



Legislative Assembly of Alberta

The 29th Legislature  
Fourth Session

Standing Committee  
on  
Families and Communities

Missing Persons Act Review

Thursday, March 29, 2018  
9 a.m.

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

**Standing Committee on Families and Communities**

Goehring, Nicole, Edmonton-Castle Downs (NDP), Chair  
Smith, Mark W., Drayton Valley-Devon (UCP), Deputy Chair

Dach, Lorne, Edmonton-McClung (NDP)\*  
Drever, Deborah, Calgary-Bow (NDP)  
Ellis, Mike, Calgary-West (UCP)  
Hinkley, Bruce, Wetaskiwin-Camrose (NDP)  
Horne, Trevor A.R., Spruce Grove-St. Albert (NDP)  
Luff, Robyn, Calgary-East (NDP)  
McKittrick, Annie, Sherwood Park (NDP)  
McPherson, Karen M., Calgary-Mackay-Nose Hill (AP)  
Miller, Barb, Red Deer-South (NDP)  
Orr, Ronald, Lacombe-Ponoka (UCP)  
Renaud, Marie F., St. Albert (NDP)  
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\* substitution for Marie Renaud

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Kim Kreutzer Work	Director, Knowledge Management

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**Standing Committee on Families and Communities**

**Participant**

Ministry of Justice and Solicitor General

Kelly Hillier, Barrister and Solicitor, Legislative Reform



9 a.m.

Thursday, March 29, 2018

[Ms Goehring in the chair]

**The Chair:** Good morning. I would like to call this meeting to order. Welcome to members, staff, and 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 the chair of this committee. I would ask that members and those joining the committee at the table introduce themselves for the record, and then I will call on those joining us via teleconference. I'd like to start to my right.

**Mr. Smith:** Hello. My name is Mark Smith. I'm the vice-chair, and I'm the MLA for Drayton Valley-Devon.

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

**Ms Kreutzer Work:** Kim Kreutzer Work, director of knowledge management, office of the Information and Privacy Commissioner.

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

**Ms Hillier:** Kelly Hillier with Justice and Solicitor General.

**Mr. Dach:** Lorne Dach, MLA for Edmonton-McClung.

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

**Mr. Hinkley:** Good morning. Bruce Hinkley, MLA, Wetaskiwin-Camrose.

**Mr. Shepherd:** Good morning. David Shepherd, MLA, Edmonton-Centre.

**Ms McKittrick:** Bonjour. Annie McKittrick, Sherwood Park.

**Mr. Koenig:** Good morning. I'm Trafton Koenig with the Parliamentary Counsel office.

**Ms Robert:** Good morning. Nancy Robert, research officer.

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

**Ms Rempel:** Good morning. Jody Rempel, committee clerk.

**The Chair:** On the phone?

**Mr. Ellis:** Mike Ellis, Calgary-West.

**Ms McPherson:** Karen McPherson, Calgary-Mackay-Nose Hill.

Just as a note, it's very difficult to hear a number of people on the phone.

**The Chair:** Thank you. We've just been asked by *Hansard* to make sure that we're speaking into the microphones.

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

**Drever:** Deborah Drever, MLA for Calgary-Bow.

**Ms Miller:** Barb Miller, MLA, Red Deer-South.

**Ms Luff:** Robyn Luff, Calgary-East.

**The Chair:** Thank you.

I would like to note for the record the following substitution. Mr. Dach is substituting for Ms Renaud.

A few housekeeping items to address before we turn to the business at hand. Please note that the microphones are being operated by *Hansard*. Committee proceedings are being live streamed on the Internet and broadcast on Alberta Assembly TV for the first time for this committee. Please set your cellphones and other devices to silent for the duration of this meeting.

A draft agenda for this meeting was distributed. Does anyone wish to propose amendments? On the phone?

Seeing and hearing none, would a member be willing to move a motion to approve the agenda? Mr. Shepherd. Moved by Mr. Shepherd that the agenda for the March 29, 2018, meeting of the Standing Committee on Families and Communities be adopted as circulated. All in favour of the motion, please say aye. Any opposed? On the phone, please say aye. Any opposed on the phone? The motion is carried. Thank you.

We have the minutes from our last meeting. Are there any errors or omissions to note? On the phone?

Seeing and hearing none, would a member please move adoption of the minutes? Mr. Dach. Moved by Mr. Dach that the minutes of the February 21, 2018, meeting of the Standing Committee on Families and Communities be adopted as circulated. All in favour of the motion, please say aye. On the phone? Any opposed? Thank you. The motion is carried.

Review of the Missing Persons Act, deliberations and recommendations. As we move into the deliberation stage of our review of the Missing Persons Act, I would like to acknowledge the contribution of all the presenters that met with us at our last meeting and to thank them for their diligence in providing additional information in writing following the meeting. I would also like to thank the representatives from the Ministry of Justice and Solicitor General and the office of the Information and Privacy Commissioner who have joined us to provide us with technical support throughout our deliberations today.

I would also remind committee members of the March 26, 2018, letter from the Information and Privacy Commissioner containing some additional input on the act. At our request research services has gone through all the input received through the submission and presentation process and put together an issues and proposals document for our consideration.

At this point I would like to turn the floor over to Ms Robert to provide us with an overview of this document.

**Ms Robert:** Thank you, Madam Chair. Again, good morning, everyone. Okay. The document to which the chair refers, that we're going to be going through today, is the summary of issues and proposals with respect to the review of the Missing Persons Act, which would have been posted to the internal committee website about a week ago.

I'm just going to give you a brief overview of the way that the document is organized. What we did was that we gathered what we considered to be all of the issues or most of the issues and recommendations raised by stakeholders in their written submissions and their oral presentations to the committee. Those issues and recommendations are organized, broken down by issue in the document, as you'll see.

Now, this document is intended to assist the committee. The committee can use it in whatever manner they choose. They can choose to go through all of the recommendations, none of the recommendations, add their own. It's just another tool to help the committee as it goes forward with its deliberations.

One thing I will point out: section 13 of the document is titled Other Issues for Possible Consideration. The issues and

recommendations in that section relate to processes and procedures with respect to the administration, the functioning of the police and the act, but recommendations that are made wouldn't necessarily involve an amendment to the act. It would probably be more changes to recommendations with respect to changes in management procedures.

The only other thing I'll point out is that there could be some issues that were raised by stakeholders that perhaps are outside of the scope of the review of this act, just to sort of alert you to that.

I'll just remind the committee that, as the committee knows, the purpose of the Missing Persons Act is to give the police a mechanism to access records and to perhaps get search orders as part of investigations into missing persons where there is no evidence that a crime has been committed.

With that, I will leave it and would be happy to answer any questions anyone has. Thank you.

**The Chair:** Thank you.

As we move into the deliberation stage of this process, I would like to encourage everyone to keep our discussions focused on what is within the scope of the Missing Persons Act.

I will also point out for those joining us by teleconference that we have screens set up in the room to display draft motions. For those of you on the phone who wish to review the information on these screens, please ensure that you are updating your view regularly. When putting forward a proposal for consideration, I would encourage that the committee discuss and deliberate on the proposal first, if possible, before a member moves a specific motion. When a motion is proposed, committee members are asked to provide a copy to the committee clerk or to be prepared to repeat the motion as necessary until it is available on the screen. We will confirm the final wording of all motions prior to voting.

As we begin our deliberations, it may be useful to first determine how we would like to structure our discussions. Does anyone have any thoughts on this? Mr. Orr.

**Mr. Orr:** Sure. In light of the work that Ms Robert has done and the very clear summary of issues, I mean, to me, I would suggest, if others agree, that we just sort of follow the order of the summary of issues and proposals. It's a good, logical order, from my point of view.

Thanks.

**The Chair:** Thank you.

Any other comments or suggestions? On the phone? Go ahead.

**Ms Luff:** Yeah. Given that it's possible that we maybe don't want to make proposals for every single issue in the issues and proposals document, I would suggest that perhaps if people have recommendations they want to make, you know, you just put your hand up. We can discuss recommendations one at a time and certainly using the document that has been provided to sort of highlight the area where you'd like to make a recommendation. Like, it might save time to not have to go through every single issue in the document.

9:10

**The Chair:** Any other comments? On the phone?

Okay. I will leave it to the discretion of the committee as to how they would like to proceed. I've heard two suggestions.

Go ahead, Mr. Orr.

**Mr. Orr:** Yeah. I mean, I don't think we need to belabour every single point. My suggestion was that we just start to generally

follow the order. If nobody has a comment to make on one, skip to the next.

**The Chair:** Okay. Thank you.

Would anybody like to start? Mr. Orr, go ahead.

**Mr. Orr:** Yeah, if nobody else is ready to go. I'm referring to page 6, actually, of the summary, with regard to the application process, orders under the act. It's one of the items that a number of the stakeholders raised. Five years ago, when the act was new, it really provided for only in-person hearings to obtain records for access orders. Today in other legislation we commonly use technologies in courts and for other legal proceedings. We've heard from the stakeholders, particularly the police, where they said that in-person hearings can actually delay the start of their investigations. Providing an alternate means of technology for applications I think is just common sense in this day and age and may expedite their work.

I'm prepared to make a motion on it if you're ready for that.

**The Chair:** I would suggest that perhaps we discuss possible wording for a motion rather than move it, so that we can get it up on the screen and work with it. Do you have a digital copy that you could provide? Thank you.

**Mr. Orr:** Do you want me to read it?

**The Chair:** Please.

**Mr. Orr:** Okay. Generally what I'm suggesting is that we would recommend that we amend the act to allow for applications for record access and search orders to be made electronically or by other means in addition to in-person applications.

**The Chair:** Thank you.

Any discussion? Any questions? Go ahead, Mr. Horne.

**Mr. Horne:** Yeah. Thank you. While we wait on the wording of the motion, you know, I think this seems like a pretty good idea. It was something that was supported by the missing and murdered indigenous women initiative as well as by the chiefs of police and the RCMP. Of course, with something of this nature, I was wondering if there's any insight perhaps from Justice and Solicitor General.

**Ms Hillier:** I have no concerns.

**Mr. Horne:** Okay. Easy enough.

**The Chair:** Anyone on the phone? Go ahead.

**Ms McPherson:** Just one concern. I understand the need for a quick response time. I'm sorry. I'm not aware of it if we have done this, but have we spoken to anybody in terms of civil liberties and any kind of concerns around that, accessing information without an in-person application?

**The Chair:** Is there anyone that could speak to that question?

**Mr. Orr:** I would just comment that while it may be a valid concern, I'm not sure that it would directly impact this motion because this is more a motion of procedure or what they're allowed to do. The information will be the same no matter which way they access it. I'm just saying that this would make it easier for them to access, and it was requested. It may be a valid concern in another place, but personally I don't think it directly impacts this.

**Ms McPherson:** Madam Chair?

**The Chair:** Go ahead.

**Ms McPherson:** I actually disagree. I think this is exactly where this would be impacted. The reason I brought it up is to make sure that we're ensuring that we're not setting up people's information to be abused, that there are checks and balances, that balance of how important it is to react quickly with how important it is to maintain people's privacy. That's why I brought the question up.

**The Chair:** Thank you.  
Mr. Shepherd.

**Mr. Shepherd:** Thank you, Madam Chair. If Ms McPherson is concerned, then perhaps we could avail ourselves of the expertise we have here at the table. We have folks, I understand, from Justice as well as from the office of the Information and Privacy Commissioner, so perhaps they could give us their thoughts on whether allowing folks to make the application to access information by telephone, facsimile, or electronic means, in their view, would offer any further danger to the protection of individuals' privacy with said information.

**The Chair:** Thank you, Mr. Shepherd.

I would just ask that anyone responding to the question identify yourself for the record.

**Mr. Brower:** LeRoy Brower, assistant commissioner. The position of our office on this one is that, you know, as far as determining what the process is, we don't really have a position on the actual process. If the committee is looking at amending the process to allow for electronic submissions, then, like any change in process, it's always a good practice to consider where there might be some risk in relation to that change in practice and understand the risk and then consider what can try to be in place to mitigate it. For example, to understand where it's important to ensure that there's a clear mechanism to identify or verify the identity of an individual: if you're not in person, then you need to ensure that there are some controls in place to verify the identity of the individual in that process. So it's not really a question, in my mind, of whether or not this recommendation is a problem or something that would be useful to ensure a more efficient process. It's simply a matter of understanding: what are the risks in relation to this change in practice, and how do you reasonably mitigate that and ensure that those mitigations are put in place?

**The Chair:** Thank you.  
Any other questions or comments?

**Mr. Shepherd:** May I have a follow-up, Chair?

**The Chair:** Mr. Shepherd.

**Mr. Shepherd:** Thank you. That's helpful for clarification. I suppose Ms McPherson could clarify, but I guess that perhaps is what her concern is coming in, then, that we need to be sure that we are sure of who is making the request for the information, and that is fair enough. That is something, then, where we need to consider the privacy of the individual whose information they're requesting to access.

My understanding is that this is a change that has been made in some other areas of law enforcement. I'm trying to think back to the testimony that we heard, and I seem to recall folks that were here from police services indicating that these were changes that were made in some other areas. Perhaps a representative from Justice: are you aware if this is a process that is now used in other areas and what safeguards they might have in place?

**Ms Hillier:** My understanding is that it is done in other areas, in other applications they made although I can't quote any to you. However, I would suggest that the committee might want to just add a couple of words to the draft recommendation and just, you know, include confirming the identity of who is requesting or making the application and if it was approved. Then we could do that at the time and ensure that that was part of what we have put in the legislation.

**Mr. Shepherd:** Understood. Just maybe you're suggesting, then, that we could qualify to ensure that appropriate safeguards are in place to determine the identity of the individual requesting the information.

**Ms Hillier:** Exactly.

**Mr. Shepherd:** Thank you.

**The Chair:** Thank you.

**Mr. Smith:** Who was it that had the concern again?

**The Chair:** Member McPherson.

**Mr. Smith:** Member McPherson. I understand the issue, but I think we have to remember one of the things that the police recommended to us, that this is about efficiency and that we're talking about people that are missing and that delays can cost lives. While I understand that there's balance between privacy – let's remember what the purpose of this act is. I think that the comments that have been brought forward to this point about ensuring the identity of the individual are reasonable, but I think we also have to balance what this is about. We have situations here where the police are trying to, in some cases, save lives. I guess I would just say: in our own minds, let's remember that there's a balance here, okay?

Thank you.

**Ms McPherson:** Madam Chair.

**The Chair:** Go ahead, Member McPherson.

9:20

**Ms McPherson:** Thank you very much. First of all, I'm sorry; I don't have the name of the person that was speaking from the Privacy Commissioner, but that is exactly the concern that I had. Thank you. I'm able to validate that myself.

Also, I would like to point out that I did actually make a point that it's important that we find a balance between these two things. I have not forgotten what the purpose of the legislation is, and I'm also very conscious of what our responsibility is in the kinds of recommendations that we make. We need to make sure that we're really thorough in investigating whether or not those are good recommendations.

**The Chair:** Thank you.

There was someone else on the phone that was wanting to speak.

**Mr. Ellis:** Mike Ellis.

**The Chair:** Go ahead.

**Mr. Ellis:** Thanks very much. I mean, from my perspective, you know, again I echo the words of Mr. Smith. This is about efficiency here, especially when you talk about rural Alberta – some of our rural constituencies have very vast areas to cover – when we're talking about missing persons, talking about timing being of the absolute essence, which is why the Calgary Police Service and other

agencies indicated that the first 72 hours are critical in any sort of missing persons investigation. Many court procedures deal with e-mails and video conferencing and faxing. I agree with Justice. I think that as long as there is a check and balance to verify that the justice of the peace, of course, is speaking to law enforcement and those mechanisms are in place, that's very reasonable. But this is about streamlining and making it more efficient for police officers to get that necessary information in order to find these [inaudible] and ultimately save their lives.

Thank you, Chair.

**The Chair:** Thank you.

**Mr. Orr:** Maybe this would help, if after the word "applications" we were to add "by either verified or active duty law enforcement officers." I meant the first "applications." Sorry. Higher up there.

Thank you.

**The Chair:** Any comments on the addition? Go ahead.

**Mr. Koenig:** Thank you, Madam Chair. What I might suggest is using the language "police service," which is the phraseology that's used in the act, applications by "a police service."

**The Chair:** Go ahead, Mr. Dach.

**Mr. Dach:** Thank you. Just a question about the necessity for the wording "verified or." I wonder . . .

**The Chair:** It's been changed. Oh, no.

**Mr. Dach:** No, that's still in there, I think. But I'm just wondering why we need that second designation, "verified." Just say "police services."

**The Chair:** Any discussion or comments on that? Mr. Shepherd.

**Mr. Shepherd:** Thank you, Chair. Perhaps we could just clarify with Justice. Currently, I would assume, there would be some process by which the judge issuing, I guess, the order or the individual processing the application would be required to verify the authority of the person making that request. Would that be correct?

**Ms Hillier:** Currently, yes, because the act requires that it can only be made by a police service, so the justice is well within his or her rights to – you know, first of all, as just part of the jurisdiction, to even file for the application, you have to prove that you are a member of the police service. In practice the people who make these applications are limited because they're usually limited to a certain group within the police service, so I imagine that in practice most of the justices would know by sight, for one thing, who was coming to see them or by name who was asking. But, yes, it is built into the act already.

**The Chair:** Thank you.

**Mr. Shepherd:** I mean, of course, at this point we are simply making recommendations and not even drafting legislation. But even at the point of drafting the legislation, is it necessary for the legislation to mandate a verification process, or is that something that's accomplished through regulation or procedure?

**Ms Hillier:** There are a couple of choices, the first being that the court already has that right. They can certainly require a verification and a verification process because they have the right to confirm

that you are eligible to apply under the act, which is currently there. On the other side – and, of course, we're not drafting it – if you include the word "verified," then there is the possibility of looking at whether we can include that in the act for further specificity and just to clarify that point. But it won't change what the court currently has. They have that right anyway.

**Mr. Shepherd:** Thank you.

That being the case, Chair, my recommendation or at least my personal view would be that I think we've got a fairly adequate motion here. I think it indicates what the concern was and conveys what our recommendation would be as a committee. I don't think we really need to alter it much further.

Thank you.

**The Chair:** Thank you, Mr. Shepherd.

Anyone else wanting to comment on the wording as it is currently?

**Mr. Dach:** I just wanted to understand a bit more what "by other means" might mean if Mr. Orr would care to comment.

**Mr. Orr:** Well, I think that we should look at the request by the police services: electronically, fax, basically in writing.

**The Chair:** Thank you.

Anyone on the phone?

**Ms Luff:** Yeah. Hello. I can't see the screen on the video feed. There's too much shine back, so if you could just make sure that you read the motion again before we vote on it, that would be helpful.

**The Chair:** Absolutely. Thank you.

Ms McKittrick.

**Ms McKittrick:** Thank you, Chair. I just wanted to clarify. I heard that by "electronically or by other means" we meant "in writing." I was just wondering if that was the intent of the motion when we mean "electronically." I just want to make sure. Could telephone calls be envisioned, or what exactly do we mean by "electronically or by other means"? Is that still limited to the intent that the police services suggested to us?

**The Chair:** Is there someone you're asking that question to?

**Mr. Shepherd:** To Justice, perhaps?

**Ms McKittrick:** To Justice, yes.

I'm just interested: is it possible, given what the police services told us in this meeting, that the request could be made by telephone or by an e-mail or whatever? I just want to clarify because this is not very clear to me.

**Ms Hillier:** The police are interested, when they're really urgent, in making them by phone. The meaning, for me, of "by other means" also is a bit of a fail-safe in the sense that I have inaccurately predicted where technology is going to go before, which is why the act doesn't actually say "electronically" today. It is possible to look at "by other means" as meaning, you know, whatever comes up in the future, basically, as the method that's possible to do these.

**Ms McKittrick:** Okay. Just so that I'm clearer, it doesn't just mean "in writing," but it could be made by telephone, by . . .

**Ms Hillier:** Yes.



**Ms McKittrick:** Okay. I want to make sure that the motion is clear as to what you've just said. Is that clear if we leave it like that?

**Ms Hillier:** For me, that's clear.

**Ms McKittrick:** Okay.

**The Chair:** Thank you.

Any other questions or comments before we discuss the wording and perhaps have someone move a motion? On the phone?

Mr. Orr, are you comfortable moving this as a motion?

**Mr. Orr:** Sure, I am. Do you want me to read it?

**The Chair:** Go ahead.

**Mr. Orr:** I'm willing to move that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to allow applications by police services for records access and search orders to be made electronically or by other means in addition to in-person applications.

9:30

**The Chair:** Any questions or comments based on the motion that Mr. Orr has moved? On the phone?

Hearing none, Mr. Orr has moved that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to allow applications by police services for records access and search orders to be made electronically or by other means in addition to in-person applications. All in favour of this motion, please say aye. On the phone? Any opposed? On the phone? Thank you.

This motion is carried.

Any other member wanting to discuss? Mr. Shepherd.

**Mr. Shepherd:** Thank you, Chair. I was just looking at point 3(a), page 6 or 7, I believe, of the document. First of all, in looking at the section we're talking about, records from group homes, shelters, and rehabilitation facilities, I think that providing access to those records would be a good idea. That's something that was supported by stakeholders, including police services and several of the indigenous presenters we had, so I think that that's one I would definitely be in support of.

Along those lines there was some other discussion there, I guess, around some language in regard to any type of instant messaging being added in, in addition to e-mail and text messaging, in terms of what kind of information might be accessed on behalf of an individual who's gone missing. Now, it seems to me that that could create some potential problems. We've already been talking a little bit about privacy of the individual and, certainly, particularly in regard to youth, where they're very frequent users of chat programs and a number of other apps these days.

Certainly, their information should be considered private unless it's absolutely necessary, but on the other hand I can see that it could be very useful for police in being able to access some of this information when they are trying to find youth who have gone missing. In fact, recently, I believe, there was a young man from Beaumont who went missing out in B.C., and the police were able to report fairly early on that he'd had no activity online. That was a reason they determined that his behaviour was out of the ordinary and had concern for where he was.

I was wondering if we could maybe just get some thoughts from the office of the Information and Privacy Commissioner on that and if perhaps Justice and Solicitor General would like to comment on that, if this is the type of information that you think would be

appropriate to make available through an emergency access order in this type of a situation.

**The Chair:** Go ahead.

**Mr. Brower:** Yeah. I guess I'll break this response down into two parts. The first part, dealing with where there's an expansion of the records that can be provided where there is judicial oversight: we think that's a key piece to mention. The objectives of the act, of course, are to assist a police service with getting access to records that are needed in order to support a manned investigation. Where that occurs with judicial oversight, that provides an independent look at what records are actually necessary to support the investigation. Expansion of the records where there is judicial oversight is something that our office has no concern with where the committee believes that that expansion is required.

Where there is consideration of an expansion without judicial oversight, we think the consideration of the committee here is: what records are actually necessary there to support the investigation where there is an emergency? The act already sets out a bit of a mechanism for that. There's a bit of a model already in place. If you look at, for example, the records that are available where there is an order in relation to health information, the information that's made available is broad. The act simply says that health information and records can be provided.

Where those same requests for records involving health information are occurring without judicial authorization and that independent look, the act gets quite specific and narrow in what health information can be provided, and that's a way of balancing the privacy of the individual. Where there is no judicial authorization in emergency circumstances, we think it's reasonable to consider whether the act currently sets out the records that are necessary to request and be provided. But the consideration there is to try and ensure that those records are as specific and limited as possible and still able to meet the purposes of the act, and that provides a balance for the privacy of the individual.

**Mr. Shepherd:** Okay.

**The Chair:** Thank you.

**Ms Hillier:** The act can of course list in both cases the order from a JP, or in the emergency access order it can list whatever is decided for access. Mr. Brower is quite correct that the current list in the act is much narrower for an emergency access, and it's very specific. It's narrowed down to, really, a subcategory of the categories that are in the order. There is no technical problem with listing these and with putting them in. It's a question of what the committee would like to recommend.

**Mr. Shepherd:** Thank you. That's very helpful.

Just to clarify, if I'm understanding correctly, there are records in general that are specified and where they say: "Okay. If you're asking for these records, they're available. You can make an emergency request." Then there's stuff that would fall under specific judicial oversight. Are those two separate categories? Is that correct?

**Ms Hillier:** They are. They're in two separate places in the act. The first way is that you go to the court and you get an order from a JP that says, you know: here is what you can access. That list is quite long. Then there's a list of what you can access if you're under an emergency demand. If there's a risk of injury or death: that's actually the test that the act says. That list is much narrower. If you remember, when the nurses' association was doing their

presentation, they spoke to adding discharge information to that emergency list because the list in the act only says whether you've been admitted to a hospital. So they're two completely different lists. The list of what you can get under a court order does not currently have the items you're talking about right here for this 3(a). That was the part that the police agencies were interested in. The list does say right at the bottom: any other records the justice may wish to order. But my understanding is that the courts have interpreted the list quite strictly, and these items are not on that list, which is causing them difficulty.

**Mr. Shepherd:** Excellent. Thank you. That's very helpful clarity.

If I may, just one further follow-up question, Chair.

**The Chair:** Go ahead, Mr. Shepherd.

**Mr. Shepherd:** Thank you. So what we're talking about here is information that would fall under a judicial order, specifically.

**Ms Hillier:** Absolutely.

**Mr. Shepherd:** Thank you.

The other question I had, then. Certainly, I think it includes traditional e-mail, text messaging, that sort of thing, but they're requesting, I guess, a broader category of just online account activity, which could cover a large number of things and, it seems to me, could potentially be a bit too broad. Does the OIPC have any thoughts on whether that's too broad a category, on whether it should have a more specific focus?

**Mr. Brower:** The issue there, I think, just to be clear, is again back to: we're talking about where there is judicial oversight of those records. If those records are viewed to be necessary to support the investigation into a missing person and there's judicial oversight to take that independent look at whether or not those records are necessary, that introduces a bit of a safety mechanism to ensure the privacy of the individual is considered by the justice of the peace. If the justice of the peace is determining that, yes, these records are necessary to assist in finding a missing person, our office is okay with that. The judicial oversight provides some balancing of the privacy interests of the individual. We would have concerns if that expansion to those types of records occurred without judicial oversight.

**Mr. Shepherd:** Okay. Thank you.

That being the case, then, Chair, I would propose that we, at least at this point, discuss making a recommendation towards a motion that we amend this section, section 3(2) of the act, to include any type of instant messaging, online activity information, and records from group homes, shelters, and rehabilitation facilities.

9:40

**The Chair:** Thank you.

Has an electronic version been provided?

**Mr. Shepherd:** I believe so.

**The Chair:** Thank you.

Any comments while we're waiting for it to come up on the screen? Any questions regarding the wording? On the phones?

The wording that we have right now for the proposal is that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to expand the type of records that may be provided under section 3(2) to include any type of instant messaging, online account activity information, and records from group homes, shelters, and rehab facilities.

Any questions or comments regarding this wording?

**Mr. Orr:** I'm pretty much totally in support of the intent here. I just wonder if there would be value, maybe, from Justice's point of view – I mean, I realize these are just recommendations to the government – in splitting the two key subject areas as identified by Mr. Brower into two motions or if it's appropriate to do them in one. I mean, I'm in favour of it in terms of content, but I wonder if two motions would be more appropriate.

**Ms Hillier:** It won't affect my draft, the drafting, or the instructions for drafting. In any case, whatever the motion says, for example with instant messaging, it will take some serious discussion with the drafter at Legislative Counsel to turn, you know, any of these into the precise language. It doesn't matter from that side of it, from what I'm going to start doing if this is approved, whether they're in one or two. That's clear to me because they're in the same section.

**Mr. Orr:** Okay. That's fine. Otherwise, I think it's got good intent.

**The Chair:** Thank you.

Any other questions or comments? On the phone?

Hearing none, Mr. Shepherd, are you prepared to move this motion?

**Mr. Shepherd:** Yes. Thank you, Chair. This wording looks good to me. I'd be prepared to move the motion as presented by the clerk.

**The Chair:** Thank you.

Moved by Mr. Shepherd that

the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to expand the type of records that may be provided under section 3(2) to include any type of instant messaging, online account activity information, and records from group homes, shelters, and rehabilitation facilities.

Are there any questions or comments from members? On the phone?

Hearing none, all in favour of the motion, please say aye. On the phone? Any opposed? On the phone? Thank you.

This motion is carried.

Any members wanting to discuss any of the further recommendations? Ms McKittrick.

**Ms McKittrick:** Thank you, Chair. I was listening very attentively when the discussion around health records and what was available and not available was discussed by a number of people that we listened to a couple of weeks ago, and I was kind of really surprised at the limited information that was given out when a request was made. I understand that there are a number of restrictions being placed around the health records and the privacy law and under professional codes of conduct and so on. It may be something technical that we might need the help of either Justice or the Privacy Commissioner with, but I would be really interested in proposing a motion to amend the type of health records that may be subject to a record access order under section 3 to the extent that those records indicate the location of the missing person.

But, first of all, before moving the motion, I would like to hear from Justice or the Privacy Commissioner.

**Ms Hillier:** I would point out that part of what the police forces are interested in getting is not just their location but anything related to their mental state or physical state that, you know, would be relevant in terms of a search or their condition or anything of that nature. Their interest is broader than just location.

**The Chair:** Thank you.

**Ms McKittrick:** And from the Privacy Commissioner?

**Mr. Brower:** The act, I think, currently pretty broadly provides an ability for health information to be made available to assist an investigation. The act speaks to it being health information and health records. That covers registration information as defined in the Health Information Act, and it covers diagnostic, treatment, and care information as defined in the Health Act.

In my view, the Health Information Act – and I know there’s been some discussion about whether or not there are alignment issues between the Health Information Act and the Missing Persons Act. I’m not sure that there are. The Health Information Act contains a number of provisions that authorize disclosure of health information, one of which is to authorize the disclosure of health information pursuant to an order of the court. So when a justice of the peace issues an order for the disclosure of health information to support a Missing Persons Act investigation, the Health Information Act, in my view, is in alignment there in that it supports the disclosure of the information pursuant to that order.

The Health Information Act also contains some provisions to disclose where there is imminent harm or imminent risk to an adult and also where there is risk to a child. There are further provisions in the act to disclose health information pursuant to an enactment of Alberta or Canada that authorizes the disclosure. Again, that allows for some alignment between the Missing Persons Act and the Health Information Act.

**Ms McKittrick:** If the person has been discharged from the institution, would that be revealed?

**Mr. Brower:** I’m sorry. Can you repeat the question?

**Ms McKittrick:** If a missing person as defined under the order has been discharged from the hospital or is missing from the hospital, would that be revealed?

**Mr. Brower:** I’m not sure whether we’re talking now about what can be disclosed pursuant to an order made by the justice of the peace or what can be disclosed in an emergency situation. I know that there has been some discussion around whether or not in an emergency situation the police should be able to get information about whether or not an individual has been discharged from a health care facility and to where they’ve been discharged.

Of course, there is consideration around the privacy interests of an individual, whether that should be added to the act as what can be disclosed as part of disclosure of records in an emergency situation. In my view, the ability for police to be able to find out in an emergency situation if somebody has been discharged from a hospital: to me that makes sense. I can see how that would support an investigation into a missing person. But again, going back to my earlier comments, I think that whenever we’re talking about disclosure of additional information, particularly sensitive health information, in an emergency situation, we want to try and ensure that the consideration there is to make that as specific and limited as possible to protect the privacy interests of the individual but still allow the purposes of the act to be met.

**The Chair:** Thank you.

Any other comments or questions?

**Ms McKittrick:** Should I reread the motion, the suggested wording?

9:50

**The Chair:** The suggested wording. Yeah. Go ahead.

**Ms McKittrick:** That the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to limit the type of health records that may be subject to a records access order under section 3(2) to the extent that those records indicate the location of the missing person.

**The Chair:** Thank you.

Any questions or comments regarding this wording? We can also wait until it’s up on the screen if you’d like.

Go ahead, Mr. Yao.

**Mr. Yao:** Could we maybe simplify that wording? How about, “be amended to harmonize the standards for information disclosure with the provisions of the Health Information Act to the greatest extent possible”? Would that work?

**The Chair:** Whereabouts are you suggesting that? Could you read it?

**Mr. Yao:** Sorry; I’m just trying to reword Member McKittrick’s statement. Let me see what she wrote exactly.

**Ms McKittrick:** Do you want me to reread it?

**Mr. Yao:** Yeah, sure.

**Ms McKittrick:** “Be amended to limit the type of health records that may be subject to a records access order under section 3(2) to the extent that those records indicate the location of the missing person.”

**Mr. Yao:** Actually, that might cover it.

**The Chair:** Thank you, Mr. Yao.

Okay. Any other questions or comments? On the phones? Mr. Orr.

**Mr. Orr:** Yeah. I don’t know. I struggle with it a little bit because I think, as was pointed out from our advisers here, the mental state of the individual could have a significant impact on how the police would proceed, whether they’ve been released or not. I think, quite frankly, it defeats the purpose of it. As has been indicated, I mean, this is subject to order – am I correct on that? – yeah, which does provide judicial oversight. So I don’t know. I mean, I get the concern, but I think it maybe defeats the purpose of helping to find the person who has substantial psychological or mental struggles at the time. That information would be withheld from the police, so they wouldn’t be able to discern how they should respond to the location information.

**Ms McKittrick:** I have some further motions to deal with some of the excellent suggestions in the documents that were provided, which apply to a different section of the act, that speak to the point that MLA Orr is making. This is just a very specific thing. The whole issue of what is disclosed and the merging of the health act and the Missing Persons Act: those motions will address that. It was very clear in the testimony of the nurses’ association and other health professionals that there was no clarity on what could be disclosed and so on, so other motions would address that.

**The Chair:** Thank you.

**Ms Hillier:** I just want to clarify my understanding, that I understand what this is intended to do, because from what I heard, this is the opposite of what they asked for. I just want to clarify that I understand because what this will do, first of all, is limit what you could get under a court order down to only the location and whether you know the location of a missing person. It would not allow,

under this wording, for the court to provide the right to get information related to physical or mental situations or anything else that was relevant to the condition of a missing person, aside from where they are located. That would be it. So it would narrow down the court order.

**The Chair:** Thank you.

Any other comments or questions?

**Ms McPherson:** Madam Chair.

**The Chair:** Go ahead, Member McPherson.

**Ms McPherson:** Thanks. I think that without benefit of the information as to what other motions are going to be brought forward, I can't vote for this motion in the way that it is right now.

**The Chair:** Thank you.

Any other comments or questions? Ms McKitrick.

**Ms McKitrick:** This is what CARNA recommended, that the health records required to be made available in a record access order under section 3(2)(f) of the act should be subject to some qualifications.

**The Chair:** Mr. Orr.

**Mr. Orr:** Yeah. I agree that they did ask for clarification, but I think taking it way back from where some of the requests are is not the right approach. I do agree that they need clarification. I think I agree with the previous speaker – I think it was McPherson – that this probably isn't the right wording. I wouldn't be able to support it either.

**The Chair:** Thank you.

**Ms McKitrick:** Sorry. I would be prepared to amend it using the same wording as CARNA around: subject to qualifications. I felt that this was something that they were interested in getting some clarity on.

**The Chair:** I would just like to clarify the specific wording that you're asking for, Ms McKitrick.

**Ms McKitrick:** That a record access order under section 3(2)(f) of the act be subject to qualifications.

I was going to ask Parliamentary Counsel for their advice.

**The Chair:** Go ahead.

**Mr. Koenig:** Thank you, Madam Chair. Of course, it's up to the will of the committee. What I might suggest is that the word "qualifications" is quite vague, so if there is a specific type of qualification that the committee would like to recommend, it may wish to make that more explicit. If there is an issue with the present wording being too limiting, the committee may want to add in some phrasing such as, you know: to the extent that those records indicate the location of the missing person or the mental or physical state of that person. I don't know if that would maybe touch upon what Ms Hillier had commented on, but that could be a way of providing more clarity in terms of the parameters of what that health information under section 3(2) can be used for.

I can provide the committee with those comments.

**The Chair:** Thank you.

Any comments from the committee on that suggestion?

**Mr. Shepherd:** Well, perhaps Justice could provide some comments on that. In making an adjustment, would it be appropriate to sort of move in that direction to try, I guess, to provide some more specific qualifications, something along the lines of location and safety of the missing person or location and condition? Do you have any thoughts along those lines?

**Ms Hillier:** I agree with Parliamentary Counsel and the wording he set out in terms of specifying in particular not just location but mental and physical condition. I think that would work.

**Mr. Shepherd:** Location and mental and physical condition.

**Ms Hillier:** Agreed.

**Mr. Shepherd:** I would so move, then, that we amend the motion. I see the clerk has added that in.

**The Chair:** No, no, no.

**Mr. Shepherd:** No. We're not moving anything yet. Sorry. I would suggest that we consider talking about maybe thinking along the lines of . . .

**The Chair:** Thank you.

**Mr. Yao:** Sorry. It's a little bit difficult to follow on the phone here, but could you just review the final wording now?

**The Chair:** Absolutely. That the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to limit the type of health records that may be subject to a records access order under section 3(2) to the extent that those records indicate the location and mental and physical condition of the missing person.

Any questions or comments regarding the current wording?

10:00

**Ms McPherson:** Madam Chair.

**The Chair:** Go ahead, Member McPherson.

**Ms McPherson:** Thanks. I think that with the wording we have right now, we have the opposite of what we had before, where this is too prescriptive. It really limits the usefulness of the information. I understand the spirit of it, and I obviously believe that people's privacy is really important, but I think that this goes too far and would actually be an encumbrance to locating people. I would really be in favour of amending the motion with the wording that was suggested by counsel.

**The Chair:** This is the wording that was suggested by counsel.

**Ms McPherson:** Oh. Sorry. I'm online. I might be a couple behind you.

**The Chair:** Okay.

**Ms McPherson:** I've been refreshing.

**The Chair:** It's just been saved again. Do you want me to read it again?

**Ms McPherson:** Could you, please? I'm looking at something outdated.

**The Chair:** Yeah. Absolutely. That the Standing Committee on Families and Communities recommend that the Missing Persons

Act be amended to limit the type of health records that may be subject to a records access order under section 3(2) to the extent that those records indicate the location or mental and physical condition of the missing person.

**Ms McPherson:** Great. Thanks very much.

**The Chair:** Thank you.

Mr. Smith.

**Mr. Smith:** Thank you very much, Madam Chair. When we added the word “or” instead of “and,” does that make a significant difference?

**Mr. Koenig:** Yes, I would say it does. When you use the word “and,” I think that you would be requiring both of them to be associated so that the record indicates the location as well as the mental and physical condition of the missing person together rather than the record indicating the location or it may just be purely related to their mental and physical condition. They don’t both have to be in that document. That would be how I would sort of interpret the present language.

**Mr. Smith:** Could I ask an additional question?

**The Chair:** Absolutely. Go ahead.

**Mr. Smith:** Thank you very much, Madam Chair. I guess the question that I’ve got then is: they could have both of those in the application or just one? They wouldn’t have to make two applications?

**Mr. Koenig:** No. My understanding of this, if I understand the intent of the committee, is that health information would be subject to court orders under section 3(2) but only to the extent that the record being accessed either indicated the location of a missing person or the mental and physical condition of that person or potentially both.

**Mr. Smith:** Thank you very much.

**The Chair:** Thank you.

Any other questions or comments regarding the wording? On the phones?

Hearing none, Ms McKittrick, are you prepared to move this motion?

**Ms McKittrick:** Yes, I am. Then I’ll have another health-related motion in a little while.

**The Chair:** Thank you.

Ms McKittrick moves that

the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to limit the type of health records that may be subject to a records access order under section 3(2) to the extent that those records indicate the location or mental and physical condition of the missing person.

Any questions or comments regarding this motion? On the phones?

Hearing and seeing none, all those in favour of this motion, please say aye. On the phone? Any opposed? On the phone? Thank you.

This motion is carried.

Any members wanting to discuss further? Mr. Dach.

**Mr. Dach:** Thank you, Madam Chair. I’d like to discuss item 3(c), which is contemplating establishing time limits for providing information subject to record access orders. I know that the issues

and proposals suggest that the act should be amended to include a time limit for producing records required to be produced in a record access order. I’ve a couple of points to make about this. I think it’s a good idea, and some of the stakeholders were in support of this as well, but what strikes me right off the bat is to ask the important question: how long is a reasonable time limit given the circumstances? I’m wondering if that could be addressed by Justice and Solicitor General. How long do you think would be a reasonable time?

**Drever:** Hi.

**The Chair:** Hi. There’s somebody on the phone that doesn’t have their line muted, and it’s causing a bit of noise in the background. Perhaps you could mute until you’re ready to ask a question or comment.

**Drever:** I was just about to say that. Thank you.

**The Chair:** Thank you.

Go ahead. You can respond. Thank you.

**Ms Hillier:** Okay. It would be very difficult to set out a time for every kind of order and every kind of situation. I do suggest that the committee might want to consider allowing for a time limit to be put in and leaving it to the justice to decide what that time limit should be.

**Mr. Dach:** All right. Now, I noted in the submission by the Information Technology Association that they have some concerns about this whole issue. They said that in some cases if the information is located on a remote server or device, it could take quite a bit of time to actually round up the information and respond. Any comment about that?

**Ms Hillier:** Yes. I mean, I expect there is going to be quite a range of, you know, when an organization or an individual can produce the information required under the order, and one benefit of leaving it to the justice to make that determination is that he or she can take that into account.

**Mr. Dach:** So you’re saying that discretion should be left up to Justice and Solicitor General to . . .

**Ms Hillier:** The justice of the peace.

**Mr. Dach:** Justice of the peace. All right. Thank you.

**Ms Hillier:** Through the court order. Yes.

**Mr. Dach:** Otherwise, though, you do think it is reasonable to suggest that a time limit for a response is included and that the response has to include information about how long the provider needs to access the records?

**Ms Hillier:** It is an incomplete circle right now that it’s not there. It definitely stands out as an oddity.

**Mr. Dach:** All right. A fairly simple matter. I do have some proposed wording for discussion if the committee chair would care to have me read it into the record.

**The Chair:** Go ahead. Please.

**Mr. Dach:** Thank you. I propose wording for discussion: that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to establish a reasonable

time limit for complying with an order to produce records as well as a requirement to provide a police service with an estimated amount of time required for the records to be provided.

I believe that is already digitally available.

**The Chair:** Thank you.

Any questions or comments regarding this proposal?

**Mr. Ellis:** Thanks to Member Dach, there, for bringing this up. It's something that I was thinking of as well. You know, I will note that one of our presenters, the Calgary Police Service, indicated, of course, that the first 72 hours were critical during a missing persons investigation. If we all recall, probably one of the most compelling stories I think I've heard in a long time, which was presented by the Institute for the Advancement of Aboriginal Women, was when a telecommunications company took over a year to provide a court order whereby upon listening to the records it turned out that the victim had been kidnapped and, sadly, murdered.

You know, I certainly would be interested to hear from counsel in regard to wording. So far I like what I'm hearing from Member Dach. But is there wording where we talk about a reasonable time period, or is that too subjective? I'd like to maybe hear from counsel first, Chair.

Thanks.

**The Chair:** Thank you, Mr. Ellis.

**Mr. Koenig:** Well, I don't know if I have much to offer the committee with respect to the phrasing of "reasonable time limit." What I understood from Ms Hillier is that what the committee may wish to consider is empowering a justice of the peace to make a determination on what is reasonable rather than attempting to define that or create some kind of limitation in the act itself. That may be something that the committee wishes to tackle, how that time limit is put in place.

10:10

**The Chair:** Thank you.

**Ms Hillier:** We do have one alternate recommendation following from that. It is possible to also simply state – the 72 hours is critical – 72 hours or such other reasonable time as the justice of the peace orders.

**The Chair:** We're getting a lot of head nods in the room. Anyone on the phone wishing to comment?

**Ms McPherson:** I like putting much more structure around it. I think "reasonable" is too open ended, too subjective, and could easily be pushed to the point where the information is no longer helpful.

**The Chair:** Thank you.

Mr. Dach.

**Mr. Dach:** Thank you, Madam Chair. I'm fine with that friendly alteration to the wording. If you wanted to add that in, I'd be happy to accede to that.

**The Chair:** Thank you.

For those on the phone we're just putting that additional information into the suggested wording.

Any other questions or comments? On the phone?

I'll read it out and just confirm that this was the intention of the wording: that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to establish a

time limit of 72 hours or such other reasonable time limit ordered by a justice of the peace for complying with an order to produce records as well as a requirement to provide a police service with an estimated amount of time required for the records to be provided.

Any comments or questions regarding the new wording?

**Mr. Orr:** In the second half there, the part that goes "as well as a requirement to provide a police service with an estimated amount of time required," are we saying, then, that the information provider has to provide that estimate to the police? I guess my question is: does that happen before or after the police go to a JP? I actually wonder if we even need that sentence or that part of the sentence.

**The Chair:** Is there a specific person that you're asking that question to?

**Mr. Orr:** I guess Mr. Dach. Is that aimed at the information provider, like, the telecom company or whoever it is, or who is that aimed at?

**Mr. Dach:** I would expect that to be the reasonable person that it would be aimed at because they're the ones who were in a position to know how long it might take to produce those records. So definitely it would be the information provider being asked to provide an estimate of time that it would take to get that information. That's, I think, a material point, and it should be included in the act. So we may want to make that more clear as to who we're actually asking. That wouldn't be out of order, I don't think, as well, as a requirement of the information provider.

**Mr. Orr:** It would help.

**Mr. Dach:** I'm fine with that.

What about any other comment from counsel on that?

**Mr. Koenig:** If I'm understanding the discussion, that second part of the wording currently being discussed would clarify that the requirement would be on the person that is subject to the order being made. Is that right, if I'm understanding correctly? All right. Madam Chair, with your indulgence I might work with the committee clerk to provide some . . .

**The Chair:** Absolutely.

**Mr. Koenig:** . . . wording the committee might want to consider.

**The Chair:** Thank you.

Mr. Ellis.

**Mr. Ellis:** No further comment here. I just agree with the comments that have recently been made.

**The Chair:** Thank you.

Mr. Shepherd.

**Mr. Shepherd:** Thank you, Chair. With that change that addresses anything further I had to say.

**The Chair:** Thank you.

Any other questions or comments while we're just tweaking the wording here a bit? On the phone?

**Mr. Dach:** I'm prepared to move this motion as worded now.

**The Chair:** I would just like to read it out first.

**Mr. Dach:** Of course.

**The Chair:** We have an updated version. It says that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to establish a time limit of 72 hours or such other reasonable time limit ordered by a justice of the peace for complying with an order to produce records as well as a requirement on the person subject to the order to provide a police service with an estimated amount of time required for the records to be provided.

Any questions or comments regarding this? On the phones?

Hearing none, Mr. Dach, are you prepared to move this motion?

**Mr. Dach:** I am.

**The Chair:** Thank you. Moved by Mr. Dach that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to establish a time limit of 72 hours or such other reasonable time limit ordered by a justice of the peace for complying with an order to produce records as well as a requirement on the person subject to the order to provide a police service with an estimated amount of time required for the records to be provided.

Any questions or comments on the motion? On the phone?

Hearing and seeing none, all those in favour of the motion, please say aye. On the phones? Any opposed? On the phones? Thank you.

This motion is carried.

Any other member wishing to speak to the proposed recommendations?

**Ms McKittrick:** I wanted to talk about point 3(d), around the relationship between the Missing Persons Act and the Health Information Act. CARNA made a suggestion to us that we needed to explicitly explain that the Missing Persons Act would override the Health Information Act in terms of the information that the nursing profession could self-disclose. I think that's really, really important. I think we all know the challenge for professionals around the various requirements that they have to maintain their professional ethics and confidentiality. I think we really need to clarify and to ensure that any changes to the Missing Persons Act are not in conflict with other acts.

I'd like to make a proposal. I think this was definitely one that the College and Association of Registered Nurses are going to support us in. This is what I would like to propose, that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to provide that in the event of a conflict between section 3 of the Missing Persons Act and the Health Information Act, section 3 of the Missing Persons Act shall prevail.

**The Chair:** Thank you.

Any comments or questions regarding this proposed wording? On the phones?

Go ahead.

**Mr. Brower:** I just want to note for the committee's consideration – and I'll take a step back to comments I said previously, too – that there seems to be some question as to whether or not the Health Information Act and the Missing Persons Act are in alignment. I don't see situations where there is a lack of alignment currently. As I said, the Health Information Act does already authorize disclosure of health information pursuant to an order. So where an order is made pursuant to section 3 of the Missing Persons Act, the Health Information Act recognizes that order and tells the health information custodian that they have authority to make the disclosure pursuant to that order issued by a justice of the peace. There's alignment there.

10:20

I think it's important for the committee to also know that, in considering the recommendation to have an override of the Health Information Act, there is what I believe is an unintended consequence of that. The Information and Privacy Commissioner obtains the authority to examine privacy issues on behalf of Albertans through the Health Information Act. That's where the commissioner's authority derives from. If the Missing Persons Act is made paramount over or overrides the Health Information Act, it removes the commissioner's jurisdiction to be able to consider a privacy issue or complaint raised by an Albertan, and I think that that actually would create an erosion of the privacy interests of an Albertan, which I don't think is the intention of this amendment.

**The Chair:** Thank you.

Any other questions or comments regarding the wording? Mr. Orr.

**Mr. Orr:** Yeah. I agree with the spirit of what's being put forward. If I recall correctly from various presenters, it's maybe not so much an issue of the legislation as administration, or maybe I should actually even use the words "education and training" on behalf of nurses. Clearly, the issue came up that, you know, peace officers ask for information, and nurses at the front desk basically want to refuse it because they feel the privacy issue is so high. I do think Mr. Brower has clarified that technically the authority is there. I think maybe a motion to the effect that – and maybe it belongs under 13, the administration and the management side of it, something to include that there would be more education or clarification for nurses to understand that they do have this authority.

I guess my immediate question – I was going to actually aim it at Justice if I might – is: are there potential unintended consequences here, from your point of view, from Justice's point of view? I mean, we've already heard one, but I was also wanting to hear about that. That was my question. What unintended consequences might this create?

**Ms Hillier:** It is my view that the Missing Persons Act and the Health Information Act currently align and that what we really have is a misunderstanding on how they work together. When the Missing Persons Act was created, it was reviewed to make sure, before it was introduced, that those two alignments worked, that everything was fine.

**The Chair:** Thank you.

Ms McKittrick.

**Ms McKittrick:** Yeah. I would like to have Parliamentary Counsel comment on this, on any recommendation that they would want to make around this whole issue.

**The Chair:** Go ahead.

**Mr. Koenig:** Thank you, Madam Chair. I can provide some comment on this. Unfortunately, I didn't have the benefit of hearing the stakeholder submissions on this topic. It seems to me that this is really a question for the committee on where it wants to go on this issue, whether it's, you know, potentially a generalized recommendation that some attention be paid to ensuring there's alignment between the Health Information Act and the Missing Persons Act, or the committee may wish to be a bit more specific, particularly with respect to this issue that was identified by the registered nurses, to make it clear in the legislation that if somebody comes with an order requiring the production of some type of health

information, there's a clear statement in this act saying that that health professional is required to comply with that. I mean, it's really up to the committee whether they want to sort of approach this from a more generalized perspective or if the committee sees value in creating something a bit more direct or explicit in the act. In terms of which direction to go, that may be something that the technical experts here might be able to provide a bit more clarity on, I might suggest.

**The Chair:** Thank you.

Any comments or questions regarding those statements? Go ahead, Mr. Yao.

**Mr. Yao:** Based on experience, I have seen where they aren't in alignment, the two acts. As Mr. Orr stated, maybe it's simply an education piece, or perhaps when we're done with this legislation, it is aligned. Is it possible that Health just wants to pull back from any responsibility? Is that why they could have imposed this or are asking for this? It might remove all doubt, but as the Privacy Commissioner has stated, perhaps it might be a little bit too overreaching. As long as we have some sort of wording to clarify that our intent is to ensure that Health and Justice can work together here, I'm fine with that, I guess, in which case we don't need to have this clause. Do we have assurances that it is covered, then?

**The Chair:** Thank you.

**Ms Hillier:** I'd suggest that one thing the committee could think about is recommending that the Missing Persons Act and the Health Information Act be examined for any inconsistencies and that any inconsistencies be addressed. That would allow us to go through it, because both are very complicated, you know. So if we could do that and look through everything, then whatever we did find, if anything, we could clarify, or we would have that little wider scope to do it.

**The Chair:** Thank you. Do you have suggested wording for that?

**Ms Hillier:** I do not.

**Ms McKittrick:** I like the idea because I think that's the intent. I think the intent is to ensure that when a health professional is asked to give information on a patient, they're sure that their professional ethics and the act that they're under don't make them liable for some challenges. I think that's the intent of the motion, and I like the idea of what Ms Hillier suggested. I'm wondering if we may need to take a five-minute break to have a possible draft motion, or maybe we can go back at the end of the meeting and review this with the suggested draft motion.

**The Chair:** Thank you.

Go ahead.

**Mr. Koenig:** Thank you, Madam Chair. I am more than happy to work with any of the members to prepare something to that end.

**The Chair:** Perfect. Would you suggest that we do that now or wait till the end of the meeting?

**Mr. Koenig:** You know, if it works for the committee – this hasn't been moved. It's only a topic of discussion. If the committee would like to move on to another topic, I can potentially work with Member McKittrick to put something together, and we can return to this topic afterwards.

**The Chair:** Perfect. Thank you so much.

**Ms McKittrick:** I'll withdraw my suggested motion at this point and then work at drafting another motion.

**The Chair:** Yeah. Just the wording.

**Ms McKittrick:** The wording, yes.

**The Chair:** Thank you.

Any other recommendation that a committee member would like to discuss? On the phones?

Go ahead.

**Mr. Ellis:** I guess that if we can look at emergency demands for records, under 5(b), just one of the things we heard: the Alberta Association of Chiefs of Police indicated that telecom companies were offering concerns. A representative from the Information Technology Association of Canada confirmed that this is a concern, and a for-greater-certainty clause is seen as a positive way of addressing the issue to provide telecom providers with confidence that they are not liable for the use of the records they provide to police.

Obviously, we're trying to eliminate, again, the fears of the telecommunications companies who provide further efficiencies, hopefully, for police services when assisting in locating missing people. Of course, this was requested by the Alberta Association of Chiefs of Police and supported by the Calgary Police Service. It's my belief that adding a for-greater-certainty clause may provide telecom providers with comfort. They seem to need it to ensure that they are not liable for police use of records that they provide.

I certainly welcome further discussion, and I, of course, have an amended motion whenever you're ready, Chair.

**The Chair:** If you want to just read the suggested wording to discuss, that would be excellent.

**Mr. Ellis:** Sure. I recommend that the Missing Persons Act be amended to clarify the circumstances in which a police service may require the production of records in an emergency situation by including a for-greater-certainty provision.

10:30

**The Chair:** Thank you.

For those on the phone, we're just in the process of putting it up on the screen at this point.

Any questions or comments?

**Drever:** Yeah.

**The Chair:** Go ahead.

**Drever:** I was just wondering if we can get a technical opinion from Justice and Solicitor General on this, please.

**The Chair:** Go ahead.

**Ms Hillier:** I actually don't understand it, the second part of it. The first part – "amended to clarify the circumstances in which a police service may require the production of records" – I understand to be really defining: what is an emergency circumstance? I understand that part.

But the "for greater certainty" provision: I don't understand how that's related. To me, that is a liability situation where what they're really asking for is clarification. The act actually already says that complying with anything under the act doesn't produce a liability. We can certainly look at adding a "for greater certainty" clause to



make that clearer, but if it's meant to say anything other than that liability, then I don't understand that.

The first part of it up to there I have no technical concerns with. The second portion of that: my technical concern is that I wouldn't know what to do with it because I don't understand how it relates to the first part.

**Mr. Ellis:** May I add something, Chair?

**The Chair:** Absolutely.

**Mr. Ellis:** You know, one of the things that we heard from the telecommunication companies about – and maybe this is something that requires further clarification; again, we'll maybe talk to counsel about this – was a preferred definition of exigent circumstances. My definition of exigent circumstances, through my previous career and training, might be different than somebody else's definition of exigent circumstances. Again, maybe we can talk to counsel as far as clarity there. I mean, I understand where the telecommunication companies are concerned; they're not wanting to be sued. But then I also understand the perspective of what the police are trying to do, which is: "Hey. We need this information because we're trying to locate somebody in order to possibly save their life." Again, maybe we can hear from counsel in regard to this.

**The Chair:** Thank you.

**Mr. Koenig:** Thank you, Madam Chair. I'm not sure which counsel is being asked to chime in here, but I will jump right in. The question, if I'm understanding correctly, is just around this concept of a "for greater certainty" provision.

**The Chair:** That's my understanding.

**Mr. Koenig:** Okay. As I understand the issues document, the question that was being raised was whether there was enough clarity in the act as it stands now for police services so that they could be more certain of when they were entitled to require the production of records in an emergency situation. My understanding is that this concept of a "for greater certainty" provision was to reinforce or to clarify the current wording in the act. So it wasn't necessarily changing the standard but making it more clear when the police were entitled to require certain records in an emergency circumstance.

Hopefully, that's helpful for the committee.

**The Chair:** Thank you.

Go ahead.

**Ms Hillier:** Okay. Then the phrase "for greater certainty" I think is unnecessary because what they're really asking for is a clarification and a definition around: what is an exigent circumstance? Any definition or any clarification that we put into legislation is put there for greater certainty, so we wouldn't normally use that phrase.

As to clarifying or defining what an emergency or exigent circumstance is, I have no technical concern with that.

**The Chair:** Thank you.

Mr. Orr.

**Mr. Orr:** Yeah. Just to add to that, I think the other side of it, though, from the side of the telecoms or whoever is subject to the order, is the issue of their liability and whether or not they could potentially be sued for what the police, in the end, do with those records. I think that in many cases there's a great hesitation on the part of the providers to expose themselves to liability. As you've

already said, the act absolves them of that liability, but I don't think it's clear to them. Therefore, I think that, really, the request – and whether you use the phrase "for greater certainty" or not, I guess I really don't care, but I think it does need to be strengthened in the language of the act so that there's no question in the minds of the service providers that they are not liable. I think that's the key point of this as well.

Thank you.

**The Chair:** Is there a suggested wording to go along with that?

**Mr. Orr:** Oh, you would ask for that. I don't know.

**The Chair:** Go ahead.

**Mr. Koenig:** Thank you, Madam Chair. The member can confirm if this is what he's looking to do, but you may wish to consider adding in wording to clarify the circumstances in which a police service may require a person to produce records in an emergency situation. Then there is a reference to that, that the person that's received the order is subject to that order.

I'm not sure if that gets at the issue that you raised.

**The Chair:** Mr. Ellis.

**Mr. Ellis:** Yeah. I have the act in front of me here, but according to one of my notes section 11 of the act – my understanding from the presentations that we had is that the police were just seeking clarification because they were getting push-back from the telecommunication companies.

You know, I agree with Mr. Orr. I mean, regarding the words "for greater certainty," I don't want to say that it's not important, but I just want to say: whatever wording we can put in there to provide clarification so that when the police are making these requests, they are not getting the push-back.

I think it was from the gentleman that was representing the Alberta Association of Chiefs of Police that we have to trust in their training as to what an exigent circumstance is and that they are in good faith as a sworn member of a police service requesting information, again, in order to help save the life of an individual. When they're getting the push-back saying, "Well, you know, our definition is that it's not an exigent circumstance," we need to provide this sort of clarification.

I'm sorry. I'm not a lawyer. I know that Trafton is awesome and that we're putting a lot of pressure on him, but, you know, I'll just say that if we could provide that clarity for police services and the telecommunication companies, then I think that it will assist in those circumstances where we need to save the lives of individuals.

Thanks, Chair.

**The Chair:** Thank you, Mr. Ellis.

Go ahead.

**Mr. Koenig:** Thank you, Madam Chair. Yes, it's a bit challenging following the conversation and wordsmithing some of these proposals simultaneously, so if I've missed something, please let me know.

Where I'm hearing the committee's discussion going is to potentially two different topics. One is on producing records in an emergency situation, so there would be no order from a justice in that case. The other topic, I believe, that's being discussed is: if a telecommunications company does respond to an order, can they be certain that they won't be liable for the production of those records? One of the concepts is sort of focused around police services and when they are empowered to require production of records in an

emergency situation, and one is more dealing with the liability of the entity or person that's producing those records. Hopefully, I'm capturing sort of the discussion here now.

It's, of course, up to the committee how they want to deal with these issues. It may require some support from the technical experts here in terms of that liability concept and whether that can work within, you know, another motion dealing with emergency situations or maybe potentially being two separate motions.

10:40

**The Chair:** Thank you.

Questions or comments regarding the possibility of having these as two separate motions as they're two separate concepts?

**Mr. Ellis:** Can I add one thing, Chair, if you don't mind?

**The Chair:** Go ahead.

**Mr. Ellis:** You know, I was thinking back to the police services as they were talking about these specific issues, and it goes back to one of my previous comments from several meetings ago regarding the we'll call it the, quote, unquote, pinging of the phone, right? In certain circumstances where a person is not just missing but where there might be an imminent threat to their life, a request, although it's not a court-ordered request, is made through the telecommunication companies, as they believe that there are exigent circumstances and a fear for that person's safety, in order to ping that phone, in order to locate that individual. And they had been receiving, you know, some push-back from the telecommunication companies, who are disagreeing, we'll say, with their opinion that these are exigent circumstances.

Again, you know, whether it's just one motion or two motions, I'm certainly open to suggestions. However, from my perspective, the most important thing here is to provide clarification for both the police and telecommunication companies. We need to trust the police service, the sworn police officers, whose duty it is to protect lives, and give them the tools in order to save these people's lives.

Thank you very much, Chair.

**The Chair:** Thank you, Mr. Ellis.

Any other questions or comments? Is there any further editing required to the statement that we have before us right now? Go ahead, Ms McPherson.

**Ms McPherson:** Madam Chair, if you're going to read it out, I would appreciate that because I'm not seeing anything different online.

**The Chair:** Thank you.

To move that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to clarify the circumstances in which a police service may require a person to produce records in an emergency situation by including a "for greater certainty" provision.

Now, Mr. Ellis, correct me if I'm wrong, but I heard you say that you were okay with removing the wording "by including a 'for greater certainty' provision."

**Mr. Ellis:** Yeah. I'm open to removing that. I mean, I think that our experts at the table indicated they weren't sure if that provided any value, but as long as, you know, I guess, the concerns are addressed regarding ensuring that there's clarification for police and telecommunication companies, then I'm satisfied with that.

**The Chair:** Thank you.

Any questions or comments on the wording that we have before us? Go ahead, Mr. Smith.

**Mr. Smith:** Thank you, Madam Chair. Just a question here: when you put in the words "require a person," can that also apply, then, because we're talking about companies?

**The Chair:** Go ahead.

**Mr. Koenig:** Thank you, Madam Chair. My understanding is that "person" would include a natural person as well as a legal person. I believe that is the phrasing that they use in the act, but I'm subject to correction from my colleague from Justice.

**The Chair:** Go ahead.

**Ms Hillier:** You are correct. When we say "individual," we mean a human, a person, but when we say "person," according to the Interpretation Act we actually mean a company or an entity or a human.

**Mr. Smith:** Thank you for the clarification.

**The Chair:** Thank you.

Anyone on the phones? Go ahead.

**Drever:** Sorry. Are you able to read it one more time? It's just really hard to see it on the screen.

**The Chair:** Sure. It says: to move that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to clarify the circumstances in which a police service may require a person to produce records in an emergency situation.

**Mr. Orr:** I don't know if I should throw this out there or not. I will, and people can respond to it. I wonder if we should add at the end of it, instead of the period, a comma or a semicolon and something to the effect that a person, since we've clarified that – and this is just to solve the greater clarity piece – may not be held liable for police service use of these records. That was my comment earlier, that it just needed to be amplified somehow – I don't know if that's a valuable addition – that the person may not be held liable for police service use of these records.

**The Chair:** Thank you.

It was suggested that perhaps there be two separate motions. I'm not sure what counsel thinks about including it in one motion.

**Mr. Koenig:** Of course, Madam Chair, this is always up to the will of the committee, what they'd like to add in there. You could add in additional language to ensure that that person is not liable for the production of those records. I suppose, though, the only thing I would note for the committee is that this, of course, is only in relation to the powers in emergency situations. That liability issue wouldn't necessarily also carry over to court orders. So I don't know if that gets at exactly what members wish to do here.

**Mr. Orr:** Just help me clarify. I don't think I'm referring to them as liable as to whether or not they produce the records, liable to the court or the judge or whatever. I'm referring to their civil liability to an individual who may sue them for releasing their personal information. That's the liability that I am referring to.

**Mr. Koenig:** Right. I would be more than happy to work with you if you have some suggested wording. I think it's not necessary to – I mean, it depends on what the goal is here, whether you want to

limit liability specifically as between the person producing the record and a third party or there's a more general limitation of liability that you may wish to propose. What I might go back to suggest, though, is something that Ms Hillier noted, that recommendations that are general in nature and talk about the concept might be easier to turn into, actually, draft language rather than attempting to be really prescriptive in a motion. You know, there may be some value to being general in nature here rather than overly prescriptive.

The other thing that I would maybe highlight for the committee as well is that this concept of liability and who is liable or who might be liable for what is not something that I can provide any meaningful advice on. Whether those, you know, telecommunication companies are, in fact, liable or what the extent of that liability is: I can't really provide much in that area.

**Mr. Orr:** Unless Justice and Solicitor General, Ms Hillier, thinks that it's a valuable addition, I might be just getting too detailed here. I'm willing to let it go, but I felt like I should throw it out there if people feel it's valuable.

**The Chair:** Thank you.

**Ms Hillier:** I'll leave it to the committee as to whether it should be here or in a separate motion. I do agree with Parliamentary Counsel that something slightly more general would be easier to work with.

**The Chair:** Thank you.

Mr. Orr.

**Mr. Orr:** Yeah. It probably complicates it too much. I'd be prepared to withdraw it.

**The Chair:** Thank you.

I'll read the proposed wording that we have right now, that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to clarify the circumstances in which a police service may require a person to produce records in an emergency situation.

Mr. Ellis, are you prepared to move this motion?

**Mr. Ellis:** I am, Chair.

**The Chair:** Thank you.

Moved by Mr. Ellis that

the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to clarify the circumstances in which a police service may require a person to produce records in an emergency situation.

Any questions or comments regarding this motion? On the phones?

Hearing none, all those in favour of this motion, please say aye. On the phone? Any opposed? On the phone? Thank you.

This motion is carried.

At this point I would like to call a five-minute break for a quick biobreak. It is 10:50 right now. We will be resuming at 10:55.

Thank you.

[The committee adjourned from 10:50 a.m. to 10:55 a.m.]

**The Chair:** Thank you, everyone. I would like to call the meeting back to order. If you could please take your seats.

Are there any members wishing to speak to any of the other recommendations before us this morning?

**Mr. Yao:** It's a little bit related to the emergency demand for records, and it's under 4(2). I'd like to propose – there was a discussion by the chiefs of police on an oversight in the act, video recordings and how they're left off the list of emergency orders. So I'd like to move that under section 4(2) . . .

**The Chair:** Could we just clarify, Mr. Yao, that we're just simply proposing some suggested wording?

**Mr. Yao:** Yeah. The suggested wording would be, under 4(2), to include video recordings, including closed-caption television footage.

**The Chair:** Thank you.

Any questions or comments regarding this? Anyone on the phone wishing to add a comment or have questions? We're just in the process of getting it up on the screen at this point. Mr. Orr.

**Mr. Orr:** Yeah. I just wonder if Justice could confirm. I mean, the police seem to interpret that these items, video and closed-circuit television, being on the list of obtainable items but left off the emergency orders was an oversight. Do you view it as an oversight or deliberate?

**Ms Hillier:** The list under emergency, under section 4, was created separately from the list that's in section 3. It wasn't designed to be a subset of what you could get under the order. The question at the time was: what do police require in that emergency circumstance immediately? That may or may not be the same as what they're looking for when they ask for an order. The list that's created under section 4, for an emergency, was deliberate in the sense that that was determined to be what they needed in an emergency. Now, whether that list is comprehensive of everything they need in an emergency situation: according to what they presented, no. But, one, it wasn't intentionally, you know, a subset in that sense. Nothing was left off, because we didn't start with the extended list under 3. We were trying to get, as a list, everything in 4 that the police would need in an emergency.

**Mr. Orr:** Clearly, the police think it should be there. Would you have any concerns if it were there?

**Ms Hillier:** I have no concerns.

**Mr. Orr:** Okay. Thank you.

**The Chair:** Thank you.

Any other questions or comments? For those on the phone, would you like me to perhaps read the wording?

**Hon. Members:** Please.

**The Chair:** That the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to expand the type of records that may be demanded in emergency circumstances pursuant to section 4(2) to include video recordings, including closed-caption television footage.

**Mr. Yao:** Agreed.

**The Chair:** Thank you, Mr. Yao.

Any questions or comments regarding this?

**Dr. Massolin:** Just a question, being a technological novice. Should it not be "closed-circuit"? Is it "closed-caption"? Is that the language?

**Mr. Yao:** Closed-circuit, yes.

**Dr. Massolin:** Is it? We're just checking on that. Sorry. I may have – just one moment. Okay. I'm sorry. I was wrong on that. It is closed caption.

**The Chair:** Thank you.

**Dr. Massolin:** Thanks.

**The Chair:** Anyone on the phone?

Mr. Horne.

**Mr. Horne:** Thank you. Just given, you know, that this motion would be recommending the expansion of the types of records, I was wondering if the office of the Information and Privacy Commissioner has any thoughts or concerns about this recommendation.

**Mr. Brower:** Yes. Thank you for the question. I think that, similar to previous comments that I've made, not specific to this particular information being added but in general terms, when we look at what records can be provided or requested through an emergency situation, our view is that those records should be very limited and specific. The test, in my mind, is: what is required in order to meet that emergency need, what do the police require in order to investigate where there is an emergency situation, and then, as much as possible, to try and make that set of records as limited and specific as possible, with the intent, of course, of ensuring that the objectives of the act are met but still doing that in a way that balances privacy. So, really, I think it's up to the committee to determine, in consultation with the police and their comments, whether these records are required in order to meet that emergency situation.

**The Chair:** Thank you.

Mr. Dach.

**Mr. Dach:** Thank you, Madam Chair. I've been flipping through. I'm just trying to ascertain exactly where in the issues document this is found. It's been identified as 4(2), but I'm not exactly certain.

**The Chair:** Thank you.

Mr. Yao, are you aware of where this information is in the issues document? I'm being informed that if it's not in there, it doesn't have to be.

**Mr. Yao:** Sorry. No. I'm not seeing it here.

**The Chair:** Thank you.

Any other questions or comments? Mr. Smith.

**Mr. Smith:** Thank you very much, Madam Chair. I guess the question I've got is: does it really say "closed caption," and is that the appropriate language? Maybe it needs to be amended in section 3. Go ahead.

**Dr. Massolin:** Maybe out of vindication I did some quick research here, and it appears that "closed-circuit" might be the more appropriate language than "closed caption," because closed-circuit refers to, like, a camera-to-camera situation, and I think that's what's being contemplated here. You know, I think we have verification that in the act it does say "closed caption," so I'll leave you with that.

**The Chair:** Go ahead, Mr. Yao.

**Mr. Yao:** I don't know, but as long as we use some language that ensures that the video aspect is covered in their regular request – this was a request from the police, so they've obviously had to deal with issues where they were impaired from getting some form of video footage, however it may be transmitted. If we could get some language to that effect, I think they would appreciate that.

**The Chair:** Are you wanting to add additional language?

**Mr. Yao:** Hold on here. Sorry; I'm just trying to review it all. Just that 4(2) be amended to include video recordings: would that be fair?

**The Chair:** So take out the last part, "including closed caption television footage," and just have a period after the words "video recordings"?

**Mr. Yao:** Could that be assumed in there? Can legal provide us with that to ensure that we get any type of video footage, whether it be from a phone or a hard-wired system like a private security firm?

**The Chair:** We have nods.

Go ahead.

11:05

**Mr. Koenig:** Thank you, Madam Chair. Yes, I would interpret closed caption television footage to be video recordings, so you could remove the last part of that sentence, and I think there would still be enough clarity. It might also avoid the issue of whether that phrase "closed caption television footage" is exactly what is being sought or if it's more along the lines of closed-circuit television footage.

**The Chair:** Thank you.

Mr. Smith.

**Mr. Smith:** Thank you, Madam Chair. I guess one of the things that we've sort of stumbled onto here today is that maybe another section of the act here – what was that section? – 3(2)(d), as in dog, has maybe got a phrase in there that isn't particularly accurate. I'm wondering if as a committee we don't have the responsibility to make a recommendation to change that language as well. I would leave that up to the committee to decide. But maybe after we've finished this, we need to pursue a recommendation to adjust that language as well in section 3(2)(d).

**The Chair:** Thank you. We can look at exploring that once we've resolved this.

**Mr. Smith:** Precisely.

**The Chair:** It reads right now that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to expand the type of records that may be demanded in emergency circumstances pursuant to section 4(2) to include video recordings.

Any questions or comments? On the phone?

Mr. Yao, are you prepared to move this motion?

**Mr. Yao:** Agreed.

**The Chair:** Thank you. Moved by Mr. Yao that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to expand the type of records that may be demanded in emergency circumstances pursuant to section 4(2) to include video recordings.

Any questions or comments? On the phone?

Hearing none, all in favour, please say aye. Any opposed? Thank you.

This motion is carried.

Any members wanting to discuss further motions? Ms McKittrick.

**Ms McKittrick:** Thank you. I wanted to thank Parliamentary Counsel on their work with me.

Then I think what I'm going to do is that I'm going to take a number of the points that were raised in the issues document and put them all together. I was really taken aback by some of the commentaries made by some of the nurses and the nursing profession, again, requiring clarity on what they could disclose but also on the fact of the whole issue of the discharge of the patient, right? I mean, the patient may no longer be in a health facility, but where they are, in what state they were at discharge was really, really important. I think there's a lot of clarity that is needed on that.

What I wanted to do, again, is – because when we are talking about a health institution, we're not just talking about a hospital. We're also talking about nursing homes and we're talking about all kinds of places which people may be at and where they may be missing from. All that information on what happens to them once they've left that institution is really important. This is an issue that I kind of have been thinking a lot about, and part of the reason is because how the person left the institution and what happens within the institution are important. We're not just asking about prior health information, but we really want to make sure that the nurses feel comfortable about giving information that will really impact where that person may be found and the stage they are at.

So this is what I would like to make as a recommendation for discussion, okay? I move that the Standing Committee on Families and Communities recommend that the government of Alberta – and I've been toying, as I was saying, with "Justice and Solicitor General" or "the government of Alberta," but I think I'm kind of happy with "the government of Alberta" – consults with stakeholders, including the College and Association of Registered Nurses of Alberta, to develop a proposal to harmonize the standards for information disclosure in the Missing Persons Act, the Health Information Act, and the Children First Act to allow more information.

That's it.

**The Chair:** Thank you.

**Ms McKittrick:** I'm basically proposing that there are further consultations to make sure that all the acts are harmonized with each other so that the person who will be then tasked with giving the information knows that the acts that are applicable to their situation are all harmonized and that they will not be in conflict with their professional standards.

**The Chair:** Thank you.

Any questions or comments? Go ahead, Mr. Yao.

**Mr. Yao:** I'm very much in agreement with what Member McKittrick is trying to do here. There is that issue about the release of personal health information, whether it's just their presence in a facility or how they're treated, but I'm wondering if maybe this could be addressed under 6(b), disclosure of information by a health care facility. If we write in that section the piece about harmonizing the standards for information disclosure with the provisions of the Health Information Act to the greatest extent possible and in the

event of a conflict clarify that the Missing Persons Act shall prevail, could that work to address what we're trying to accomplish here?

**The Chair:** Anyone wishing to respond to that?

**Ms McKittrick:** Could you repeat it, Mr. Yao?

**Mr. Yao:** I think what we're trying to deal with could be under 6(b), disclosure of information by a health care facility. I would move that the committee recommend that

the Missing Persons Act be amended to harmonize the standards for information disclosure with the provisions of the Health Information Act to the greatest extent possible and in the event of a conflict clarify that the Missing Persons Act shall prevail.

I'm wondering if that would cover our bases with legal and with the Privacy Commissioner.

Thank you.

**The Chair:** Thank you.

Mr. Yao, before we proceed, can I clarify if you're moving this or if you're just having it open for discussion.

**Mr. Yao:** Yeah. I'll move that.

**The Chair:** Okay. Do you have the wording that you have in mind for 6(b)? Do you have the new wording?

**Mr. Yao:** Yes. I'll e-mail you right now.

**The Chair:** Thank you.

Any questions or comments? Ms McKittrick.

**Ms McKittrick:** Yes. I'm just kind of concerned. One, I do believe that there are consultations that are required with stakeholders that are the most implicated in this as to the information that they can give. I know Mr. Yao is a paramedic, so I think it could include paramedics, who may be asked to disclose information under the Missing Persons Act. Also, the original motion did include the Children First Act, because for some of the missing persons we're talking about, the information would also be a part of the Children First Act.

**The Chair:** Thank you.

Any questions or comments regarding the motion?

**Mr. Dach:** I'd like to hear some input from Justice and Solicitor General as well as the office of the Information and Privacy Commissioner with respect to this proposal.

**The Chair:** Thank you.

Go ahead.

**Ms Hillier:** It's Mr. Yao's proposal that you're requesting the . . .

**Mr. Dach:** Correct.

**Ms Hillier:** Okay. Currently there would be the need for an examination of both acts, to begin with, to identify whether there actually is anything that's conflicting or any trouble with respect to the legislation itself. Currently, to my knowledge, they actually don't conflict. I can't see how we could harmonize two pieces of legislation, and I can't say that I can do that today until we sit down and examine whether there's any conflict to fix, to harmonize. Past that, if there's anything identified in working through that, I have no comment technically with doing it once we've completed that examination.

11:15

**The Chair:** Thank you.

I would just note that there's someone on the phone that hasn't muted. If they could please make sure that their lines are muted, because we're getting some disruption on the phone lines.

Mr. Dach.

**Mr. Dach:** Thank you. I wonder if I could invite Mr. Brower to comment as well, please.

**Mr. Brower:** Yes. Thank you. I'd agree with Ms Hillier's comments. I also, as I've said previously, don't see an actual conflict or an area where the laws here are not in alignment. However, that being said, I do agree with the comments made that there are some challenges for the folks that need to apply these laws and in interpreting them and making the disclosures that the laws authorize and understanding that the law authorizes certain disclosures. As much as that is true, I'd be pleased to support, and I know our office would support, being involved in any kind of a consultation with Justice or other stakeholders to consider where there can be some clarity in these laws that would help providers understand and apply them.

My only concern with the current amendment or recommendation as set out here goes back to my previous comments about an override or paramountcy clause that, for the reason that I've stated previously, may have some unintended consequences in actually removing the ability of an Albertan to come to the Privacy Commissioner and ask for a review or investigation.

**The Chair:** Thank you.

**Mr. Dach:** All right. Thank you for that response.

**Ms McPherson:** Madam Chair.

**The Chair:** I'll put you on the list, Ms McPherson.

Mr. Orr.

**Mr. Orr:** Yeah. Thank you. That's exactly what I was just going to say. As Mr. Brower has just brought up again, we've already heard that today. So I absolutely could not support that last clause starting with the word "clarify." I don't think it belongs there under any circumstances. Beyond that, we've heard over and over that there truly is the issue on the administrative or even executive side of how this gets played out in the hallways of hospitals and other places. I'm actually beginning to wonder if the issue isn't more one of the nursing colleges, quite frankly, teaching them a proper balance, because I'm sure they hear over and over and over again that they have to protect people's privacy, but they probably don't hear the balance that there are situations and cases when they need to – what's the word? – release it.

I don't know. I struggle with it, but I absolutely can't support the last clause.

**The Chair:** Thank you.

Mr. Shepherd.

**Mr. Shepherd:** Thank you, Chair. I think, based on what we heard from Mr. Brower and Ms Hillier, personally, I can't support this motion. It's clear that there are some misunderstandings in practice and in the application, but they've clearly stated that, you know, from a legal and technical standpoint they don't see a lack of harmonization between the acts. Therefore, I don't see the value in us moving a motion advising that they be harmonized if they already are. Certainly, I think if we're back to the discussion we

were having on Ms McKittrick's suggestion that we perhaps recommend some consultation, we heard from Mr. Brower that the OIPC is willing to step in and provide some further education and assistance, and it seems to me that that would be a more fruitful avenue than trying to get into legal harmonization where none seems to be necessary.

**The Chair:** Thank you.

Member McPherson.

**Ms McPherson:** Thank you, Madam Chair. Just for those of us that are not in the room, what we've seen is that we had a motion from Ms McKittrick, and now we have a different motion from Mr. Yao. I'm a little confused procedurally what happened with the first motion and if this is an amendment. I just am not too sure where we stand.

**The Chair:** Thank you for the question, Member McPherson. What we were doing prior was discussing some recommendation for wording with Ms McKittrick, and then Mr. Yao had introduced a motion. That immediately removed what we were discussing prior as hers was not a motion. When Mr. Yao asked to move the motion, that's why we jumped to this portion of the meeting.

**Mr. Yao:** Well, I have experience that's first-hand, the issue where the health information is not released to law enforcement. There is a very real issue here. That's why I had requested that we invite Health to these meetings. Health themselves have identified that there is an issue and even suggested that the wording for the one change that Member McKittrick had provided about Justice superseding the health privacy act.

I think as long as we can try and address the issue because I would disagree. There's got to be an issue with the harmonization of these two acts, or as Mr. Orr suggested, it might be an education issue, so as long as we address it somehow. This is a very real issue that does impede the process.

Thank you.

**The Chair:** Thank you, Mr. Yao. So are you wanting to keep your motion on the table?

**Mr. Yao:** Yeah. I'm willing to be open to some sort of changes to wording to address this issue, but I'd like some firm wording to recognize that it is an issue that we need to deal with in one way, shape, or form.

**The Chair:** Are you wanting to amend the wording of your motion or is there any other . . .

**Ms Rempel:** He can't.

**The Chair:** Oh, he can't. Are there any other members in the room or on the phones wanting to amend the wording of the motion proposed by Mr. Yao? On the phone?

**Mr. Shepherd:** I certainly agree with Mr. Yao that there is an issue here, so I just want to be clear on that and apologize if I at all came across as suggesting that that wasn't the case. Certainly, we recognize that we heard from many people presenting. I think that in some previous reviews on the Mental Health Act and, I believe, possibly in a review of the Child and Youth Advocate Act there were similar issues that were raised regarding folks not having a completely clear understanding about what information is already empowered under acts and there being some conflicts that arose there. I think it's definitely worthwhile trying to put something forward to suggest that we should look at ways to clarify that.

Maybe what I could suggest here is that if we want to amend the motion as it currently stands, we remove everything after “the Missing Persons Act” and instead add “to ensure that standards for information disclosure in the Missing Persons Act, the Health Information Act, and the Children First Act are harmonized.”

I understand that that is a fairly profound change. If it's simpler to simply, I guess, have a vote on this motion and then perhaps propose an alternate motion, that would be acceptable to me as well.

**The Chair:** Thank you.

At this point, if Mr. Yao would like it to stand, we can vote on this motion and see how that goes and then after perhaps propose a different motion to address the issues that you have identified.

Any questions or comments from the committee?

**Mr. Yao:** Sure. I can pull that motion, then, and we can reword it somehow differently.

**The Chair:** You're able to withdraw this motion, Mr. Yao, with the unanimous consent of this committee. Are you wanting to withdraw this motion?

**Mr. Yao:** Is the committee agreed that there is an issue here and that they just want to work out some different wording for this?

**The Chair:** I'm getting unanimous nods in the room.

**Mr. Yao:** I'll save everyone some grief, and I'll pull that motion, please.

**The Chair:** Thank you.

All those in favour of Mr. Yao withdrawing the motion, please say aye. On the phone? Any opposed? On the phone? Thank you.

This motion has been withdrawn.

11:25

**Ms McKittrick:** I really appreciate Mr. Yao trying to work on this issue, and I think that all of us around this room recognize that it has been an issue for health care providers and others. As was pointed out by Mr. Shepherd, it doesn't just apply to our discussion here. I remember that when we were discussing the Mental Health Act and so on, it was really an issue.

I wanted to go back to the original motion that I made because . . .

**The Chair:** The recommendation?

**Ms McKittrick:** The recommendation. Yes. Sorry. The original recommendation was to suggest that the government of Alberta consult with stakeholders to ensure that the standards for information disclosure in the Missing Persons Act, the Health Information Act, and Children First Act are harmonized. The reason I wanted to put the word “consult” first around that is because sometimes a consultation allows everyone to be on the same side and to support what we have been told by Mr. Brower, that it appears there's no problem with the harmonization. But it is obvious from what we've heard and from Mr. Yao and so on that even though the acts appear not to have any problems around the harmonization, it is an issue for people who are required to give in the acts.

The original motion asks for consultation, which I think would then allow the relevant professional association and the relevant providers of information and practitioners to work with the government of Alberta through whatever ministry is applicable – I'm thinking Justice and Solicitor General, but it might involve the Privacy Commissioner and so on – to really work through that harmonization of data or information. So I'd like to go back. I'm

open to make some changes if anybody is interested, but I think that the importance here is the consultation with stakeholders.

**The Chair:** Thank you.

Just for the benefit of those on the phone I'll read it out: that the Standing Committee on Families and Communities recommend that the government of Alberta consult with stakeholders, including the College and Association of Registered Nurses of Alberta, to develop proposals to harmonize the standards for information disclosure in the Missing Persons Act, the Health Information Act, and the Children First Act.

Mr. Orr.

**Mr. Orr:** Yeah. Ms McKittrick, I think you've got it definitely going in the right direction here, especially the first half. Up to the comma after “Nurses of Alberta” I fully agree with you. In light of what we've heard about the continued affirmation that the acts are harmonized, I think the second half after that comma after “Alberta” maybe should move in the direction that they clarify practices and education to align with the Missing Persons Act and Health Information Act because I think that is the issue. It's practices and education that continually come forward as the areas of problem, so rather than look for harmonization – we've been told multiple times that harmony is there – it's about clarifying the practices and education, that they understand that clearly.

**The Chair:** Thank you. Would you just like to repeat after “Nurses of Alberta” what you would like to have?

**Mr. Orr:** Yeah. To clarify the practices and education to harmonize with those two acts.

**An Hon. Member:** Three acts.

**Mr. Orr:** Three acts. I'm sorry. You're right.

**The Chair:** We're just in the process of editing some of the wording. Is there anyone on the phone that has a comment or question?

**Mr. Orr:** I think you can keep the word “harmonize.”

**The Chair:** Is this the wording that you had wanted, Mr. Orr?

**Mr. Orr:** It's getting close. To clarify the practices and education: there's something missing there. There. Thank you. Leave it up to the lawyer.

**Mr. Smith:** Do we need to add in there – I'm sorry; no. Forget it. That's okay.

**The Chair:** Thank you.

**Ms McKittrick:** I just want to make sure that this is – I'm not sure if I should ask Parliamentary Counsel or the other lawyer, but is that something that the act can dictate, practices and education?

**Ms Hillier:** The act itself won't set out practices and education. Any recommendation to that effect is not an amendment to the act.

**The Chair:** Thank you.

Go ahead.

**Mr. Koenig:** Thank you, Madam Chair. The member might be able to confirm if this is what he's looking to do. If I'm understanding this correctly, the proposal would be to clarify practices and

education that are in place pursuant to the Missing Persons Act and to harmonize those practices and education with the Health Information Act and the Children First Act. Is that the idea here?

**Mr. Orr:** Yeah, I think so. I mean, if I'm understanding you, I think the disconnect is not between the acts but between the practice of the education and practices that the nurses are taught and what is already in the act.

**Ms McPherson:** Madam Chair.

**The Chair:** I'll put you on the list, Ms McPherson.

**Ms McPherson:** Thank you.

**Mr. Koenig:** What the committee may want to do, then, if I'm understanding this correctly, is that the recommendation would be to consult with stakeholders to, you know, educate those stakeholders with respect to the standards for information disclosure under the Missing Persons Act, the Health Information Act, and the Children First Act. So this is to create education with respect to how those acts function, not necessarily changing those acts themselves.

**The Chair:** Member McPherson.

**Ms McPherson:** Thank you, Madam Chair. I'm just wondering if it's really appropriate for – sorry; there's a real echo – the government to consult with stakeholders, including the College and Association of Registered Nurses, rather than the Justice and Solicitor General's department, because this is where the legislation is. The breakdown seems to be in the interpretation of the regulations and how they're implemented rather than a problem with the legislation itself. So I wonder if it would be more appropriate for the committee to urge the Department of Justice and Solicitor General to work with the other stakeholders in order to ensure that the people on the front lines who are responsible for implementing the legislation are really clear about what the limits are for their culpability and also what the requirements are for their responsibility.

**The Chair:** Thank you, Member McPherson.  
Anyone wishing to comment?

**Ms McKittrick:** I think the reason I wanted "the government of Alberta" is because, as far as I understand, the Ministry of Justice and Solicitor General is part of the government of Alberta, and it was just broader so that, if applicable, other ministries could be involved. I'm thinking that, especially around the Children First Act and the Health Information Act, there has to be Health involvement and Children's Services. So if we just put generally "the government of Alberta," we're assuming that Justice and Solicitor General would take the lead, but it doesn't narrow it to one ministry. It's broader as "that the government of Alberta consult with stakeholders." That's right. I wanted it to be broader to ensure the involvement of relevant ministries if applicable.

11:35

**The Chair:** Thank you.  
Anyone else wanting to comment or ask questions?

**Ms McPherson:** Yes, Madam Chair.

**The Chair:** Go ahead.

**Ms McPherson:** Thank you. My concern with making it too broad is that we get away from the issues that were brought forward by the stakeholders, where there is a real hesitancy to provide the

information that's going to be helpful in the time frame where it's going to be helpful. That's why I think that in this particular instance we should be more specific rather than broad.

**The Chair:** Thank you, Member McPherson.

Anyone wishing to comment or ask questions regarding the wording that we have before us?

Ms McKittrick, are you prepared to move the motion?

**Ms McKittrick:** Yes. I'd like to move it the way it is. I think we've talked a lot about it. I think we've worked really well together in terms of ensuring that everyone on the committee knew some of the issues this is trying to address. I would be happy to move it, and I'd like to thank Mr. Orr for his suggestions.

**The Chair:** Thank you.

Moved by Ms McKittrick that

the Standing Committee on Families and Communities recommend that the government of Alberta consult with stakeholders, including the College and Association of Registered Nurses of Alberta, to clarify the practices and education with respect to the standards for information disclosure in the Missing Persons Act, the Health Information Act, and the Children First Act.

Any questions or comments? Mr. Smith.

**Mr. Smith:** Thank you, Madam Chair. Where it reads "to clarify the practices and education," that potentially, I guess, is an okay word. Maybe the word that came to my mind is: is it to clarify, or is it to improve the practices and education with respect to standards for information? There's obviously a disconnect.

**The Chair:** Are you proposing an amendment?

**Mr. Smith:** Well, I guess I'd like to hear what everybody says before I do that.

**Mr. Shepherd:** I think I hear what Mr. Smith is saying. I would suggest perhaps, then, that if you want to have better clarity there, you could choose to replace the word "clarify" with "harmonize" or "align," and perhaps that would capture the spirit and the intent of the motion.

**Mr. Smith:** That would be fine.

**Mr. Shepherd:** If I may, then, Madam Chair, I will move such an amendment, that

we strike the word "clarify" and replace it with the word "harmonize."

**The Chair:** Thank you.

Any questions or comments on the amendment?  
Is that correct, Mr. Shepherd?

**Mr. Shepherd:** Yes. That is what I was requesting.

**The Chair:** Any questions or comments? On the phone?

I would like to first vote on the amendment that Mr. Shepherd moved to strike out "clarify" and substitute "harmonize." All those in favour of the amendment, please say aye. On the phones? Any opposed? On the phones? Thank you.

That's carried.

Back to the amended motion now. I will read it out. Moved by Ms McKittrick that

the Standing Committee on Families and Communities recommend that the government of Alberta consult with stakeholders, including the College and Association of Registered Nurses of Alberta, to harmonize the practices and education with respect to the standards



for information disclosure in the Missing Persons Act, the Health Information Act, and the Children First Act.

Any questions or comments? On the phones?

All those in favour of the amended motion, please say aye. On the phones? Any opposed? On the phone? Thank you.

Carried.

Is there any other member wishing to bring forward discussion on the recommendations before us this morning? Go ahead, Mr. Yao.

**Mr. Yao:** There was another recommendation, by Edmonton Police Service, that the forms need to be updated. They suggested some practical changes to existing forms, so I wonder if we could get some amendment to allow Justice to change some of these forms.

**The Chair:** Mr. Yao, can you point out in the issues document whereabouts that's located?

**Mr. Yao:** At 8(a) and (b), under Prescribed Forms, page 12, I think.

**The Chair:** Thank you.

**Ms Luff:** I have some comments with regard to that if there is space.

**The Chair:** Okay. I'll put you on the list.

Mr. Yao, do you have some wording that you would like to put forward?

**Mr. Yao:** Just that we revise form 1, the application for access to records, prescribed pursuant to section 14(f) of the Missing Persons Act, in accordance with the recommendations made by the Edmonton Police Service.

**The Chair:** Thank you.

While we're in the process of putting that up, Ms Luff, go ahead.

**Ms Luff:** No. I think that's fine. That was sort of around the wording that I had seen. I just think that this makes sense, that we sort of clean up the forms. It was recommended by EPS, the RCMP, some other folks as well. If they have recommendations on how to make the forms most effective, I think we should probably accept those recommendations.

**The Chair:** Thank you.

I'll just read it one more time: that the Standing Committee on Families and Communities recommend that the Lieutenant Governor in Council revise form 1, application for access to records, prescribed pursuant to section 14(f) of the Missing Persons Act, in accordance with the recommendations made by the Edmonton Police Service.

Any further questions or comments? On the phone?

Hearing none, Mr. Yao, are you prepared to move this motion?

**Mr. Yao:** Agreed.

**The Chair:** Thank you. Moved by Mr. Yao that the Standing Committee on Families and Communities recommend that the Lieutenant Governor in Council revise form 1, application for access to records, prescribed pursuant to section 14(f) of the Missing Persons Act, in accordance with the recommendations made by the Edmonton Police Service.

Any questions or comments? On the phone?

Hearing and seeing none, all those in favour of the motion, please say aye. On the phone? Any opposed? On the phone? Thank you.  
Motion carried.

**Dr. Massolin:** Madam Chair, if I may.

**The Chair:** Absolutely. Go ahead.

**Dr. Massolin:** Madam Chair, just out of an abundance of clarity, in case people are wondering about how this would appear in the draft final report, I would make the suggestion – and we'll get to that later on, of course, in the proceedings here – that the preamble and the contextual information surrounding the motion as just adopted by this committee could specify what those recommendations are just so that everybody reading the report would know that.

Thank you.

11:45

**The Chair:** Thank you. I appreciate that clarification.

Any other members wishing to bring forward discussion regarding the recommendations before us today? Go ahead, Mr. Ellis.

**Mr. Ellis:** Thanks, Chair. I'm just referring to prescribed forms, page 12 of the summary, (c), I believe. This was a recommendation by Alberta chiefs of police and the RCMP. In making application to a justice of the peace, both the RCMP and the Alberta Association of Chiefs of Police did indicate that an order to destroy released records might assist JPs concerned about approving an order. Again, we're talking about helping to streamline a process in these types of situations and, of course, providing comfort to the justices of the peace. Again, we're talking about missing persons. Their safety is imperative. It's not about anything regarding an investigation that is nefarious in nature although obviously it could lead down that road.

Obviously, if it's just a missing person that we're talking about and it's designed, of course, to provide justices of the peace with a greater comfort level when they're considering their application, I certainly have a motion for discussion if you'd like, Chair, whenever you're ready.

**The Chair:** Perhaps not a motion but some suggested wording?

**Mr. Ellis:** Yeah. Exactly. Sorry.

**The Chair:** Thank you. Go ahead, please.

**Mr. Ellis:** To recommend that the Lieutenant Governor in Council revise form 2, order for records, prescribed pursuant to section 14(f) of the Missing Persons Act, to indicate that a police service must destroy any records received in connection with that order within 90 days of the missing person being found.

Thank you, Chair.

**The Chair:** Thank you.

**Ms Hillier:** Just a technicality to point out. The Missing Persons Act regulation has that 90 days in it already, so it's no problem to put that on the form for the order. However, it says: 90 days if the missing person is found. If the missing person is not found, the regulation currently allows the police agencies to retain the information as their investigation would be ongoing. Also, the act itself, in the releases, for lack of a better word, allows them to keep it, for example, if the investigation becomes a criminal investigation. Currently there isn't an absolute stop on 90 days.

**The Chair:** Thank you.

Any questions or comments? On the phone?

**Mr. Orr:** Ms Hillier, are you implying that this should be worded differently, that it should remain the way it is, that this is too capping?

**Ms Hillier:** That's exactly what I'm saying. I have no concern whatsoever with indicating that on the order itself so that the judge includes it. But that is only one of the categories that is currently allowed, so that is much narrower than what the regulation currently says.

**Mr. Orr:** Right. I guess my comment would be, to Mr. Ellis, that maybe we should think about wording this a little bit more carefully. I don't know if we want to create that absolute cap in every case.

**The Chair:** Mr. Ellis.

**Mr. Ellis:** Yeah. I mean, certainly, I'm open to suggestions. This was, again, a recommendation by the police services. I agree with Justice in everything that was said. Of course, investigations of missing persons can lead down a road where it becomes criminal in nature, but I think that the police are really just trying to provide a comfort level for the justices of the peace when they are, you know, making their applications. Again, I'm open to suggestions if somebody can feel free to come up with a wording that's slightly softer. Again, we're just trying to take the recommendation from the police in these situations here.

Thank you.

**The Chair:** Thank you, Mr. Ellis.

**Ms Hillier:** I would suggest that you consider putting on form 2, the order, the qualifications and requirements, the limitations that are currently in section 7 of the regulation. That way, they would be part of the order as opposed to part of the regulation.

**The Chair:** Thank you. Can you repeat that?

**Ms Hillier:** Instead of the last clause, that says "any records received . . . within 90 days of the . . . person being found" – I'm fine up to "within." From "within," like, that last bit, instead of saying "within 90 days of the . . . person being found," reference that we want – the wording is that the qualification is in section 7 of the missing persons regulation.

**The Chair:** Go ahead.

**Mr. Koenig:** Thank you, Madam Chair. What may work here, then, is to indicate that a police service must destroy any records received in connection with that order in accordance with the regulations. That may better align with some of the different timelines for destruction. What I would just make sure the committee is aware of, though, is that the recommendation – all the regulations are made by the Lieutenant Governor in Council, so of course these requirements to destroy records would not be something that would come through the Assembly. They're not in the act; they're in the regulations. Members just need to be aware that the recommendation is that the order be revised to sort of reflect that destruction of records in accordance with the regulations. But exactly what those principles are in terms of destruction of records and the timelines related to that are not something that's being touched by this and not something that would be before the Assembly, just to make that clear for all the members.

**The Chair:** Thank you.

Any questions or comments with new wording? I can read it out: that the Standing Committee on Families and Communities recommend that the Lieutenant Governor in Council revise form 2, order for records, prescribed pursuant to section 14(f) of the Missing Persons Act, to indicate that a police service must destroy

any records received in connection with that order in accordance with the regulations.

Mr. Smith.

**Mr. Smith:** Thank you, Madam Chair. Mr. Koenig, you said that this would be subject to just regulations, and regulations can be changed outside of the Legislature or this committee. I understand that to be correct as well. I guess the question I've got for the committee is just simply: are we comfortable with that, or should we go to wording that is specific to the regulation and build it into this motion?

**The Chair:** Any comments regarding Mr. Smith's question?

**Ms McPherson:** It was really difficult to hear it on the phone.

**The Chair:** Perhaps, Mr. Smith, you can repeat yourself.

**Mr. Smith:** I can try. I just wanted to know if the committee was comfortable with the fact that this would be dealt with in accordance with the regulations or whether we wanted to get specific and build into this motion the specific items that are already in the regulation.

**The Chair:** Mr. Orr.

**Mr. Orr:** Yeah. I mean, there's a value to separating out what belongs in the legislation and in regulation, and I'm not sure it would be the right thing to do to put it into the legislation, to be honest.

I just would like to clarify with Ms Hillier, if I may. Did I completely understand you properly that you meant to reference regulations and not a particular part of the act?

**Ms Hillier:** The form for the order itself is also in regulation. That's where forms normally are placed. In order to do this, either way, as soon as I change forms – forms for legislation are normally located in a regulation under the act, and this one is no different. The forms are located in the regulation. So the regulation already sets out what those requirements are for retaining or destroying information that is obtained under the act. I have no concern either way, whether you reference them in the regulations or require the terms that are in the regulation to be set on the order form, because they would align. They're both included in the regulation itself.

11:55

**The Chair:** Thank you.

Anyone on the phones?

Mr. Ellis, are you prepared to move this as a motion?

**Mr. Ellis:** I am, Chair. Thank you.

**The Chair:** Thank you.

Moved by Mr. Ellis that the Standing Committee on Families and Communities recommend that the Lieutenant Governor in Council revise form 2, order for records, prescribed pursuant to section 14(f) of the Missing Persons Act, to indicate that a police service must destroy any records received in connection with that order in accordance with the regulations.

Any questions or comments? On the phones?

Hearing and seeing none, moved by Mr. Ellis that

the Standing Committee on Families and Communities recommend that the Lieutenant Governor in Council revise form 2, order for records, prescribed pursuant to section 14(f) of the Missing Persons Act, to indicate that a police service must destroy any records received in connection with that order in accordance with the regulations.

All those in favour of the motion, please say aye. On the phones? Any opposed? On the phones? Thank you.

Motion carried.

I would like to propose a question to the committee at this point, if you would like to break for a half-hour lunch at this point or if you would like to continue with the conversation.

**Mr. Orr:** I vote for lunch.

**The Chair:** Lunch?

**Mr. Smith:** Lunch.

**Mr. Yao:** Continue.

**The Chair:** Mr. Yao, the room here is all nodding yes for lunch.

With that, I will suggest that we break for half an hour for lunch, returning to the committee at 12:30.

Thank you.

[The committee adjourned from 11:57 a.m. to 12:30 p.m.]

**The Chair:** Thank you. I'd like to call this meeting back to order.

I would just like to remind committee members that we are scheduled today until 2 o'clock p.m., so perhaps in the interests of time we could simply identify which area of the document we are wanting to speak to and then propose the suggested language around that and then try and tweak it as quickly as possible to try and get through a lot of the work that we still have ahead of us. That being said, if we're not able to get it completed by 2, there is an option to, you know, continue this meeting at another date and time. I don't want members to feel rushed. I just want them to be aware that we are only scheduled today until 2.

With that being said, perhaps we can go on to the next member that would like to discuss some of the recommendations. Go ahead, Member McPherson.

**Ms McPherson:** Thank you very much. I'd like to draw our attention back to page 5 and recommendation 1(a). It's the definition of missing person. We heard from stakeholders. Specifically, Dr. Many Guns requested looking at expanding missing persons to include vulnerable persons and people at risk, and I do have some language proposed around this if that's helpful.

**The Chair:** Yes. Please go ahead.

**Ms McPherson:** Okay. I move that  
the Standing Committee on Families and Communities recommend  
that the Missing Persons Act be amended to expand the definition  
of missing person to include a vulnerable person and a person at  
risk.

**The Chair:** Can I clarify that you're moving this, or are you just wanting to have this as discussion?

**Ms McPherson:** Yes. I would love to move this.

**The Chair:** Thank you.  
Mr. Horne.

**Mr. Horne:** Thank you. I do have a couple of concerns, of course. You know, Dr. Many Guns made many great points, but I do have a couple of concerns around this particular concern that she raised. I know that when dealing with other legislation, the general rule is to leave definitions fairly broad. It's often better to have that broad definition so that it can encompass many things rather than trying to provide details that might limit the ability of police and the courts

to include something with the definition. I'm wondering if we could get any insight from Ms Hillier or from Parliamentary Counsel weighing in on this.

**The Chair:** Thank you.

**Ms Hillier:** I would caution that the court has interpreted the current Missing Persons Act very narrowly, and I would caution that adding any specifics to the definition, which is already quite broad, I think may encourage the court to interpret the definition more narrowly than the definition currently is interpreted.

**The Chair:** Thank you.  
Go ahead.

**Ms McPherson:** Thank you. I can appreciate that perspective. The reason that I brought the motion forward is because I heard really clearly that our indigenous communities in particular feel that the current legislation and the current context are not meeting their needs, and they are concerned that many of the people of their community that do go missing are not – those cases aren't being taken with as much serious consideration as would be required. We do have quite an issue. I mean, there's a federal commission on murdered and missing indigenous women. I think it's worth considering this motion to try and address their concerns.

**The Chair:** Thank you.  
Any other questions or comments? Mr. Horne.

**Mr. Horne:** Thank you. I can certainly appreciate, you know, that while I have definitely been fortunate to not have members of my own family go missing, as a member of the Métis community I do hear these concerns constantly in the community. However, my concern with expanding the definition is that we run the risk of creating a situation where there are fewer people not just within the indigenous community but also the indigenous community and otherwise where they would now be interpreted outside of the Missing Persons Act more so than currently happens. While I definitely appreciate the concern, I'm just concerned about the impact that this motion would have.

**The Chair:** Thank you.

**Ms McPherson:** Madam Chair, I have a question about that. I'm wondering if the member can provide an example or an explanation in more detail because I'm quite unclear about the concern. It was in pretty broad terms, and I'm having trouble connecting that.

**The Chair:** Thank you.  
Go ahead.

**Mr. Horne:** Thank you. You know, any time you start expanding written definitions, you get more and more specific with the definition. To really give an answer, I would need to know how exactly it would be worded. However, my understanding from past reviews is that the more we expand the definition, the more criteria courts and the police will feel have to be ticked off before it falls under this act. So I am concerned about that move.

**The Chair:** Thank you.  
Go ahead.

**Ms McPherson:** Thank you. What if we were to change the wording and rather than include "a vulnerable person and a person at risk," it would read "a vulnerable person or a person at risk"? The idea isn't to try and get the court to interpret things more narrowly, but it

certainly is to encourage the whole system to consider other circumstances and to be more inclusive, especially of our indigenous communities, when considering cases of missing persons.

**The Chair:** Thank you, Member McPherson.

Are there any members wanting to amend Ms McPherson's motion or wanting to comment or who have questions about the motion?

**Mr. Horne:** If it is more helpful for the member, perhaps we could get some further clarification from Justice if there are any further thoughts.

**Ms Hillier:** My concern with this is that we would have to define who is a vulnerable person, and as soon as we do that, the court is within its rights to say: in order to be within the definition of the Missing Persons Act, you have to start checking one of these boxes, so please indicate and prove by evidence which of these boxes apply under vulnerable person. I think that that is actually a narrower definition. In other words, adding that, I think, actually would have the effect of narrowing what's currently there, because now, you know, you have to start deciding: "How are you a person at risk? How are you a vulnerable person?"

I would suggest that maybe the committee would like to think about setting out those criteria and extra criteria to be considered in a regulation. That would allow us to – in other words, if the court starts to interpret it narrowly because of the list of criteria, then we have more option to go back and add to that list because it's in a reg and not embedded in the definition in the act.

I would also point out that about three weeks ago the province of Ontario passed a version of the Missing Persons Act, and their definition allows for that opting to a regulation with extra criteria.

**The Chair:** Thank you.

Any comments or questions? Go ahead, Mr. Ellis.

**Mr. Ellis:** Just, I guess, a question for Ms Hillier. As the motion reads, is there a concern that because it's narrow, we may unintentionally run the risk of excluding people when, really, our intent – correct me if I'm wrong – is to try and be more inclusive and help more people? Is there an unintention of maybe excluding people because of the court's possible interpretation?

**Ms Hillier:** That's exactly a very nice statement of what I mean, actually. What I am concerned about is that we could unintentionally set up a situation where somebody who is missing doesn't qualify under the act because they're not a missing person according to any of the criteria that's set out. Despite, you know, best efforts there's no guarantee on how a court would interpret adding the requirement or a condition on a vulnerable person.

12:40

**The Chair:** Thank you.

Any other questions or comments? Mr. Shepherd.

**Mr. Shepherd:** Thank you, Chair. I appreciate the intent of Member McPherson's motion and certainly the concerns that were brought forward by Dr. Many Guns and that we've heard from others, but in listening to what Justice has said on this and indeed looking at the act now and looking at what the definition currently is, that being that

"missing person" means

- (i) an individual who has not been in contact with those persons who would likely be in contact with the individual, or
- (ii) an individual

- (A) whose whereabouts are unknown despite reasonable efforts to locate the individual, and
- (B) whose safety and welfare are feared for given the individual's physical or mental capabilities or the circumstances surrounding the individual's absence,

that seems, to me, to be fairly comprehensive. It certainly encompasses what's included in this motion.

I appreciate the concerns that were brought forward by Dr. Many Guns that many in the indigenous community may feel that perhaps within this definition there's not enough action being taken in some cases that they bring forward. But that doesn't strike me as being due to those cases not falling under the definition as much as perhaps a discussion with law enforcement or others who are involved about how that's interpreted. Perhaps, then, that's more an issue of education than attempting to constrain or change the legal definition in a way that we feel might compel them to take the action that's desired. On the advice of Justice and looking at things here, I personally don't feel I can support this motion.

Thank you.

**The Chair:** Thank you.

Any other members wanting to add comments or questions? On the phones?

Hearing or seeing none, moved by Member McPherson that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to expand the definition of missing person to include a vulnerable person and a person at risk.

All those in favour of the motion, please say aye. On the phone? All those opposed? Thank you.

This motion is defeated.

My understanding is that Ms McPherson has another motion.

**Ms McPherson:** Yes. Thank you very much, Madam Chair. This is in reference to page 11, and the recommendation is under 7(b). It has to do with helping to clarify and help the police respect the wishes of mature minors. What we heard was that there were concerns that there isn't a lot of clarity around that and that the RCMP in particular, I believe, would appreciate more clarity about the latitude that they have to take the wishes of mature minors into account.

**The Chair:** Thank you.

**Ms McPherson:** I do have a motion.

**The Chair:** Go ahead.

**Ms McPherson:** I move that the Standing Committee on Families and Communities recommend that the missing persons regulation be amended to allow police more discretion to respect mature minors' wishes.

**The Chair:** Thank you, Member McPherson. I'm just being informed that the recommendation has to be made to the Lieutenant Governor in Council, so that would have to be amended to reflect that because you did move it as a motion, as long as you accept it. Is that acceptable?

**Ms McPherson:** Yes.

**The Chair:** Thank you.

Are there any comments or questions? We're just in the process of amending that wording to include the additional requirements.

Anyone on the phone with questions or comments?

**Mr. Ellis:** Yes. I'd just like to know if Justice has an opinion on the motion before us at this time.

**The Chair:** Thank you, Mr. Ellis.  
Go ahead.

**Ms Hillier:** I have no concerns with this.

**The Chair:** Thank you.  
Go ahead.

**Ms Rempel:** I believe that Member McPherson has moved that the Standing Committee on Families and Communities recommend to the Lieutenant Governor in Council that the missing persons regulation be amended pursuant to section 14 of the Missing Persons Act to allow police more discretion to respect mature minors' wishes.

**Ms McKittrick:** I'm sorry. It's not an area that I know a lot about, but what powers are already in place that would make police not respect a mature minor's wishes?

**Ms Hillier:** Currently the regulation requires police to consider whether a minor is a mature minor, and then it defines mature minor. But currently the regulation only requires police to consider that factor when they are considering releasing information collected under the act at the request of a guardian or a parent to that guardian or parent. Currently that's the only obligation they have to consider, if someone is a mature minor or to consider their wishes in that regard.

**The Chair:** Thank you.  
Go ahead, Mr. Shepherd.

**Mr. Shepherd:** Thank you, Chair. Just to clarify, then – and perhaps the member could answer this as well. I just want to clarify: what is the meaning, I guess, around allowing police, then, more discretion? What you've just described is that they are compelled to consider it. It doesn't sound, to me, like there's anything that's barring them from exercising discretion. I'm just trying to get a better sense of what we mean by allowing them more discretion. What is it we're trying to define or set out?

**Ms Hillier:** I'm going to give you an example. In anything else they do, they don't have to consider it. For example, if they locate that minor and are going to return the minor to their parents or indicate where the minor is, et cetera, how their investigation has been pursued or gone, they don't have to consider in any of those circumstances whether the minor is a mature minor. They only have to consider it currently when they're considering releasing the information that they collected under the act to the parent or guardian.

**Mr. Shepherd:** Okay.

**Ms Hillier:** So if they go in under a search order and find the mature minor, for example, they don't have to consider whether this is a mature minor in terms of whether they're going to return them to their guardian or parent.

**Mr. Shepherd:** Is that something that's contained within the Missing Persons Act?

**Ms Hillier:** It's contained within the regulation itself.

**Mr. Shepherd:** Within the regulations, the question of returning that child to their parents?

**Ms Hillier:** Well, what I'm saying is that currently, when they consider somebody as a mature minor and what that mature minor's wishes are, the only limit is included in the regulation, and the only limit is if you're going to release information to a parent or guardian. For anything else that happens with respect to a child, to a minor, they don't have to consider whether they are a mature minor.

**Mr. Shepherd:** Again, I'm just wanting to clarify: are there other aspects within this act that would be encompassed? My understanding is that this act only pertains to the release of that information. So if it's contained in that, if they already have to consider it as part of that, what other part of this act would we be adding this to or giving them more discretion in?

**Ms Hillier:** The one that comes to mind immediately is the one where you can get an order under the act to enter into a private dwelling if you are looking for a minor.

**Mr. Shepherd:** Okay.

**Ms Hillier:** Okay. One of the police officers actually mentioned that then they run into the case where, you know, if they are a mature minor, the act doesn't say anything about considering the rights or wishes or well-being of the child as a mature minor. It doesn't include that at all. So if they go in and find them and they're, say, right under the legal age, that they're 17 and a half, there's nothing in the act that requires the police or even authorizes them, from the point of view of the Missing Persons Act, to consider the wishes of that child.

**12:50**

**Mr. Shepherd:** I see. Thank you. So there are sections of the act which give additional powers when they're dealing with a minor. This would be just giving them additional discretion, then, in considering: "Oh, wait a minute. This is a mature minor. Perhaps we should approach this slightly differently."

**Ms Hillier:** Correct. And the children's' organization, for example, did mention that as well, about just asking for the wishes of the minor.

**Mr. Shepherd:** Excellent. Thank you for that clarification. I appreciate it.

**The Chair:** Thank you.  
Ms McKittrick.

**Ms McKittrick:** Yeah. Again, it's an area where I have very little knowledge, but I'm wondering: if the police do find the minor, do they ever check through Children's' Services to see if there's an issue? What would happen if the person was saying, you know, "I don't want to go back because it's an abusive situation"?

**Ms Hillier:** The Missing Persons Act, of course, you know, stops where it stops. It doesn't override or deal with any of the situations that the legislation for Children's' Services deals with, so all of those obligations and responsibilities continue. They're not affected by missing persons and by this piece of legislation.

**Ms McKittrick:** So if the minor would say, "I ran away from home because I was being abused" or if it's a bad situation, the police would take that into account? They would refer to . . .

**Ms Hillier:** I can't speak for the police, but the legislation that governs that and the processes that govern it operate completely

separately from missing persons and they still exist. All of those requirements are still there.

**The Chair:** Any other questions or comments? Mr. Smith.

**Mr. Smith:** Thank you, Madam Chair. Thank you for the comments and the questions that have been asked here. As a former teacher the vision that comes into my head is one of, you know, some of the students that I've taught over those 30 years that sometimes ran away, sometimes were involved in drugs and were out-of-control students, and they go missing. Sometimes you can have people – not just kids but people – who, when their choices have been taken away by drugs or mental health issues, can actually be very persuasive with police. “Oh, I can't go home. I can't do this. I can't do that.” I'm just worried about the child that is not making good choices in their life already and has gone missing, that now is found, and the police have been given the discretion not to inform the parents, without having a real good understanding of where that child is coming from, what's happened.

I understand everything that you've said about wanting to protect the child, but then sometimes you have to protect them from themselves. It's a very difficult place to put police in. Am I wrong in my understanding of this, Ms Hillier?

**Ms Hillier:** I would point out that the Missing Persons Act only deals with the investigation under missing persons. All the other legislation that normally operates and gives options in those complex situations is still there. This legislation doesn't touch on or address or deal with anything outside of that one missing persons investigation.

**Mr. Smith:** Can I ask one more question, then?

**The Chair:** Go ahead.

**Mr. Smith:** So, in your opinion, do you believe that the police need more discretion?

**Ms Hillier:** In my opinion, the act, the regulation currently only require them to even consider the mature minor's opinion when it comes to the release of those records. They currently do not even have the option under the act of considering a mature minor's opinion for anything else. Beyond that, that is a choice and a policy choice that I can't speak to.

**The Chair:** Thank you.

**Mr. Orr:** Just to poke a little bit on that one, looking at the act, section 7(5), I guess it is, states very clearly that they are to disclose that information to a parent or guardian with a fairly significant if: “if, in the opinion of the police service, the disclosure will protect the safety of the person.” I would read that to be fairly clear, that if the police officer feels there is an issue of safety for that child, then the condition is already there that they will not disclose.

So I guess I question the value of the motion, and my concern would be partly to balance it with the legal duty of care that parents or guardians or trustees have for children. If they're to fulfill their legal duty of care, in some cases they do need to have information. I don't think we should automatically assume that that means they're going to be abusive about it. In fact, the police officer already has the right to protect the child if they suspect that that's the case. I mean – I don't know – I just see that when it says “if . . . [it] will protect the safety of the person” in section 5, I don't think there's anything to be gained by this motion, personally.

**The Chair:** Go ahead.

**Ms McPherson:** Thank you. I'm drawing information from the discussion that we had with the stakeholders, and it was very clear from the RCMP and from the Alberta Rural Development Network that this is an issue. This is something that they believe merits discussion and that can be an obstacle to the most positive outcome under this act. That's why I brought the motion forward. It's certainly not intended to make things any more difficult, but it is intended, definitely, to recognize that mature minors have rights as well and that to continue with the regulations as they are actually contravenes their rights. That's why I brought the motion forward. It certainly is something that the RCMP as well as the Alberta Rural Development Network have asked about.

**The Chair:** Thank you, Member McPherson.

Any other members wishing to add comments or questions? On the phone? Thank you.

Moved by Member McPherson that

the Standing Committee on Families and Communities recommend to the Lieutenant Governor in Council that the missing persons regulation be amended pursuant to section 14 of the Missing Persons Act to allow police more discretion to respect mature minors' wishes.

All in favour of this motion, please say aye. On the phone? All opposed, please say no. On the phone?

Motion defeated.

Mr. Orr.

**Mr. Orr:** If I may, for the record I cited the act numbers wrongly. Pardon me. It's actually section 7(5) that I was referring to, not section 5. I'm sorry.

**The Chair:** Thank you.

Mr. Dach.

**Mr. Dach:** Thank you very much, Madam Chair. I'd like to move now to consideration of the issues document, item 9, with respect to sealing records associated with court orders. That's on page 13 of the issues and proposals document, dealing specifically now with, starting with 9(a), the topic of court-ordered publication bans where children and youth are involved. The issues document cites that “a provision should be added to the Act establishing a ‘general publication ban’ on applications for record access or search orders involving missing children and youth.”

I have a couple of comments and questions on this. I think we have a case here where the RCMP recognizes the value of sealing court cases related to abusive relationships and another where the Canadian Centre for Child Protection recognizes the value of publication bans for cases involving children. However, I'm wondering whether or not, Madam Chair, there is any downside to this, and I would appreciate it if Justice and Solicitor General was able to give their opinion. I'd be willing to make a recommendation.

**The Chair:** Thank you.

Go ahead.

**Ms Hillier:** My only concern is that it be an optional request and not required in every situation, because the act also allows for police agencies to release certain information that they collect for a media release in order to try to get the public's help in locating a missing person.

1:00

**Mr. Dach:** So your recommendation would be that applications and orders made under the act would not necessarily be required?

**The Chair:** I just hesitate. There's someone on the phone that hasn't muted their line. I would please ask that you mute.

**Ms Hillier:** I'm just saying, for sealing orders in the court, that they not be required for every situation that's for a minor or for one of those situations but an option, that it can be asked for by the court, because the court would have to order it.

**Mr. Dach:** Are there a limited number of items or situations that you would want to itemize to exclude from that requirement?

**Ms Hillier:** I think it would be easier to list the ones where you thought it should be sealed, even something general, for example, like where, you know, the justice is of the opinion that sealing the order would aid in protection of the child or something like that.

**Mr. Dach:** Okay. Well, thank you for that.

Notwithstanding your comments, I will read in a recommendation as a suggestion, anyways, and we can work with it for starters. I recommend that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to require applications and orders made under the act to be sealed.

I believe that electronically it has already been conveyed.

**The Chair:** Thank you.

Any members with comments or questions?

**Mr. Ellis:** Mr. Dach and I are on the same page today, so that's a very positive thing. I'd like to thank him again for this. You know, the only thing I will add is that I think the RCMP, if I recall, are concerned, of course, about the safety of a missing person, especially, who might be involved in a domestic assault or a sort of domestic situation. So I do agree with Justice in regard to, I guess: the JPs or judges need to have we'll call it the discretion or the option per se in case something doesn't need to be sealed. I'm certainly open to further talk on the subject, but as I see it currently, I'm certainly agreeing with Mr. Dach on his motion.

Thank you.

**The Chair:** Thank you, Mr. Ellis.

**Mr. Dach:** I'm just wondering if indeed perhaps a one-word change might actually fix this: replace the word "require" with the word "permit."

**The Chair:** Any questions or comments?

**Ms Hillier:** I agree with that.

**The Chair:** Anyone on the phone?

Mr. Dach, are you prepared to move this motion?

**Mr. Dach:** I am.

**The Chair:** Moved by Mr. Dach that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to permit applications and orders made under the act to be sealed.

Any questions or comments? On the phone?

All those in favour of this motion, please say aye. On the phone?

Any opposed? On the phone?

Motion carried.

Any other members wishing to discuss a recommendation? Mr. Dach.

**Mr. Dach:** Thank you, Madam Chair. Once again I wanted to, in the interest of time, see if we can move along to the interjurisdictional recognition of court orders, page 14 of the issues and proposals document, item 10(a) in particular, recognition by Alberta of court orders made under the missing persons legislation elsewhere in Canada. It's been indicated that

a provision should be added to the Act to allow for the recognition in Alberta of court orders made under the missing persons legislation in other provincial jurisdictions (British Columbia, Manitoba, Nova Scotia, Newfoundland and Labrador, and Saskatchewan [with respect to orders for access to information only]).

I do have a few comments about this. It seems to be a good-sense item. I know, looking at the transcripts of the presentations, that it was supported by quite a few of the stakeholders. Of course, we all know that we're a pretty mobile population and that Canadians move from province to province and territory to province quite often. Given that mobility, I think it would be a good tool for police forces to have, and it just makes sense to adopt it. So I'm prepared to make a recommendation after discussion.

**The Chair:** Thank you. Do you have a question, or do you want to put the . . .

**Mr. Dach:** I'm prepared to make a wording recommendation for discussion.

**The Chair:** Go ahead.

**Mr. Dach:** The recommendation for wording for discussion that I would have now would be that the Standing Committee on Families and Communities recommend that the government of Alberta engage with other provincial and territorial jurisdictions to develop a co-ordinated legislative approach to missing persons legislation that would allow for the reciprocal recognition of court orders across Canada. More or less a housekeeping matter.

**The Chair:** Thank you, Mr. Dach.

Any questions or comments while we're putting this up? On the phones? Okay. Go ahead, Mr. Smith.

**Mr. Smith:** Yes. We were going to bring something similar to the table. I just would speak in favour of it. I think it's a common-sense motion, and let's pursue it.

**Mr. Dach:** I didn't hear a word you said.

**Mr. Smith:** Wow. Okay. I was just going to say that I think it's a common-sense recommendation, and I think that I can support that wholeheartedly.

**Mr. Dach:** I agree with what you said the first time.

**The Chair:** Mr. Dach, are you prepared to move this motion?

**Mr. Dach:** Yes, I am.

**The Chair:** Thank you.

Moved by Mr. Dach that

the Standing Committee on Families and Communities recommend that the government of Alberta engage with other provincial and territorial jurisdictions to develop a co-ordinated legislative approach to missing persons legislation that would allow for the reciprocal recognition of court orders across Canada.

Any members have questions or comments regarding this motion? On the phones?

Seeing and hearing none, I would ask: all those in favour of this motion, please say aye. On the phone? Any opposed? On the phone? Thank you.

Motion carried.

Any other members wishing to bring up recommendations? Mr. Orr.

**Mr. Orr:** Yeah. Under section 11(c), accountability mechanisms, I believe that most of the other provinces require the police to provide some sort of a report. The Institute for the Advancement of Aboriginal Women also suggested that Alberta would do likewise, so I'd like to suggest some wording if I may.

**The Chair:** Please.

**Mr. Orr:** It would be that we amend the act to require police services to produce an annual report on the use of their powers under the act.

**The Chair:** Thank you.

While we're waiting for that to be put up on the screen, does anyone have any questions or comments?

**Mr. Dach:** I'm just wondering if Mr. Orr could provide a bit more detail, as we wait for the discussion to appear on the screen, as to where this information would be collected and through what mechanism it would be disseminated. Any ideas on that?

**Mr. Orr:** Yeah. Those are probably good questions. I mean, obviously, the police services would have to compile it themselves, and maybe we should specify who they report it to, probably to the department. It might be useful. I don't know. Any suggestions?

**Mr. Dach:** I think we should ask Justice and Solicitor General for suggestions.

**Mr. Orr:** Yeah. That's kind of where I was looking.

**Ms Hillier:** I don't have a view, of course, on the policy decision of where you want them to report. I would, though, point out that the act itself is the responsibility of the Minister of Justice.

**Mr. Orr:** Would there be a reason to want to make that report public? I don't know.

**Mr. Shepherd:** I was wondering if Justice could perhaps comment. Is there any sort of similar mechanism for any other acts in place that would be comparable, where police would be required to report on the use of a particular piece of legislation?

**Ms Hillier:** Not off the top of my head. However, I would also caution that if we were to have such a report, I'm sure that there are going to be officers of the Legislature that would probably like to see it such as the Information and Privacy Commissioner, for a beginning, because the commissioner retains responsibility under missing persons.

**Mr. Shepherd:** Thank you.

1:10

**The Chair:** Thank you.

Mr. Hinkley.

**Mr. Hinkley:** Well, I don't want to just speak on 11(c). I would like to speak on points (b) through (e) when Mr. Orr is finished.

**The Chair:** Oh. Okay. Thank you.  
Go ahead, Ms Robert.

**Ms Robert:** Thanks, Madam Chair. I just wanted to refer the committee to the crossjurisdictional information that was prepared with respect to missing persons legislation in Canada, pages 18 and 19, which talk about annual reporting and reporting by police with respect to the act. The reporting in the other jurisdictions relates only to the use of emergency demands. It doesn't include, necessarily, all missing persons investigations, just when emergency demands have been used. Just for the committee's information.

**The Chair:** Thank you very much.

Any further questions or comments?

**Ms McKittrick:** I really appreciate that possibly this is coming from the concerns that were expressed by our First Nations communities around having perceived that the Missing Persons Act has not applied to them. I really appreciate that. I'm just not quite sure that resolving the issues that were presented to us fits in with this motion. I think the issues they presented are really important issues, and we should pay attention to them, but I don't think this is what is going to make it happen.

**The Chair:** Thank you.

Anyone on the phones with questions or comments?

Mr. Smith.

**Mr. Smith:** Thank you, Madam Chair. I'm just thinking back to the conversations that happened when the stakeholders were presenting to us, and I can just see the frustration on their faces when they were discussing this particular issue. The question was brought up: well, who would you report to? I'm not even sure that for most of the stakeholders that was the important question. I think what they wanted was to be able to have their local police service, wherever that was located, at least publish and produce an annual report that they could access. You know, at the end of the day, when I remember back to what they were suggesting to us, I think this recommendation probably encapsulates what they were asking for. I'm not sure that it really needs to go much beyond just the police service, that they would publish an annual report on the use of the powers under the act for those people within their locality. If that speaks to the needs of our indigenous community, I think we should support it.

**The Chair:** Thank you, Mr. Smith.

Any other questions or comments? Mr. Dach.

**Mr. Dach:** Yeah. I'm just wondering: what type of metrics might end up being used for these reports? I know that a lot of the investigation that takes place around some of these missing persons involves phone calls and personal interviews. I know that the police have indicated that they could perhaps provide reporting on a basic level, perhaps to report why the emergency record demands were made or how many times they requested a court order for record access. But to get into more detail and to provide much more, smaller details about the actual work that they did, I think might be difficult. I'm just wondering whether or not we should be limiting it to reporting how many times they used the emergency record demand or a court order for record access.

**The Chair:** Is there someone specific that you're asking the question to, Mr. Dach?

**Mr. Dach:** I'm wondering if any other committee members have comments on that suggestion or query.



**The Chair:** Thank you.

Any other members wishing to respond? On the phones?

Mr. Shepherd.

**Mr. Shepherd:** Thank you, Chair. I appreciate Ms Robert's comment, noting that, I guess, this is something that's been looked at crossjurisdictionally. Yeah. I just took a moment to go back and take a look at it here. I do note that, as she mentioned, the legislation in B.C., Manitoba, and Newfoundland and Labrador does require the police to produce an annual report, which was noted, specifically on the use of emergency demands for the previous year. We've had some discussion about who that goes to. I note that here it does mention that in this case it goes to the minister or a person designated by the minister. That report is made public, so that speaks to what Mr. Smith was talking about in terms of folks wanting to have a bit more information on that. Currently, yeah, our legislation doesn't have that provision.

It does note here some of the information about what, I guess, they're required to include. Manitoba, Labrador require, I guess, just a summary of the type of records that were sought in each of the demands that were put forward. B.C.'s regulation goes a little deeper and actually prescribes quite a bit of additional information, it appears here. It asks about the number of times that each record was set out according to their section on emergency demands, how often a demand was made because the time required to apply for an order may have resulted in serious bodily harm, or how often a demand was made because the time required for applying for an order may have resulted in destruction of a record. It also talks about the number of missing persons investigations in which they made a demand or, if the police force preparing the report is a provincial police force, the location of all the detachment members who made such a demand.

Potentially, I could see this information being useful, and that may provide a bit more context, I guess, for what Mr. Dach was asking about in terms of how the mechanics of such a thing might work.

From there, I'm not sure if any other members have any comments or thoughts.

**The Chair:** Go ahead, Mr. Hinkley.

**Mr. Hinkley:** Yes. Could I make an amendment?

**The Chair:** It's not an amendment. It's not a motion. You could suggest wording changes.

**Mr. Hinkley:** Change of wording.

**The Chair:** Yeah.

**Mr. Hinkley:** Okay. Maybe for this that we look at that the Standing Committee on Families and Communities recommend that Justice and Solicitor General co-ordinate with police services . . .

**The Chair:** Okay. Can you just slow down?

**Mr. Hinkley:** . . . to examine annual reporting on the use of their powers under the Missing Persons Act.

**The Chair:** Okay. We might need that again and just a little bit slower, please.

**Mr. Hinkley:** Okay.

**The Chair:** Alberta Justice co-ordinate . . .

**Mr. Hinkley:** Yeah. Justice and Solicitor General co-ordinate with police services to examine annual reporting on the use of their powers under the Missing Persons Act.

**The Chair:** And then delete the rest of that sentence?

**Mr. Hinkley:** Yes. Like, what we're trying to get at is that it is important to co-ordinate with the police on reporting. We're concerned about how it would impact their work and their workloads already.

**The Chair:** Any questions or comments? Go ahead, Mr. Ellis.

**Mr. Ellis:** Thanks, Chair. Yeah. I just want to say that, you know, the way I read the initial comments by Mr. Orr, I mean, the way I see it, is that it really has to do with transparency and transparency involving public trust, right? Mr. Smith actually hit, I would say, the nail on the head when he spoke of some of our stakeholder groups that really are just wanting to know that our police services are indeed doing what is asked of them. Certainly, with some of our presenters you could sense their frustration with some of the experiences they had. Ensuring that there is a reporting mechanism: quite frankly, I can't see why any police service would have an issue in disclosing simple data such as this just to report and help to improve the public trust within our communities where maybe there's been a slight diminishment of that.

Thank you very much, Chair

**The Chair:** Thank you, Mr. Ellis.

Mr. Orr.

1:20

**Mr. Orr:** Yeah. I think that the suggestions made by Mr. Hinkley are certainly reasonable. It definitely is a complex issue, how it gets done. I don't think that we are at a stage today where we would be prepared to define all the administrative details, so wording it this way is something that I think I can support.

**The Chair:** Thank you.

Any other questions or comments? On the phone?

Mr. Orr, are you prepared to move this as a motion?

**Mr. Orr:** Absolutely. Thank you.

**The Chair:** Thank you.

Moved by Mr. Orr that

the Standing Committee on Families and Communities recommend that Alberta Justice and Solicitor General co-ordinate with police services to examine annual reporting on the use of their powers under the Missing Persons Act.

Any questions or comments? On the phone?

Hearing and seeing none, all those in favour of the motion, please say aye. On the phone? Any opposed? On the phone? Thank you.

This motion is carried.

Mr. Hinkley.

**Mr. Hinkley:** Yes. Still on number 11, accountability mechanisms, just a couple of comments. I want to maybe lump all the points (b) and (c) together as this category really relates to accountability and reporting in some way. I do want to recognize the indigenous groups who came to present to us, and I want them to know that their concerns about the Missing Persons Act and about the vulnerability of the indigenous population were heard and acknowledged by the committee.

I do have some concerns about how all of these recommendations for changes to the Missing Persons Act would actually work in

practice. That was partially what we've discussed here. The reporting is an issue, but I want to go down a little bit further. When we get to, for instance, 11(d), one of the recommendations was that there be established an offence and a penalty where the police refuse to take action. I think that some of these recommendations do stem from the fact that the indigenous and marginalized people do face challenges and that it is important to recognize those challenges, but I don't know that the Missing Persons Act is the appropriate place to deal with those challenges. There actually already are mechanisms for complaints about police, so I don't think that we need to put into this fines and penalties like that. Perhaps, Madam Chair, trying to acknowledge the challenges faced by indigenous and other marginalized people by making a general recommendation, I would like to make a recommendation . . .

**The Chair:** Go ahead.

**Mr. Hinkley:** . . . that the Standing Committee on Families and Communities recommend that the government of Alberta take into consideration these special circumstances faced by marginalized groups in Alberta as part of any amendments being proposed to the Missing Persons Act and that it consider the creation and adoption of strategies for dealing with those groups to encourage more effective communication between police services and the marginalized groups they serve.

**The Chair:** Thank you.

There's someone on the phone line that has been unmuted. I'm not sure if you wanted to ask a question or offer a comment. Is anyone wanting to add any additional comments or ask any questions regarding this statement?

**Mr. Orr:** A question for Mr. Hinkley. I just want your comments about where you see this fitting in, where the report recommends that the police be required in some form or another to report back to the families or the person who made the missing person report within 24 hours. I'm not sure I agree with the 24 hours, but I just wondered: what are your thoughts on that? Is that included in what you're intending?

**Mr. Hinkley:** I didn't get to the specifics of that, and that might be something that we would consider. I'm certainly open to having input on that, if there should be a time limit on when those reports are done. Part of the concern that we've talked about a little bit is that sometimes those missing persons are missing by choice and maybe do not necessarily want to be reported back. We're not just talking about children; we're talking about adults. Are the police obligated to do that? I'm open to discussion on that.

**The Chair:** Thank you.

Anyone wishing to respond or add comments?

**Mr. Smith:** I understand the intent and can support the intent of this, but I'm wondering if it's just a little wordy. Couldn't we just start with that the Standing Committee on Families and Communities recommend the consideration and the creation and adoption of strategies for dealing with those groups to encourage more effective communication between the police? So "recommend," and then get rid of the middle part and pick it up under "consider the creation and adoption of strategies."

**The Chair:** Any questions or comments on that? Mr. Horne.

**Mr. Horne:** Yeah. Just to point out that that drops the section on marginalized groups, and I think that's the entire . . .

**Mr. Smith:** It is in there.

**Mr. Orr:** At the very bottom.

**Mr. Horne:** It is, although I'm just thinking that it might be important grammatically to have it up at the top as well.

**Mr. Smith:** I just thought it was too wordy and that we could just shrink it down a little bit. That's all.

**The Chair:** Anyone on the phone?

**Mr. Ellis:** Chair, could you ask Mr. Smith to repeat that? I kind of heard every second word he was saying there.

**Mr. Smith:** Good gosh, between you and Mr. Dach.

**Mr. Ellis:** I told you. We're on the same page.

**Mr. Smith:** I just thought that it was a fairly long and wordy recommendation and that after "the government of Alberta" and then where it picks up again at "consider," if we took that section out, it would read that the Standing Committee on Families and Communities recommend that the government of Alberta consider the creation and adoption of strategies for dealing with those groups to encourage more effective communication between police services and the marginalized groups that they serve. I don't think we're changing anything in the intent, just getting rid of that.

**The Chair:** Thank you.  
Mr. Shepherd.

**Mr. Shepherd:** Thank you, Chair. I can certainly appreciate Mr. Smith's intent in wanting to shorten things down. My one concern is that I think it is important to note that the reason for this is that there are special circumstances that are faced by marginalized groups, so I think it's important to keep that in there. But we could possibly rephrase in a way that would still contain that while not being quite so lengthy, something along the lines of that the government of Alberta, in considering amendments to the Missing Persons Act, consider the creation and adoption of strategies for dealing with marginalized groups. How about "for dealing with the challenges faced by marginalized groups in order to," and then "encourage more effective communication"?

**The Chair:** Any questions or comments? On the phone?  
Mr. Hinkley, are you prepared to move this motion?

**Mr. Hinkley:** Yes. I think it is important, again, that we recognize the indigenous concerns about the disconnect between themselves and the police, and this is working on strategies to take that into account. But, yes, I would move that.

**The Chair:** Thank you.  
Mr. Shepherd.

**Mr. Shepherd:** Thank you, Chair. My apologies. Just coming from a communications background and being kind of precise about words sometimes, rather than "for dealing" may I suggest "to deal," "the creation and adoption of strategies to deal with"?

**The Chair:** Thank you.

Mr. Hinkley, are you prepared to move this motion?

**Mr. Hinkley:** Yes.

1:30

**The Chair:** Thank you.

Moved by Mr. Hinkley that

the Standing Committee on Families and Communities recommend that the government of Alberta, in considering amendments to the Missing Persons Act, consider the creation and adoption of strategies to deal with the challenges faced by marginalized groups in order to encourage more effective communication between police services and the marginalized groups they serve.

Any questions or comments? On the phones?

Hearing and seeing none, all those in favour of this motion, please say aye. On the phone? Any opposed? On the phone? Thank you.

This motion is carried.

Ms Miller.

**Ms Miller:** Thank you, Chair. I have a question for Justice and Solicitor General in regard to 11(a), accountability mechanisms. It's just general good practice to review legislation like this every five years, but the way technology changes, I'm wondering if new things might come out that may affect this, so I have a recommendation after they answer.

**The Chair:** Go ahead, Ms Hillier.

**Ms Hillier:** We have, as I'm sure you're all aware, quite a number of pieces of legislation that require regular reviews. That is a rather common situation that we go through, particularly for any legislation that doesn't have a tremendously long history in its use.

**The Chair:** Thank you.

Ms Miller.

**Ms Miller:** Okay. I've got a recommendation I'd like to put forward. I'd like to move that the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to include a mandatory statutory review of the act by a committee of the Legislative Assembly every five years.

**The Chair:** Ms Miller, can I just clarify that you're wanting to move that, or are you wanting to just propose some potential wording?

**Ms Miller:** To propose some potential wording.

**The Chair:** Thank you.

Are there any members with questions or comments regarding this statement? On the phones?

Ms Miller, are you prepared to move this motion?

**Ms Miller:** Yes, I am.

**The Chair:** Thank you.

Moved by Ms Miller that

the Standing Committee on Families and Communities recommend that the Missing Persons Act be amended to include a mandatory statutory review of the act by a committee of the Legislative Assembly every five years.

Any questions or comments? On the phone? Thank you.

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

This motion is carried.

Mr. Smith.

**Mr. Smith:** Thank you, Madam Chair. I'd like to speak to point 12 in the summary document, the silver alert, Bill 210. I'd like to

recommend that the committee would acknowledge the existence of the silver alert act. It was passed in the Legislature this last fall sitting, but it's yet to be proclaimed. You know, it was the will of the Legislature and the Assembly that we incorporate the changes into the Missing Persons Act, so I think that these amendments should go through and be a recommendation of this committee. I would like to have some discussion on that and then eventually move that the standing committee recommend that the Missing Persons (Silver Alert) Amendment Act, 2017, be proclaimed prior to making amendments to the Missing Persons Act.

**The Chair:** Thank you.

Any questions or comments? Mr. Shepherd.

**Mr. Shepherd:** Thank you, Chair, and thank you, Mr. Smith, for bringing that up, and indeed thank you for bringing that bill forward in the Legislature. It was good to see the support of all our members in the House for that. Certainly, I think it offers many good things which, as you mentioned, do in fact connect with the Missing Persons Act, so it's, I think, entirely appropriate for us to address it as a committee. I do note that we did receive a letter from the office of the Information and Privacy Commissioner talking about the correlations between some of this. I was wondering if Mr. Brower had any comment, I guess, about how that might connect.

**Mr. Brower:** Our office has a comment, and I'll ask Kim to speak to it.

**Ms Kreutzer Work:** Thank you. What the commissioner was pointing out with respect to the letter was just that there are some inconsistencies between the language that currently exists in the silver alert amendments and the Missing Persons Act. Some of the examples are pointed out there. The inconsistencies in the language make it unclear to us and possibly to others whether or not provisions of the current Missing Persons Act would apply to some of these new provisions.

In particular, I draw your attention to the new amendment provision 2.1(4), that talks about "information obtained independently of this Act that could assist in the safe recovery of the missing person." It is unclear what that phrase means or how the current provisions in the Missing Persons Act that deal with the limited use and disclosure of information that the police collect under the act and the limited retention and the required destruction of that information would interact with these new amendments, because the language doesn't jibe. It doesn't match up.

**The Chair:** Thank you.

**Mr. Shepherd:** If I'm understanding correctly, there seem to be some elements, then, that would need to be co-ordinated and clarified between the Missing Persons Act and the Missing Persons (Silver Alert) Amendment Act, 2017.

**Ms Kreutzer Work:** Yes.

**Mr. Shepherd:** Okay.

**Mr. Smith:** Thank you for looking into this. It's very valuable, and we want to make them jibe. That's absolutely the truth.

I see in your letter there that you've recommended to the committee that we recommend that the office of the Information and Privacy Commissioner and the Solicitor General "ensure that any silver alert amendments to the Missing Persons Act support the goals of a silver alert system and the Missing Persons Act." I guess the question that I've got is this. In my mind, it would seem

reasonable that you wouldn't be doing this if it's not eventually proclaimed and put into the Missing Persons Act.

Now, we're going to have two recommendations that we would bring forward. The first recommendation from the committee would be that we recommend that the Missing Persons (Silver Alert) Amendment Act, 2017, be proclaimed so that it could be added into the Missing Persons Act. Then, secondly, at the same time, we would ask the Information and Privacy Commissioner and the Solicitor General to ensure that the language jibes. Now, is that possible? How do we go about doing that? Go ahead.

**Ms Hillier:** There are a couple of ways. The first way is to actually make the amendments directly to the amendment act and then proclaim it, so make the language work and then proclaim it. The second way would be, as part of the amendments to the Missing Persons Act that you will be recommending overall, to add in the provisions that are in the amendment act: make the language work, and then not proclaim it but look at a repeal of the Missing Persons (Silver Alert) Amendment Act, 2017, at a later date. But through an amendment you can make the language work in the silver alert act before it's proclaimed.

**Mr. Smith:** Okay. So maybe what we should be doing here, then, which you would suggest, is that we do that first, make a recommendation to your letter by the committee to amend the language, and then we would follow it up with a second recommendation, that upon that happening, we would recommend that it be placed into the Missing Persons Act.

1:40

**Ms Hillier:** Yes. The issue with proclaiming it first and then making amendments is that then all of the provisions take effect right away. We are then left with the language not jibing and all of the issues that the commissioner's office has pointed out. Procedurally things just will go smoother with the rollout and with operations and understanding of the act if it's amended first and then proclaimed.

**Mr. Smith:** Okay. Could we make that so? Can I make that recommendation, then?

**The Chair:** Go ahead. Yeah. Absolutely.

**Mr. Smith:** Okay. If I don't make this recommendation correctly, could you give me some help here?

**Ms Hillier:** I will do my best.

**Mr. Smith:** Okay. I guess my recommendation would be that the Families and Communities Committee would recommend that the office of the Information and Privacy Commissioner and the Solicitor General work together to ensure that any silver alert amendments to the Missing Persons Act – now, you've talked about language, yet you've used the word "goals" in your letter.

**Ms Kreutzer Work:** The commissioner's letter was, you know, a broad recommendation for the committee to consider. It doesn't necessarily have to be that exact wording. The idea is that Justice and the OIPC work together to ensure that both the goals of the silver alert amendments and the current language of the Missing Persons Act jibe.

**Mr. Smith:** Okay.

**Mr. Shepherd:** Something along the lines of, perhaps, working together to align or harmonize the two pieces of legislation.

**Mr. Smith:** To align the goals and the language of the silver alert amendment act to the Missing Persons Act.

**The Chair:** Go ahead.

**Mr. Koenig:** Thank you, Madam Chair. If I might make a suggestion here, currently the silver alert act is unproclaimed, and it would be the Lieutenant Governor in Council that would proclaim that. I believe what Mr. Smith is asking for here is that the committee recommend that the Lieutenant Governor in Council work with the office of the Information and Privacy Commissioner to ensure that the Missing Persons (Silver Alert) Amendment Act, 2017, is not in conflict with the Missing Persons Act prior to its proclamation.

**Mr. Smith:** There we go. You are brilliant. Now we know why we pay you the big bucks.

**The Chair:** Gold star.

**Mr. Koenig:** There are no big bucks in public service.

**The Chair:** So they're going to draft that.

Are there any other questions or comments? Go ahead, Ms Hillier.

**Ms Hillier:** I have an issue with the word "conflict." Just because the language doesn't go together or co-ordinate or use the same language, it doesn't mean they're going to be in conflict. Having them work together and align or harmonize is completely different than having them conflict. The standards for that, at least from my world, are very, very different.

**Mr. Smith:** Okay.

**The Chair:** Thank you.  
Go ahead.

**Mr. Smith:** We can go with that language, too.

**Ms Kreutzer Work:** I'll defer to Kelly on this one, but I'm slightly concerned about the LGIC because the amendments would go through the House.

**Ms Hillier:** They would. This is not a regulation, so the amendment would have to go through the Legislative Assembly.

**The Chair:** Go ahead.

**Mr. Koenig:** If I'm understanding, the intent is that the amendments introduced by the silver alert are not proclaimed until there's some kind of satisfaction that there isn't going to be a conflict or that there will be harmony with the Missing Persons Act. Now, the proclamation is going to happen with the LGIC. What I want to remind all members is that the Assembly has already made its decision on the Missing Persons (Silver Alert) Amendment Act, 2017, and it decided that those amendments should be introduced but not until proclamation occurs. So a decision has been made on those amendments, and they were agreed to. That decision has happened already.

Now, the question is: when are they going to be put into the Missing Persons Act? This seems more like a timing issue, where, if I'm understanding correctly, you don't want the LGIC to proclaim those amendments in force until you're certain that there's harmony. Ms Hillier has sort of already spoken to what that process would look like. It could be another bill being brought before the Assembly for all of you to consider, and that could amend the

unproclaimed legislation to change it. That could be, you know, a way forward. Or it could be to not proclaim the Missing Persons (Silver Alert) Amendment Act, 2017, and to introduce a new bill to do something else to the Missing Persons Act.

We're starting to kind of get into the weeds here in terms of who does what and how it works, but I think if the idea is that proclamation of the act that has been passed by the Assembly doesn't occur until there is some kind of review, then that would be between the LGIC, because they're the ones that'll issue the order in council for proclamation, and whoever you might wish them to work with, in this case the office of the Information and Privacy Commissioner.

**Mr. Smith:** Can I speak?

**The Chair:** Go ahead.

**Mr. Smith:** What you're telling me, then, is that all of the hard work that we did as the Legislative Assembly is going to have to go back to the Legislative Assembly upon review by the LGIC and the office of the Information and Privacy Commissioner.

**Mr. Koenig:** Thank you, Madam Chair. Not necessarily. Depending on the wording that the committee chooses – you know, if it chooses to go with the word “harmonize” and there is a consensus between the LGIC and whoever they're consulting with that there already is harmony, that these acts function properly together, then there would be nothing else to do other than proclaim the act to be enforced.

**Mr. Smith:** Okay. Then I guess that since it is my recommendation, I would like to use the word “harmony.”

**Mr. Koenig:** Harmony. Okay.

**The Chair:** Thank you.

Any other questions or comments? On the phones? We're just in the process of coming up with the language for the recommendation regarding Mr. Smith's proposal. Mr. Shepherd.

**Mr. Shepherd:** Thank you. Just while we're waiting for the wording here, I want to thank Mr. Smith for his hard work in putting forward that act and putting that together and his graciousness in allowing for this period to ensure that it's going to best serve the purpose he intended.

Thank you.

**The Chair:** Is that what you would . . .

**Mr. Smith:** Well, except for the spelling error in “with.” The teacher in me is coming out here. That

the Standing Committee on Families and Communities recommend the LGIC work with the OIPC to ensure the Missing Persons (Silver Alert) Amendment Act, 2017, operates in harmony with the Missing Persons Act prior to being proclaimed.

Okay. So I guess that does beg the question: after everything that you've said, is there anybody in the privacy commission or in Justice and Solicitor General that's telling me that it cannot work in harmony?

**Ms Kreutzer Work:** I think that what our position is is that it's not in harmony right now. The two can work, but they do not jibe. I don't understand how – I think it would take more than just a discussion to make them harmonize.

**Mr. Smith:** Continue.

**Ms Kreutzer Work:** Well, I'm just saying that if you want the language to match – if we use 2.1(4) as an example, it uses the words “information obtained.” The rest of the act talks about collection. “Collection” is the typical language that is used with respect to access to information and privacy legislation. Then the rest of the Missing Persons Act talks about collection, use, and disclosure, so I'm not sure how “obtained” fits in with any of that. A change to that wording would require an amendment. That's one of the examples.

Then because of the difficulty with 2.1(4) it is not clear how the other provisions with respect to limited use, disclosure, and retention, that currently exist in the Missing Persons Act, apply to this information that's been obtained independently of this act. Those provisions talk about information that's been collected under the Missing Persons Act, not independently of the act, so there seems to be some inconsistency in the language, which could cause confusion in how the two operate together.

1:50

**Mr. Smith:** Madam Chair.

**The Chair:** Go ahead.

**Mr. Smith:** I may not be understanding something here, but what I'm hearing from you is that that can't be changed without an amendment, and what I thought I just heard from Mr. Koenig was that if we used the word “harmony,” that would not be an issue.

**Mr. Koenig:** To clarify, the decision has already been made by the House on the Missing Persons (Silver Alert) Amendment Act, 2017, and it's accepted those changes to the Missing Persons Act. That act cannot be changed without either amendments introduced through a new bill to the silver alert amendment act or to the Missing Persons Act, you know, more generally. Any change to resolve conflict or to further harmonize will require a bill through the House because at this point in the legislative process the will of the House has been expressed, and that was in its votes on the silver alert amendment act. That was passed, so it is not possible to change that act now without further legislation.

**Mr. Smith:** Okay. Thank you.

**The Chair:** Thank you.

Mr. Shepherd.

**Mr. Shepherd:** Thank you, Chair. Just a couple of comments quickly. One, just noting that right now the recommended motion is noting that the LGIC works with the OIPC. I was thinking that we should also perhaps be including Justice and Solicitor General as part of that discussion so that as they're looking at amendments to the Missing Persons Act based on the recommendations from the committee, we can again make sure that those align. As part of that, I'm wondering, then, if there might be some means by which, I guess – like, I appreciate Mr. Smith's concerns with having to have the legislation go back to the Legislature and delays and stuff that might result. If through this process we sort of looked at where the conflicts may be and what changes need to be made, looked at then aligning when new legislation, like either amendments to the Missing Persons Act, may come forward in the Legislature, then aligning that in such a way, the silver alert amendment act could be proclaimed and then amended by the amendments to the MPA.

So it's going to make amendments to the MPA. We'd then amend the MPA to adjust for the concerns that are being discussed, and then that whole ball of wax is proclaimed and comes into law. Is that something that's possible?

**The Chair:** Go ahead.

**Ms Hillier:** I think you can trust Justice and Solicitor General to work with the process and figure out exactly which goes where and what gets amended to go first. You know, we can look at – first of all, there's the question of doing all the examination, and what are the harmonization issues? Are we talking large or small? Consequential amendments are amendments that can be added – presumably, the recommendations you're making, if accepted by cabinet, will be the subject of an amendment act anyway, so there will be a piece of legislation – and we can look at whether they're included in that process at that time.

**Mr. Shepherd:** Thank you. So that would be my suggestion, then, that we make that change here to add in Justice and Solicitor General, so they can be part of that process. Then we'll hopefully work towards as smooth and rapid a resolution as we can to bring everything together.

**The Chair:** Thank you.

Any other comments or questions? On the phones?

**Mr. Orr:** This is a real question of ignorance, so forgive me. I'm just thinking that we already have an Amber Alert that fully functions in this province. I just wonder what the alignment or sort of the threshold test for that is in relation to this. I would think it should also align. Any comment on that?

**Ms Hillier:** The Amber Alert process is not part of or connected to the Missing Persons Act in any way, so it doesn't rely on any of the provisions contained in the act.

**Mr. Orr:** I guess my thought is that the question here is in relation to information and privacy. I mean, there has to be some overlap in parallel there when it comes to the information and privacy and the dissemination of Amber Alert information versus silver alert information. From the point of view of, if you want, the test that's applied to both pieces of independent legislation with regard to information and privacy, they should be somewhat the same way. Is that reasonable to think that way?

**Ms Hillier:** I have no comment on what the standards or what the tests are currently in the silver alert amendment act, and I have no involvement whatsoever with Amber Alert or what test is involved there. The only thing I will say is that because Amber Alert is not part of the act, it doesn't need harmony with missing persons, in that sense, to operate because it simply doesn't – it isn't part of that legislative environment. It doesn't rely on any of those sections. As for what those tests are in silver alert versus Amber Alert, I'll leave it to the Privacy Commissioner's office if they have a comment.

**Mr. Orr:** Yeah. Maybe if the commissioner would comment on that, please?

**Mr. Brower:** Unfortunately, I'm not prepared. I don't have the information about the Amber Alert and the silver alert act ready to go for you to be able to comment effectively. That's something that we could take a look at and get back to you if you desire.

**Mr. Orr:** Okay. Fine. Thanks.

**The Chair:** Thank you.

Mr. Shepherd.

**Mr. Shepherd:** No. I think we're good.

**The Chair:** Thank you.

Ms McKittrick.

**Ms McKittrick:** No. I just wanted to – it's close to 2 o'clock.

**The Chair:** I'm aware.

**Ms McKittrick:** I just wanted to make sure we stuck to the process of revising the thing. That would be my comment. Yes.

**The Chair:** Thank you.

Mr. Smith, are you prepared to move this motion?

**Mr. Smith:** Yes, I am.

**The Chair:** Thank you. Moved by Mr. Smith that the Standing Committee on Families and Communities recommend that the LGIC work with the OIPC and Alberta Justice and Solicitor General to ensure that the Missing Persons Act (Silver Alert) Amendment Act, 2017, operates in harmony with the Missing Persons Act prior to being proclaimed.

Any questions or comments? On the phones?

Hearing and seeing none, all those in favour of this motion, please say aye. Any opposed? Thank you.

This motion is carried.

Noting that the time is 1:57 and we are set to adjourn at 2 o'clock and all of the incredible progress that we've made going through this document, I would propose that at this time we look to adjourn the meeting and go on to the date of our next meeting, which would be Tuesday, April 3, 2018, to consider the 2018-19 main estimates for the Ministry of Justice and Solicitor General.

At this point I would ask for a motion to adjourn. Moved by Mr. Shepherd that the meeting be adjourned. All those in favour of this motion, please say aye. Any opposed? Thank you. This motion is carried.

[The committee adjourned at 1:58 p.m.]



