the courts. The act, though, does allow for public notification by the police agency when they are investigating or looking for specific missing persons. The act and reg together combine to state what information can be publicly released in that case.

Ms Miller: Thank you.

Another question. The B.C. legislation includes the definition of missing person, vulnerable missing person, or a person at risk in order to better define when a police service might demand information. Does Justice recommend something similar here in Alberta?

Ms Hillier: Again, the Alberta Missing Persons Act currently doesn't distinguish. We do have a definition of missing person in section 1, and for the court order in particular we leave it to the justice of the peace to decide what is necessary in the investigation, because you have to go to court to get the order to access the information. For the emergency demand the important criteria is actually the imminent risk to the individual. Just by the nature of that section in the Alberta act those people are vulnerable because the section itself states that they are at imminent risk of death or harm. Even though we don't use the term "vulnerable missing person" and we don't define it, the section itself does include that concept.

Ms Miller: Thank you very much.

The Chair: Mr. Orr.

Mr. Orr: Yes. Thank you, Chair. For Ms Hillier, just a question with regard to interjurisdictional application. Maybe the police can answer this better than you, but I thought I'd get your department's point of view on it. Infamous or not, sometimes police jurisdictions compete with each other a little bit. If somebody moves across the border, outside of Alberta's border, what are the implications of that for the application of this law in a different jurisdiction?

Ms Hillier: It is true that missing persons do not stay put and that investigations can cross borders. It is also true that the Alberta act does not have – what you're looking for, I think, is a section that would allow for interjurisdictional recognition of court orders to allow those investigations to keep continuing. This act doesn't have that.

This act was the basis and model for the other provinces, and also the Uniform Law Conference of Canada did a version of it as well, in 2014, I believe. None of those, to my knowledge, have that section, which is an impediment, because if it was there, yes, I think, you know, you could do that. But in the absence of that – and when Alberta's act was developed, there were no others to inter-jurisdictionally recognize because there were no such acts in any of the other provinces. However, in order to do it, I believe they would have to transfer or get the help from the police agencies in those other jurisdictions and then apply for another court order in that jurisdiction, assuming that that jurisdiction had its own missing persons act.

Mr. Orr: Just a brief follow-up: would the department recommend that we consider working towards a resolution of that impediment?

1:30

Ms Hillier: My instructions are to give you a technical briefing.

Mr. Orr: Okay. Thank you. Fair enough.

The Chair: Thank you.

Anyone on the phones?

Hearing nobody at this point, Mr. Shepherd.

Mr. Shepherd: Thank you, Chair. Well, perhaps we'll give Ms Hillier a bit of a break. I've got a few questions, then, for Mr. Brower.

Thank you, Mr. Brower, for coming in today. We really do appreciate the work that the office of the Information and Privacy Commissioner does. I think that as we continue to see some of these recent developing stories of data hacks and some of these other things – I know that in my office I've been hearing about that from people – it gives us even more appreciation for the work you do in protecting the information of Albertans.

In regard to some of the comments you had there, you mentioned that since 2001 your office has reviewed several thousand privacy impact assessments. Amongst those have any been specifically regarding the use of personal information regarding the Missing Persons Act?

Mr. Brower: Not specific to the Missing Persons Act, no.

Mr. Shepherd: Okay. So it hasn't been a situation where anyone has come forward and raised a specific concern that any of the powers given to the police under the act may have been misused.

Mr. Brower: No. We have not received specific privacy impact assessments in relation to the Missing Persons Act. Now, to be fair, I think, the Missing Persons Act sets out the authority for the police to get an order in the circumstances set out by Ms Hillier. It's not really a program per se that is implemented to support that act; it's authority based and providing authority for the disclosure of records necessary to support police investigations to find a missing person. What I can say, though, is that our office, knowing that we were coming here, did a bit of research to try and determine how many people have presented to our office where disclosure has occurred that is a concern or an issue for them.

Mr. Shepherd: Okay.

Mr. Brower: And we have not received complaints about disclosures made under the Missing Persons Act since it was proclaimed.

Mr. Shepherd: Okay. Excellent. Thank you.

I guess, conversely, on the other side of things: has your office heard any concerns or fielded any complaints from police services about not being able to access personal information when they needed to?

Mr. Brower: No, we have not.

Mr. Shepherd: Okay. Would that be a channel that they would go through, or would there be another way they would raise that concern if it did exist?

Mr. Brower: If police services were unable to get the information that they required under this act, I wouldn't anticipate they would raise that with our office.

Mr. Shepherd: Okay.

Mr. Brower: I think they would raise that within their own organization and then also with Alberta Justice.

Mr. Shepherd: Okay. So that's something we might be able to better look into, then, when we have them make their submissions. Thank you.

One other question, then, if I may, Chair.

The Chair: Go ahead.

Mr. Shepherd: Thank you.

Does your office at this point, then, have any concerns or issues that are standing out, in your view, that you'd like to put before the committee in terms of this act, or is that something that, I guess, you'd prefer to do at a later date?

Mr. Brower: I think it would be appropriate to do it at a later date. I think it would be useful for us to hear the perspectives of the individuals that will present before you here at the committee. We'll

listen carefully to that and monitor it, and then we'd be happy to weigh in as other questions arise.

Mr. Shepherd: Understood. Thank you.

The Chair: Thank you.

Anyone on the phones wishing to ask a question or make a comment?

All right. Hearing none, I have no other members on the list. Does anyone in the room – Mr. Orr.

Mr. Orr: Yeah. For Mr. Brower, please. This is more an angst of mine than anything, and now that you're here, I just would appreciate your comments. Maybe you can; maybe you can't. I'm going to begin by referring to the reality that just recently the provincial government did the right thing and committed a million and a half dollars to funding for a family information liaison unit, the point being, in this particular case, that it's primarily the families of missing and murdered indigenous women, but I think it's relevant more broadly than that.

Have we come to a place in our society, I guess, to try and get to the point, where in the efforts to protect the privacy of individuals, we have actually created what you might almost say would be an abuse of human rights to the families and to the relatives and the people for whom the missing person causes a great deal of suffering or a great deal of pain? I mean, that was the point of the million and a half dollars just recently committed, in May, to a family information liaison unit. How do we resolve the balance of privacy of information of the person who may have chosen to go missing versus the family that gets left behind? They're in a darkness. As various articles reporting on it have spoken of, they're broken, they're devastated, they give up hope. They have no access to information. Our social systems tend to be sort of institutional silos, where everybody protects their own particular agenda, but the family members have no gateway, no access. I would say maybe even no legal legitimacy to know what's going on.

Let's say, for instance, an illustration that was used a while ago, the 13- or the 14- or the 15-year-old that's gone missing with a 21-year-old: the family reports them as missing, but in many, many cases the reality is that no one will tell the family anything based on privacy of information, particularly if, say, for instance, the youth says, "No, I don't want my family to know." Does the family have any legal ground to know anything about that situation? Or is it right that they would be continually stonewalled and told: "No. Because of privacy of information I can't tell you anything"? How do we deal with that balance of justice, I guess?

Mr. Brower: You have not asked an easy question.

Mr. Orr: I know.

Mr. Brower: And I'm not sure that I have enough information about the specific situations you're talking about to be able to give, you know, a proper and thorough answer. What I would say is that our office frequently hears about situations where organizations, individuals, and family members will approach our office, and they will indicate that the privacy law is a barrier to their ability to get the access to information that they need to fulfill their mandate or to inform a family member, to provide a health service. I could go on with a whole bunch of different kinds of scenarios.

Our laws, all of them, include a number of provisions that authorize disclosure of personal or health information. In the scenarios that come to our office, not exclusively but in many situations, what we find is that when the law is presented as a barrier, it often is not. Often it is a lack of understanding or incorrect

interpretation of the laws that we have today, and it has led to in some situations a lack of disclosure even where disclosure would have been authorized.

I'll use an example from the health care sector. Our laws provide custodians, regulated health professionals, with a significant amount of latitude to apply their professional judgment to decide where health information should be disclosed, including to family members, for a number of purposes, including to provide continuing treatment and care. The regulated health professionals are trained. They have a great amount of expertise, and the law effectively positions them to be able to apply their professional judgment to weigh that request by the individual as to whether or not they want their information shared with family members, to consider what the presentation of harm is and how imminent the harm is and then they apply their professional judgment to make a difficult call sometimes as to whether or not the information should be disclosed. That's how our law is structured. They have discretionary authority to disclose information in a number of circumstances.

I'm not suggesting that there aren't situations where disclosure perhaps is necessary and the law doesn't always provide an avenue for that disclosure to occur. I think it's important that we continually take a look at our access and privacy laws and consider those questions. I think it's important that we regularly review according to the time frame as is set out here for the Missing Persons Act. I think it's important to do that with our other access and privacy laws as well and consider the question that you have there, where individuals can come in and present both sides of the issue, both the issue on the side supporting disclosure, because family in some cases perhaps should be provided with information, but also the other side, the individual, the mature minor, who perhaps has made an express statement that they do not want their health information disclosed to their family members. That needs to be carefully considered as well.

1:40

Mr. Orr: Yeah. I agree, and I appreciate your answer. It is a really complex issue. How we keep the balance legislatively, I think, is the challenge for us.

One final little question in that regard then: do you feel in relation to this particular law, Missing Persons, that we have that balance, or should we be thinking about that a little bit?

Mr. Brower: Yeah. Again, I would like to weigh in on that, but I would like to delay my response.

Mr. Orr: Okay.

Mr. Brower: I think it's important, you know, for our office as well, that we learn more about how this act is working today. Are there concerns? I said that we haven't received complaints in our office. That gives our office an indication, but I don't think it's the only one. It is possible that police services and Albertans may have a number of concerns with the act. There might be a number of things in the act that they feel are working very effectively. I would prefer to hear what Albertans and police services have to say about it before weighing in on that.

Mr. Orr: Okay. Thank you.
Thank you, Chair.

The Chair: Thank you.

Mr. Smith: I'm just going to piggyback on that here because you've brought some things up that are kind of—I need clarification for myself. Obviously, when it comes to privacy of information and

who that information can be passed on to, you're going to have a different answer depending on whether that's a minor child, a mature minor, or an adult. If you could explain maybe so that I have a little bit of understanding about how that answer would be different in the scenario that Mr. Orr brought up, you know, where you've got a minor that's gone missing, gone off with that 21-year-old. Would the answer be that that private information—private information—would be withheld from a parent of a minor child versus a mature minor versus an adult?

Mr. Brower: I think you're asking a question directly in relation to the Missing Persons Act. That might be something that Ms Hillier with her technical expertise of the law would answer probably more accurately than I would. But the Missing Persons Act does provide police with the ability to seek an order to require disclosure of the pieces of information that are specifically set out in the act. It sets that out for: if an individual is missing, then the police can request that order.

I think I'll let Ms Hillier answer on the details of the law. She knows that better than I do.

Ms Hillier: It's the regulation that actually provides an insight. First of all, the Missing Persons Act only governs disclosure and protection for information that is obtained under the Missing Persons Act. So if the police agency obtains their information in another way, the Missing Persons Act doesn't apply. However, under the regulation there is a process for a parent or for an individual to apply for and obtain, ask for and request, all the information and records that were collected under the act with respect to their minor child or themselves if the investigation was about them.

The way the regulation is drafted, if it's a mature minor and then information cannot be released, it is the commanding officer of the police agency who has the responsibility of satisfying him- or herself along with the investigating officer that the release of that information goes to the protection of that minor.

Mr. Smith: So if it's a mature— I'm sorry. How does a person become a mature minor?

Ms Hillier: That determination on the qualifications is governed by other legislation but not by the Missing Persons Act.

Mr. Smith: I would understand that, but that's impacting this conversation. Is that something that's done through the courts, or is that something that a professional makes the decision on?

Ms Hillier: The commanding officer of the police agency has the responsibility under Missing Persons to satisfy himself that the minor is not a mature minor. So in whatever capacity he or she would feel they have to, whether they consult with their own legal counsel and whether they involve other professionals, et cetera, the decision in the final determination rests on the shoulders of the commanding officer to make that determination before the information is released.

Mr. Smith: Thank you.

The Chair: Thank you.

Is there anyone on the phones wishing to ask a question or comment? Final call. Anyone in the room?

Seeing and hearing no further questions or comments, I'd like to take this opportunity to thank you both for your presentation. We appreciate the time that you spent here with us this afternoon.

Mr. Brower: Thank you.

The Chair: Moving on in the agenda, we are at the research services stakeholder list. As members are aware, it is common practice for committees to use stakeholder lists to invite stakeholders to provide written submissions as part of the review process. At our last meeting we asked research services to put together a draft stakeholder list for our review of the Missing Persons Act and agreed that committee members would have until the end of August to provide the information regarding any specific contacts that they wished to see included in this list. After this deadline passed, a draft stakeholder list was posted for our consideration.

Ms Robert, could you please give us a brief overview of this document.

Ms Robert: Thank you, Madam Chair. Yes. The draft stakeholder list is a prospective list of stakeholders that we put together for the committee's consideration. If you look at the table of contents, the organizations and people that we included on the list are itemized there.

There are law enforcement agencies – the RCMP K Division, the EPS, the CPS – and legal organizations like the Law Reform Institute, the Bar Association. There are a number of seniors' organizations as well as advocates for privacy, protection of personal information, and civil liberties. We've also included a section with respect to indigenous communities, including Métis and Inuit among the other indigenous communities. We've included some academics, mostly that specialize in relation to privacy law. We've included corporations that are communications-based or telecommunications-based organizations. We've included banking associations because banks, I would suspect, would be one of the corporations that the RCMP might attempt to get an order for information from. We've included health organizations like the Mental Health Association, the schizophrenia association.

In addition, section 10 is suggested stakeholders that research services received from the New Democrat caucus.

One other thing I will add, an oversight that I made – and I apologize for this – is the office of the public guardian because, of course, the guardianship and trusteeship act is impacted by the Missing Persons Act, so that is a stakeholder I would recommend that we add to the list.

That's everything I have to say, but I'd be happy to try and answer any of your questions. Thank you.

The Chair: Thank you.

Are there any questions or comments regarding our stakeholder list?

Ms McKittrick: I have some suggestions, Chair.

The Chair: Go ahead.

Ms McKittrick: Okay. First of all – I'm sorry; I don't have the list in front of me – when we're talking about the banking institutions, are you also including the credit unions and ATB on the list?

The Chair: Go ahead.

Ms Robert: Thank you very much. Ms McKittrick, what we did was that we found the Canadian Bankers Association, and it considers itself the voice of more than 60 domestic and foreign banks operating in Canada. Now, I had a quick look at it, and it covered all the five major chartered banks, but I can certainly look to see if it includes the credit unions and ATB. If it doesn't, I can certainly add them.

1:50

Ms McKittrick: Okay. Yeah. I would appreciate it because I believe that the credit unions have their own association, and they are often governed by different legal statutes.

Then the other question I have is that we've talked a lot about missing persons and heard the vulnerability of some of them, and I was wondering if we had included our ethnocultural organizations or organizations that specifically serve immigrants and refugees. I have some suggestions in that area.

Ms Robert: Okay. I don't think that type of organization was included, so if you have some suggestions, we will certainly add them.

Ms McKittrick: I do. I'm thinking of two major ones, like, in Calgary and Edmonton that work with a lot of vulnerable immigrants and refugees and may have something to add to the discussion.

Ms Robert: Okay.

The Chair: Ms McKittrick, go ahead with the names of the organizations, please.

Ms McKittrick: Yeah. Okay. It's a bit hard for me to read them at the moment, but I'm thinking of the Edmonton Mennonite Centre for Newcomers, Catholic Social Services, the Ethno-Cultural Council of Calgary, and I believe it's called the Calgary Catholic immigrant services.

The Chair: Thank you.

Ms McKittrick: Then I have suggestions, too.

The Chair: Go ahead, Ms McKittrick.

Ms McKittrick: Sorry. I have to find my place. I'd like to suggest groups that work specifically with vulnerable populations like the Criminal Trial Lawyers Association; the Criminal Defence Lawyers Association; a group that works with the HIV population, the HIV Community Link Calgary; Boyle Street Community Services in Edmonton; Alberta Addicts Who Educate and Advocate Responsibly; the Action Coalition on Human Trafficking Alberta, which is a group that works with people who are trafficked for both sex services and other areas of trafficking; the Calgary Drop-in and Rehab Centre; and the Turning Point Society of Central Alberta. I would be happy to make sure that leg. services gets the list.

The Chair: Thank you, Ms McKittrick. My understanding is that Mr. Shepherd provided that list to us.

Ms McKittrick: Thank you very much.

Mr. Shepherd: Yes. I had the chance to speak with Ms McKittrick earlier and, at her request, was able to bring a printed copy of the suggestions she had.

The Chair: Thank you.

Mr. Orr.

Mr. Orr: Yes. Thank you. Some of the suggestions made by Ms McKittrick are sort of along the line where I want to go. But first of all I'd like to say thank you for a very exhaustive list. We went through it very carefully and think you've done a really good job of gathering most of them, so thank you. Quite frankly, there's nothing there that I would have any concerns with at all.

The one area, though, that I would like to sort of reinforce and what I asked a question about a moment ago, too, is the families of

the missing and in many cases murdered people. How do we get their voice to this table? In many cases it's the families that are so broken, so devastated, and they're the ones who have to live with the pain. How do we include them?

I'd like to ask, first of all, about the funding that was recently – the family information liaison unit. Do we have that by a different name in here? I realize it's federal, but I'm assuming they have an office here in Alberta. I'd like to see if they're on there. I'm still a little bit confused whether that's also the same thing as the Kare group. Anyway, that's the name that's presented here in the announcement that was released, and I think it would be worth having them since this is exactly what it was about.

Then a further step in that direction. I just wonder about, again, speaking on behalf of the families that are often so impacted by missing persons, a group like Family Counselling Centres from Edmonton here, maybe Inclusion Alberta. Then also I think we should have the Alberta Family Mediation service included because I think they would maybe deal with some of this stuff, too. They should at least be invited.

Those are my suggestions. Thanks.

The Chair: Okay. Thank you.

Any other members on the phone wishing to comment or ask questions?

Hearing none, we have a possible motion. I'll read the motion and then ask for a member to move it if they're okay with that, that the Standing Committee on Families and Communities approve the draft stakeholder list to be used to invite written submissions from stakeholders by October 31, 2017, as part of the review of the Missing Persons Act with any additional contacts provided by committee members by Friday, September 15, 2017.

Is there any member that's open to moving this motion? Mr. Orr.

Ms Luff: I am.

The Chair: Oh. Sorry, Ms Luff.

Ms Luff: It's okay. He got to it before me.

The Chair: Is there any discussion or questions on the motion? Anyone on the phone?

Hearing none, moved by Mr. Orr that

the Standing Committee on Families and Communities approve the draft stakeholder list to be used to invite written submissions from stakeholders by October 31, 2017, as part of the review of the Missing Persons Act with any additional contacts provided by committee members by Friday, September 15, 2017.

All in favour of the motion, please say aye. On the phone? Any opposed? Thank you. The motion is carried.

The next steps. Now that we've received the technical briefings and made a decision regarding the stakeholder list, we need to consider what other steps we need to take to ensure that we have the appropriate information for considering this act.

At this point I would like to turn the floor over to Ms Sorensen for some introductory remarks.

Ms Sorensen: Thank you, Madam Chair. Good afternoon, everyone. Certainly, in legislation reviews of this nature in the past with quite a narrow scope, committees have found the targeted approach of consultation through the stakeholder list to be most beneficial, providing the committee with significant and sufficient information for its review.

Sometimes, though, extending the consultation to a broader audience that includes the public can gain a different perspective but can also lead to more issue-based submissions rather than submissions

dealing with the content of the actual legislation. However, should the committee wish to broaden its reach, then I just want to make sure that you're aware that communications services is here to offer support and would be happy to come back with some options and recommendations to seek wider consultation. That being said, if the committee is comfortable with focusing on the more targeted approach through the stakeholders, then I would simply thank you for your time this afternoon.

Happy to answer any questions.

The Chair: Thank you.

I'd like to open the floor to any questions or comments. Mr. Carson.

Mr. Carson: Sure. Thank you very much, Chair. I'm just wondering if you have any ideas about how much cost would be associated with having a public piece to this.

Ms Sorensen: That's a very broad question, I guess, because the costs can vary so widely, depending on which options you choose. I guess my initial gut feeling on a narrow scope such as this is that even if we were to open it up broader, we would probably still be fairly targeted in our approach. I would hate to give you a dollar figure right now, but I would be happy to come back with some different options for the committee to consider if it actually chose to broaden its reach.

The Chair: Go ahead.

Mr. Carson: A few more. Yes. Thank you very much. I'm just wondering how cost-effective it might be and, I mean, how much value we would see for that.

2:00

Ms Sorensen: In previous legislation reviews that are this narrow – one that comes to mind is the Conflicts of Interest Act – where you're dealing with a very specific, more technical piece of legislation as opposed to the issue of missing persons, sometimes when you open it up too broadly, the submissions don't necessarily deal with the scope of what the committee is looking at. They tend to deal more with maybe personal accounts that, while very compelling and certainly very heartbreaking, don't really assist the committee in the technical aspects of the legislation.

That's my opinion.

Mr. Carson: Okay. I think that's all for now. Thank you.

The Chair: Thank you.

Any members on the phone?

Ms Luff: Yeah. I was just curious if you could tell us if you have examples of other previous reviews that didn't have public input or decided that public input wasn't necessary. Are there any that have been done recently that you can recall?

Ms Sorensen: I'd have to look back to give you specific examples. Again, I'm going back on my own memory, which sometimes fails me. The one I do remember is the Conflicts of Interest Act, two different reviews. Once they did do public consultation, and it didn't garner very much input. Another time they did not do public consultation, and they got the majority through the stakeholder list. I'm not sure if that answers your question.

Ms Luff: A little bit, yeah. Thank you.

The Chair: Go ahead.

Dr. Massolin: Thank you, Madam Chair. I think I can put a little bit of different spin to supplement Ms Sorensen's response in the sense of speaking a little bit about previous committee reviews of these so-called technical statute reviews.

Ms Sorensen mentioned the Conflicts of Interest Act and various amendments. There have been two committee reviews. There's been a review of a bill proposing amendments to the act. That was in 2007. There were a total of nine written submissions received, and those were both stakeholder and public submissions. For the subsequent Conflicts of Interest Act review in 2015, 33 submissions, both public and stakeholder, were received. Now, for the Lobbyists Act review in 2011 there were 19 written submissions, all of which were stakeholder submissions even though the public was consulted. Sorry; I have another Conflicts of Interest Act review here. In 2013 10 written submissions were received. Again, the public was consulted, but I think that the majority of those were from stakeholders.

Lastly, the recent Lobbyists Act review in 2017, done by another legislative policy committee called Resource Stewardship, received 72 submissions. But I would note that perhaps one of the reasons why there are a few more submissions received for that review was that an online forum was developed, which was a fairly recent innovation.

So there you have it. Thank you.

The Chair: Thank you.

Any other questions or comments? Go ahead, Mr. Horne.

Mr. Horne: Thank you. With a very technical review there's always going to be a variance in public interest and, when you do get public submissions, sometimes in the relevance as well. On that note, I'm curious if you could offer us any advice on effective, low-cost campaigns that we might be able to look at.

Ms Sorensen: Madam Chair, if I may, we could come back with any dollar amount that you're looking at. As mentioned a little previously, if we were to do an advertising campaign to open up for more public submissions and the committee wanted to do something as cost-effective as possible, we would take that into consideration when coming back with some options and likely use more digital media type scenarios as well as social media to get the word out rather than perhaps a full-blown, province-wide ad campaign of that sort.

There are all sorts of different scenarios that could come into play, so I guess what I'm really looking for is a direction from the committee, if it wishes to open it up or if it's satisfied that the targeted approach through the stakeholder letter will give them the information they need in the review.

The Chair: Thank you. Sorry; I'm just trying to figure out what type of motion we have to have.

Mr. Orr.

Mr. Orr: Thank you. To your question. It isn't a narrow, the word we've heard already, review. We've got a pretty substantial list of stakeholders. I would be inclined to say that to start with, we should be able to stick just with the list. I would hope that some of those organizations would also bring in the reality of some family experience. I think that's why some of those organizations would be added to the list. At this stage I would say that we have a lot of time on this committee. If we were to stay with the list as it is and see what submissions we get, if we find that we're seriously lacking or that we would like a specific of something else and we wanted to ask for a public one, because we have lots of time we could always do it at a later date. I don't necessarily feel like we need to

jump to it immediately, and I think it would be a good cost-saving measure for us as a committee at this stage.

That's just my personal comment. I'd be prepared to make a motion to that if we're to the stage where we want to do that.

The Chair: At this point I don't think we need a motion to do that.

Are there any other questions or comments regarding Mr. Orr's statements or Ms Sorensen's presentation? On the phones?

Okay. Hearing and seeing none, we will move on to other business. Thank you, everyone. Are there any other issues for discussion before we conclude our meeting?

Mr. Orr: I would like to maybe talk about the schedule. I understand we have a year. I think we started in June, so we have a good amount of time ahead of us, but on the other hand I would like to see us not drag it out because I think there are other subjects and things that we could move on to as a committee that would be valuable. I just would like to make the suggestion that we sort of keep this moving.

If at all possible, also, to make it easier for committee members, I would like to throw out the suggestion that we do have some meetings during the upcoming fall legislative session. We're all here. I know it's a busy time, but I'd like to suggest that we do book in some meetings and move this forward as much as we can during that period of time.

Thanks.

The Chair: Thank you very much for your comments. That absolutely will be considered when determining the next meeting, which is the next agenda item.

Mr. Orr: Kind of thought maybe that's where you were already.

Mr. Rodney: Madam Chair, if you can put me on the list.

The Chair: Go ahead, Mr. Rodney.

Mr. Rodney: As you know, I've suggested in the past that it's been really efficient for people of every party – I mean, let's face it. These things should not be politically based at all. These are very crucial issues for Albertans. When we are all together during a legislative session, there are many pockets where we could place meetings where it would work for everyone. We just need to arrange it in advance. Not only would it increase attendance, but it would decrease costs as well. It does centralize things. For instance, when we're finished with the written submissions, if we request to see certain organizations or individuals for a personal presentation, we could arrange to have that during either fall or possibly spring session. I know that you're going to definitely keep that in mind and be proactive in terms of setting dates for meetings that we really do need to have.

Now, we, of course, wouldn't need just to meet.

The other thing that I would say is that when it comes to timelines, deadlines, benchmarks, obviously this can be very much a life-and-death issue, so we want to attend to this as quickly as we can but also in a fulsome manner as much as possible. I would like to see us set some benchmarks in terms of this process, making sure that every step is followed diligently but as quickly as possible and getting the business of the day done because, let's face it, there are so many other files that we could and, I believe, should be looking at. Fentanyl would just be one. A lot of great work being done, but I'd encourage us to set benchmarks, keep moving, and get on to the other issues that are so important to Albertans.

I thank you for allowing me to complete my comments.

2:10

The Chair: Thank you very much, Mr. Rodney, for your comments and feedback. I assure you that the plan for this committee is to go and do a robust assessment and to keep it moving, not to delay it at any point.

Any other questions or comments regarding other business?

Hearing none, the date of the next meeting: that will be determined at the call of the chair, considering the comments and feedback that

were received today in this meeting. I really appreciate the feedback from the committee and their input on how to proceed with this meeting.

Number 7, adjournment. I would now call for a motion to adjourn. Moved by Mr. Shepherd that the meeting be adjourned. Any discussion? All in favour please say aye. Any opposed? Hearing none, thank you, the motion is carried.

[The committee adjourned at 2:11 p.m.]

