

Title: Monday, April 8, 2002 . . FOIP Act Review Committee

Date: 02/04/08

[Mrs. Jablonski in the chair]

THE DEPUTY CHAIR: I'll call the committee to order and have the introductions. We'll have that done by the time our chairman gets here so that we can start.

[Ms Carlson, Mrs. Dacyshyn, Mr. Ennis, Ms Lynn-George, Mrs. Jablonski, Mr. Lukaszuk, Ms Lynas, Mr. MacDonald, Mr. Masyk, Mr. Thackeray, and Ms Vanderdeen-Paschke introduced themselves]

MS CARLSON: I would just like to put a motion on the floor that we always start the meetings not later than five minutes after the called time as long as the deputy is here.

THE DEPUTY CHAIR: All in favour? Okay.

Can we carry on? We'll just carry on, I think. Welcome, everybody. I hope you all had a very nice Easter, and I hope you're enjoying the spring that we're having.

Do we have an approval of the agenda? Okay. Gary Masyk.

Moving along to the approval of the minutes of March 5, 2002, can we have a motion to accept those minutes? Debby Carlson. Okay.

Then we're right on to number 4, Business Arising from the Minutes. I think that maybe we'll just pause for our chairman at this point.

[Mr. Rathgeber in the chair]

MS CARLSON: We made a few motions in your absence.

THE CHAIR: Have I been voted out of my office?

MS CARLSON: No, no, no.

MRS. DACYSHYN: Mary Anne suggested that we start with the introductions, and the committee has approved the agenda and the minutes.

THE CHAIR: Perfect.

MRS. DACYSHYN: We're just starting with Business Arising from the Minutes. That's where we are at the moment.

MR. MacDONALD: If you're late again, you have to take the entire committee and the staff for lattes.

THE CHAIR: It seems like an appropriate punishment.

MRS. DACYSHYN: There was also a motion that was passed.

We're missing Alana and Broyce, and I knew that they were both not coming. Brian Mason we haven't heard from.

THE CHAIR: Okay. Maybe he had the same problems driving as I did this morning.

Well, sorry I'm late. Welcome to spring, everyone.

Last time, if my memory serves me correctly, we went through a very helpful tutorial regarding the legislation in comparison to other jurisdictions and the history of the act. I understand we didn't quite finish that, and I understand we're going to complete that this morning, Mr. Thackeray.

MR. THACKERAY: That's right. There are five brief areas of the

discussion guide that we'd like to continue with this morning.

THE CHAIR: The floor is yours.

MR. THACKERAY: The first is protection of privacy.

MS LYNN-GEORGE: The discussion guide provides an overview of some of the key provisions of part 2 of the act, and what we'll be doing this morning is just supplementing this information and indicating some of the issues that we expect to arise out of the consultation.

Part 2 of the FOIP Act is based upon internationally accepted fair information practices adopted by the Organization of Economic Cooperation and Development 20 years ago, in 1982. An individual's privacy is protected when that individual is able to decide who to give his or her information to and when an individual knows and preferably consents to the uses and subsequent disclosures of that information. The act is structured on three key concepts: collection, use, and disclosure. I'm going to briefly discuss these three concepts and try to indicate why they are significant.

Collection of personal information must be authorized in one of three ways: the collection must be expressly authorized by an act or a regulation, it must relate to law enforcement, or it must be directly related to or necessary for an operating program or activity. A privacy breach can occur if more information is collected than is needed or if there is no authority for the collection. Personal information must be collected directly from the individual it's about, or there must be authority under section 34 for indirect collection. Authority for indirect collection can become an issue if public bodies want to conduct data matching using information collected from another source. The individual must be told the purpose of the collection, the legal authority for the collection, and who can answer questions about it. The notice requirement must be built into a public body's forms review process and also needs to be considered in electronic service delivery if that includes the collection of personal information.

Having collected personal information, public bodies may use it only for the purpose for which it was obtained or for a consistent purpose, for another purpose if there's consent, or for certain specific purposes that are set out in the act in section 40. Public bodies must ensure that personal information that's used to make a decision affecting an individual is accurate and complete and that it's kept for a year after it's used. This allows individuals to challenge the accuracy of information on which decisions about them are based. Public bodies must make reasonable security arrangements for personal information to protect it against unauthorized access, collection, use, disclosure, or destruction. A privacy problem that's commonly referred to as function creep can arise when public bodies want to use personal information for a purpose that is not related to the original purpose for which they collected it.

All the day-to-day disclosures of personal information without a FOIP request must fall within sections 40, 42, or 43. I'll mention just four of those. Some of the permitted disclosures are disclosure for a consistent purpose, disclosure with the individual's written consent, disclosure to comply with a court order, or disclosure authorized or required by another act or regulation of Alberta or Canada. The most common of these would be the Public Health Act, the Child Welfare Act, and the federal Income Tax Act or Employment Insurance Act. Section 43 provides for disclosure of personal information by the Provincial Archives or the archives of public bodies.

There are two issues that we anticipate will be raised during the consultation process. The first relates to what is commonly called business card information. The definition of personal information in section 1(n) of the act includes an individual's business address

and business telephone number. There are some instances where public bodies have already determined that disclosure of the kind of information included on a business card is not an unreasonable invasion of an individual's privacy. For example, information related to a sole proprietorship that uses the individual's name and home address is often disclosed by municipalities through the business licensing process or in various business directories. Public bodies are wondering whether business card information should be removed from the definition of personal information in the act. We'll be having an issue paper on business card information.

A second issue, which we see as an emerging issue, concerns the disclosure of personal information in the decisions of administrative tribunals. The disclosure of personal information in court decisions has been a major issue in North America over the past year, partly in relation to the growing incidence of identity theft and partly in response to private-sector privacy legislation. Some of the arguments raised in relation to court decisions are also relevant to quasi-judicial decisions. This issue is part of a broader question which comes down to the practical obscurity of information on paper and the very public character of information that's posted on the Internet. That takes us to our next topic, which is privacy in the electronic age.

MS LYNAS: The next topic looks at privacy when data is stored on electronic databases. Generally speaking, the FOIP Act is medium neutral. It talks about recorded information but doesn't make any distinction as to whether the information is on paper or in digital format. The definition of personal information is "recorded information about an identifiable individual" without any restriction as to the form. One of the purposes of the act is to control the way a public body may collect, use, and disclose personal information, also without looking at the form of the information storage, but many of the concerns about the handling of personal information relate to electronic processing of information. They may include how the information is manipulated, because there are processes like data matching, data mining, and creating profiles about individuals. There's also the potential to use information for more than one purpose, as Jann just mentioned: function creep, collecting the information for one purpose and then having the ability to use it for a separate purpose. It's also very easy to disclose vast amounts of personal information. This may be done accidentally or deliberately.

8:50

The primary tool for assessing privacy issues related to information technology is the privacy impact assessment. This is a methodology that's used to review new programs, administrative processes, or information systems for compliance with the FOIP Act and also to look at the broader privacy implications. The Information and Privacy Commissioner's office has established the format and the content of a privacy impact assessment. In the last review the committee considered a couple of issues relevant to information technology. One of them was the protection of personal information transferred outside of Alberta under IT outsourcing agreements. The other one was privacy and security related to electronic data matching, data sharing, and data linkage. One of the issues that we're anticipating is that electronic service delivery is a key aspect of e-government, and the question is: how can services be delivered to the public when personal information must be shared without compromising privacy?

One of the policy option papers that's being developed will focus on e-government, and the paper will look at the impact of e-government concepts and the growth and sophistication of existing and emerging information technologies on privacy. This is one of the areas that's identified in the committee's terms of reference.

THE CHAIR: Before we get too far ahead, are there any questions on the protection of privacy or privacy in the electronic age? Going once, going twice. Okay. Thank you.

Continue.

MS LYNN-GEORGE: Public security is the next topic. This section of the discussion paper was included because of the September 11 attack in the United States and the discussions and legislative changes that have occurred since. There was significant discussion at the federal level when the government introduced their security legislation in bills C-36 and C-42. The questions here aim to elicit comments from interested parties regarding two main points of concern; that is, ensuring that the goals of transparency and accountability in government and in the public sector, generally, don't create an unreasonable exposure to risk, and the second is ensuring that there is an appropriate balance between individual privacy rights and public safety and security. We've discussed this issue with FOIP co-ordinators, and we're not aware of any specific issues concerning public security.

MR. ENNIS: I've been asked to speak on the section on independent review.

THE CHAIR: Before we get there, are there any questions regarding public security?

Go ahead.

MR. ENNIS: Speaking on the section on independent review – and that is a section in the discussion paper – the act establishes for independent review under section 2(e). That results in the setting up of the commissioner's office, which is structured in part 4 of the act and empowered in parts 4 and 5. The structure that is in the act is fairly standard across Canada, and we've covered that ground before. The outcome of the structure that is in the act is that we have established an office that annually processes somewhere between 200 and 300 requests for review and investigates breach of privacy cases.

Within the act there are powers of delegation that the commissioner has, and there are specific powers of investigation and powers to hold inquiry within the act. These are well laid out in parts 4 and 5, and they are not areas that normally attract a great deal of public attention. The discussion paper has some general questions about the powers of the commissioner and whether those powers are appropriate. In the last review there wasn't a great deal of interest in this area from the public, and there may be now that there have been many more cases, many more inquiries held.

People sometimes ask why there is a commissioner as well as a minister involved with this act, and I think the analogy that is best drawn is probably drawn from another serious business in Canada, the world of hockey. We have a process established here where we have a coach in the role of the minister with a fully expert staff. We also need a referee for the process, and the referee is the commissioner. The referee has officials that work on cases. I think the image that we like to communicate to the public is that if the process is being fairly played out, the commissioner's office will have very little profile and not attract much attention. If the process has difficulties, the commissioner does become quite noticeable in the process. I don't know if there is more to say than that the process is fully laid out in the act and is not an unusual tribunal process.

THE CHAIR: I like your hockey analogy. I guess the only difference is that the coach can't change the legislation if he doesn't like the way the referee makes a ruling.

MR. ENNIS: That's right.

THE CHAIR: Any other questions on an independent review?
Administration of the Act.

MR. THACKERAY: The last section of the discussion guide deals with the administration of the legislation. The Minister of Government Services is charged with the administration of the Freedom of Information and Protection of Privacy Act. In this section of the discussion guide we are attempting to elicit comments as to any ways the act should be adjusted to recognize practices in a particular sector. Many recommendations during the last review were of this nature. In addition, we are seeking responses from the public as to how they view the administration of the legislation.

A couple of potential issues that we've identified. One that was raised in the past deals with: should there be an allowance in the legislation for a parent or guardian to act on behalf of a deceased minor who does not have an estate or an administrator?

Another issue that we've identified and was raised during the last review was the issue of cost of administering the FOIP Act in local public bodies.

THE CHAIR: Questions? Comments?

Once again, Mr. Thackeray and your staff, I'd like to commend you on the fine work you've done in putting together the tutorial and the oral presentations and your ability to answer the questions. I think I speak on behalf of all members of the committee that we appreciate the work and the expertise we have in this area. Thank you.

The next agenda item regards some papers that were distributed, I believe, late last week. The first one is a FOIP bulletin from September 2001 regarding paramountcy. I'm assuming that all members have had an opportunity to peruse this document. I think this fits in well with the tutorial and with the discussion guide that the committee has been provided with. I'm assuming that there are no questions or concerns regarding the paramountcy information, but if I'm incorrect, we can certainly ask questions to the technical members who are here today.

MR. MacDONALD: Mr. Chairman, I would just like to note on the record, please, that I appreciated that. I thought that was an excellent document.

Thank you.

THE CHAIR: Anything else regarding paramountcy at this point? I know that we will get into discussions regarding paramountcy further down as we go through these issues.

Any other questions regarding the document that was provided last week? Mr. MacDonald.

MR. MacDONALD: Yes. I don't know if this is a suitable time to bring up the entire document or just paramountcy.

THE CHAIR: We're going through it item by item.

MR. MacDONALD: Okay. I will wait then.

THE CHAIR: Anything else on paramountcy?

There was also a fee schedule that was requested by Mr. MacDonald and provided late last week. Again there are several questions in the discussion guide regarding fees and the way the system works on a partial cost recovery basis. Of course, as we get through the submissions that have been received and the many more that are anticipated, we assume that we will have a detailed discussion regarding fees and cost recovery. Are there any questions

regarding the technical information that was provided last week?

Mr. MacDonald, I believe it was you that requested the information. Do you have any questions regarding the information that was provided?

9:00

MR. MacDONALD: At this time I have one observation, and that would be that I don't see here any indication of electronic means or receiving information on a disk from other provinces. I see copying fees, but I do not see anywhere what other provinces may or may not charge for a disk or the administrative costs of providing that information on a disk. Is that available?

MR. THACKERAY: This information was put together – I guess we got the last part of it on Thursday morning from Nova Scotia. The intent will be to send this out to my colleagues from across the country to get them to confirm it and to elaborate wherever possible on any of the fees that they use within their jurisdiction. So I'm assuming that you would like a comparison to the fee schedule and the regulation of the FOIP Act which goes into a little more detail than the chart that you have in front of you.

MR. MacDONALD: Yes. Specifically, information that's going to be provided by electronic means. I think it's very important with the terms of reference.

THE CHAIR: I tend to agree. As the tutorial has just discussed, the electronic medium is becoming an evolving issue regarding FOIP. Certainly at least one of the members has an interest in fees and fee recovery, and I think it would be appropriate if we could be provided with more information regarding electronic cost recovery in other jurisdictions. Do any members of the committee have anything to add or detract from that?

MS LYNN-GEORGE: Just one comment. The one issue that we have been looking into is the cost of computer processing and programming, which at the moment in the fee schedule is, I think, \$10 per quarter hour, well below cost recovery. It's very hard to get a computer programmer for \$40 an hour anywhere in the country at present, and we'll be looking at the whole issue of costs associated with computer processing and programming and storage media in an issue paper.

THE CHAIR: That should cover it; shouldn't it?

MR. MacDONALD: Yes, but I would like to note for the record, Mr. Chairman, that for the copying of a record, in schedule 2 of the Freedom of Information and Protection of Privacy Act floppy disks are \$10 per disk, so you can get a lot of information on there. I'd just, again, be curious as to what other provinces are doing.

THE CHAIR: I believe that that commitment has been made. I'd prefer not to get into a debate regarding the appropriateness of those fees, but I'm certainly supporting you in your request for information regarding what other provinces are doing with fees.

Anything else? For the information of the members of the committee, Mr. Thackeray and I met during our hiatus and, tentatively and subject to the approval of this committee, revised the time lines for evaluation of submissions. Those are contained as paragraph 3 in a document that was provided to you last week called Select Special Freedom of Information and Protection of Privacy (FOIP) Act Review Committee: Terms of Reference, revised March 27, 2002. I think the revised time line was mandated by the problems that we had getting our advertising out due to the way that our financial needs were voted by the Legislature. As most of you

I'm sure know, the ads did go out last week, and papers are beginning to come in. We also have three requests for oral presentations, which we will discuss momentarily.

The new proposed time line is that we'll still receive responses until May 10, 2002 – that has not changed. – and that we prepare our preliminary report based on an evaluation of those responses to August 16, 2002; between August 16 and September 30 of this year we issue our preliminary report, distribute it via the web site and in hard copy, and receive secondary feedback; review the secondary feedback and comment; and prepare a final report between September 30 and have that report in final format no later than November 15.

Mr. MacDonald.

MR. MacDONALD: Yes. Mr. Chairman, I've been looking at this, and I can't understand why we haven't changed the finishing date of November 15. If the committee is to review secondary feedback and prepare a final report – initially there was to be a two-week period in there. I think all members would like to review the final report. Now with this revised time line there's going to be no time. There's no two-week period in there, and I think we should have a two-week period. Initially you had October 31, and then the report was to be tabled on the 15th of November. You moved everything, it appears, almost by a two-week period except the time to table the report and complete all the committee work. Is it not possible to move that, say, to December 1 and, if the session is not on, make this document public through the Speaker's office?

THE CHAIR: Anything is possible.

Mr. Thackeray, do you want to address from a technical standpoint why we felt the necessity to alter the time lines?

MR. THACKERAY: Mr. Chairman, from a technical standpoint we felt that we needed more time to do an analysis of the initial submissions that came in to the committee. We felt that with the change in date from, I think, the original date of April 2 to May 10, in order for support people to do the appropriate analysis of the submissions to provide the members of the committee with meaningful information for deliberation, that time frame had to be extended. So that's why we propose that the review take place from May 10 to August 16 or May 1 to August 16.

Based on experience with the last review – there was minimal comment on the draft report – we believe that with the feedback due by the 30th of September, we would be in a position by the end of October to have the committee review the final report, which would still give the two weeks that you're requesting, Mr. MacDonald, sir.

THE CHAIR: If I can add to that, I agree wholeheartedly with Mr. Thackeray. The written submissions are already starting to come in. We have three requests for oral presentations. I think that the vast majority of this committee's work is going to be in deciphering and evaluating those submissions and preparing the preliminary report. I'm not convinced that the second stage is going to be a particularly laborious task.

Now, all of that being said, our one-year mandate expires on, we believe, November 28. If my predictions are optimistic and if we require more time at the end, we are leaving ourselves a little bit of a window there, because we do not have to report until the 27th, the 28th, sometime in there. You're quite right, Mr. MacDonald, that the House does not have to be sitting for us to submit our report.

Are there any other questions or debate concerning this proposed minor modification to the time line?

9:10

MR. MacDONALD: Mr. Chairman, if it's possible, I would like to propose a motion to alter this.

THE CHAIR: You can't propose an amendment until we have a motion for the proposed time line. For the motion by Mrs. Jablonski can I have a seconder? I don't need a seconder.

Do you wish to speak to this motion, Mr. MacDonald?

MR. MacDONALD: Yes, please, Mr. Chairman. I would like to amend the motion for the proposed time lines for the review, and the amended motion would be:

Table the report and complete all committee work on or before November 27, 2002.

For a point of information, that's the year, the anniversary calendar year? Yes. Well, then November 27 would be the date: on or before November 27.

THE CHAIR: Any discussion or questions on Mr. MacDonald's amendment, a proposed amendment to Mrs. Jablonski's motion? Then if we could vote on Mr. MacDonald's amendment first. All those in favour? Opposed? It's defeated.

If we could then vote on Mrs. Jablonski's motion that the proposed time line for review be modified as indicated in the document dated revised March 27, 2002.

All those in favour? Opposed? It's carried. Thank you.

Now, we have received to date 11 written submissions that have been provided to the committee members. They've been very concisely and I think effectively summarized by Mr. Thackeray and his team, and I thank you once again for the hard work that you put into this. Is that it to date, that we've received 11? Or are these the ones that were received in time in order to be summarized for today's meeting?

MR. THACKERAY: We have now received 13. There were two that came in late last week.

THE CHAIR: With respect to oral requests, similarly, are we still at three?

MR. THACKERAY: That's right.

THE CHAIR: Are there any questions or concerns regarding the written submissions that have been made to date or the format in which the technical team is summarizing the information provided?

Perhaps, Tom, you just want to briefly outline for the committee members what you and I have discussed regarding what you are doing with respect to the submissions when they are received.

MR. THACKERAY: Mr. Chairman, for when the submissions are received in our office, we have developed the summary sheet, which I believe all members have received at least 11 copies of. We're trying to summarize the comments by the submitters according to the questions raised in the discussion guide. At the same time, we're developing an Access database back in the office which, when all of the submissions are in, will be able to cross-reference each question with every submission and every point made by the submitter on that specific question. Is this an appropriate form or format for the committee for the time being?

THE CHAIR: You and I have had this discussion. From my perspective it is, but I'm certainly open to hearing other ideas or suggestions.

Then I believe the next supplementary question is whether or not the committee members want the entire brief or whether they want the precis of the brief in summary format as prepared by the technical team.

MRS. JABLONSKI: Personally, I would appreciate just the precis, because I trust our committee and we save paper that way.

THE CHAIR: That's my preference as well, but I don't necessarily think that we have to be uniform in this. If some members have extra time and energy on their hands and wish to read the entire report, presumably the entire brief could be submitted to them. Is that correct?

MRS. DACYSHYN: I could provide that, yes, to certain members.

THE CHAIR: So for myself and obviously for Mrs. Jablonski the summary in precis format is fine, but that's only my own preference.

MS CARLSON: Primarily I would just like to receive the summary, but if there was something that I wanted to look at further, I could just ask for it, right?

THE CHAIR: Certainly. All members after reviewing a precis, if that precis for whatever reason sparks their interest or if there's something in there that they want more information on, certainly could request the entire submission. And that would be provided?

MRS. DACYSHYN: Yes.

THE CHAIR: Is that fair?

MR. MacDONALD: That's excellent. Thank you.

THE CHAIR: Okay. We have received to date three applications for oral presentation to this committee. I do not believe that you have in front of you those applications. I do. They are from the War Amps, from the Chief Electoral Officer of the Alberta Legislative Assembly, and from the Alberta Association of Private Investigators. I think, as we have discussed, this committee will have to assess on an application-by-application basis who we are going to hear from, and although it would be perhaps nice to be able to hear from anybody who requests our audience, that may be somewhat cumbersome depending on the volume of those applications. So it is going to be my suggestion that certainly we entertain applications on an individual basis but that anytime we are faced with an application from a provincial body that represents a group of individual stakeholders, we likely, unless there's some other reason for not doing so, hear from that organization. Conversely, if we are faced with an application from an applicant who is a member of one of those provincial governing bodies, unless there is some reason for doing so, we likely hear from them in written format only.

Before we deal with the three applications before us, are there any thoughts or questions regarding that proposal that I've just made?

MR. MASYK: I think your proposal is fairly realistic. I just wanted to note that even the three that are here on this agenda are quite a cross section of three totally different areas of interest, and it somewhat interests me to look into it. So other than, you know, the discretion of the chair I'm interested in hearing oral submissions.

MR. MacDONALD: Mr. Chairman, is there a time limit on oral presentations?

THE CHAIR: You mean per applicant?

MR. MacDONALD: Yes.

THE CHAIR: No. But maybe that's something we should discuss. You have the floor. What are your thoughts?

MR. MacDONALD: Well, I see three requests before us. This meeting was scheduled for two hours. If we were to have a meeting

and they were each to be allocated half an hour, that's quite a time frame. We have a large, luxurious waiting room outside. I'm sure they could all come and enjoy themselves out there while they wait, but 30 minutes I think would be sufficient to get their presentation made.

THE CHAIR: I agree. I can't imagine giving them more, especially in light of the fact that they will have also provided us with a written submission.

MRS. JABLONSKI: Mr. Chairman, I agree with the 30 minutes, but I think the 30 minutes should be the entire presentation, meaning 20 minutes for presentation and perhaps 10 minutes for questions.

THE CHAIR: Sure.

Tom, do you have any comment on this?

MR. THACKERAY: I think that's reasonable if the total time frame is 30 minutes including questions from the committee. Some of the individuals that I have talked to figure that their presentation may take 10 minutes.

THE CHAIR: This definitely would be a maximum. It won't be a minimum.

MR. THACKERAY: We won't tell them that they have to speak for 20 minutes.

THE CHAIR: Any other questions or comments?

MS CARLSON: I support that.

THE CHAIR: Perhaps we should do this as a motion. If I could have someone make a motion that

oral presentations of this committee be limited to a 20-minute presentation with 10 minutes reserved thereafter for questions and comment.

Can I have a mover to that effect? Mr. Masyk. All in favour? It's carried.

Okay. On March 26, 2002, the War Amp national headquarters submitted to Corinne Dacyshyn a request for a meeting. As everybody knows – I'm assuming everybody knows – the issue of the War Amp charity's access to the motor vehicle registry has been altered, and it has become a matter of some media interest. Certainly the chair would like to hear from this very, very good charity. Is there any commentary on that?

9:20

MRS. JABLONSKI: Mr. Chairman, the War Amps is a very emotional issue, and I know that just in speaking to my constituents, a lot of them would like to support the War Amps. But before we get into an oral discussion with them, perhaps I could ask a question of our committee, and that is: if we were to allow information to be released to the War Amps, what kind of precedent does that set, what do we open ourselves up to, and is that what the major concern is? I'd just like to know so that I have some background on what we're going to be confronted with.

THE CHAIR: I don't know that we can prejudge our deliberations, Mrs. Jablonski. I don't know whether or not we're going to recommend that the War Amps get access to the vehicle registry, and I don't know what kind of precedent that's going to set. All I'm suggesting is that before we even begin to embark on that sort of discussion, we hear what these folks have to say.

Any other comment?

MS CARLSON: I agree with what was said. I think that it would be important for us to have some parameters to know what the implications were if this group or any other group were given an exception, and I'd like that before going in because then I may have some questions for the group.

THE CHAIR: Well, Mr. Thackeray, correct me if I'm wrong. This group historically was given an exception, as have other groups with respect to motor vehicle registry, one of them being a group that I'm a proud member of, the Alberta Law Society. So the precedent has already been set for individuals and groups who do and do not get access to motor vehicle registry. That is somewhat longstanding but until very recently wasn't really challenged. Am I correct in my inference?

MR. THACKERAY: Yeah, that's correct, Mr. Chairman. I guess the issue came to a head when the offices of the Information and Privacy Commissioner and the Auditor General performed an audit on the motor vehicle database back in 1996, '97. Notwithstanding the fact that registries aren't subject to part 2 of the Freedom of Information and Protection of Privacy Act, the commissioner and the Auditor General in their report did make a recommendation that disclosure of information from that database should be based on fair information practices.

THE CHAIR: I'm not sure what I'm hearing here. Am I hearing that we don't want to hear from the War Amps or that we need to have some sort of discussion or parameters in place before we hear from them?

MS CARLSON: It should be the latter. I'd like to have the discussion or some parameters written down for us in terms of whether exceptions are given in the future and what kinds of implications that has from the perspective of the Auditor General and the Privacy Commissioner before we talk to the War Amps, but I definitely want to have a presentation from them.

THE CHAIR: Ms Carlson, don't we need to have the data and the information before we brainstorm on macroissues like who is and who isn't going to be getting access and who might be entitled to an exception to the regular access rules that we're going to be recommending?

MS CARLSON: I don't want to have the discussion about who should or shouldn't have an exception, but I certainly want to know the framework within which I will be making decisions in the future. So what happens if we say no to the Auditor General and exceptions will be given? What are the implications? That's not saying that that will happen, but it's certainly on the table.

THE CHAIR: Okay. Well, I still believe that we can't make those decisions in a vacuum, and until we have all the data in front of us, I'm not sure that those parameters can practicably even be discussed.

MRS. JABLONSKI: Mr. Chairman, I agree. There's no doubt that we should hear from the War Amps. Their presentation is something that I personally would like to hear, so I don't even think that's a question. The concern that I have as well is that we need to know what kind of water we're walking into beforehand so that we can ask appropriate questions.

THE CHAIR: Well, let me try that from two perspectives. Number one, we know what our mandate is, and our mandate is to report to the Alberta Legislature with recommendations for modification or, if necessary, a rewrite of a piece of legislation. So, I mean, we can

do whatever we want. The minister and the Legislature may or may not concur with our recommendations, but everything is on the table as I understand it. I had another point, but I forget what it was.

Mr. Masyk.

MR. MASYK: Thanks, Mr. Chairman. There's interest in the topic. As it stands right now, I would love to hear from the War Amps, and if I were asked right now, I would probably be inclined to let them have information from the motor vehicles registry. But after they present us with some information, that may change a person's opinion on that. That's not to say that the Cancer Society and all the different societies wouldn't fall into that. That's not saying that one is more than the other except that the War Amps, to me, is a noble organization. So I would like to hear first and then judge, or give an opinion, later.

THE CHAIR: Right. Thank you. And I think that was my second point, Mrs. Jablonski. I don't think we should go into this with any preconceived notions or any prejudgment of how we may or may not recommend. We do have some framework, we do have some parameters, and that's the discussion paper and the 19 questions that we're going to eventually answer. So those are the terms of reference and those are the mental gymnastics that we have to apply our minds to as we go through this exercise.

I agree wholeheartedly with Mr. Masyk that we shouldn't go into any presentation, whether it's from the War Amps or whether it's from another applicant, wondering what the ramifications might be of something down the road. What we've done, first of all, is develop a framework and develop a discussion paper. Now we're getting written submissions. I believe that what we have to do is that we have to receive the data, then analyze the data.

MR. THACKERAY: Mr. Chairman, perhaps we could offer putting together a brief backgrounder to the issue without coming forward with any recommendations so that everybody knows what the issue is. Would that be of assistance?

THE CHAIR: Well, I mean, that's a prudent suggestion, but I'm anticipating that the applicant is also going to make a written submission which presumably we'll all have read in advance of the oral presentation and which will outline in their own words what their issue is and what changes they would like to see. Of course, you will have been provided a precis of the written submission, which I suspect is not entirely different from what you're proposing.

Okay. So do we want to hear from the War Amps? In favour? Anybody opposed? It's carried.

MRS. JABLONSKI: I'd like to request that we do receive that backgrounder information because I'd like to know why we cut them off to begin with.

THE CHAIR: Well, I'm not sure that that's going to be in the backgrounder because the backgrounder's only – well, it might be – going to provide technical information. I think there is an easier way to answer that question, and that's if the former commissioner applies to come before the committee, and I'm anticipating that he will. Is that fair?

MR. THACKERAY: Yes, I believe it was at the first meeting of the committee that the suggestion was made that Mr. Clark should be invited to appear based on his experience from 1995 to 2001. I have had a discussion with Mr. Clark, and he would be more than happy to come and speak for about five minutes and then answer 25 minutes of questions.

9:30

MR. ENNIS: Mr. Chairman, if I can just add to that. An expectation that Mr. Clark could speak to this issue might be disappointed in that the issue of the War Amps specifically has never been in front of the commissioner, has never come to the commissioner's office.

THE CHAIR: I understand that he recommended that all groups of exception applicants be denied access to the motor vehicle registry.

MR. ENNIS: Part of the audit report was that any group that would have access would have access within the rules of fair information practices, but the War Amps didn't come up as a specific decision.

THE CHAIR: Correct. It was part of a larger group.

MR. ENNIS: Yes. A much larger group.

THE CHAIR: Mr. Lukaszuk.

MR. LUKASZUK: Thank you, Mr. Chairman. I'm a bit confused over here. Is the issue at question right now whether we do or not hear from the War Amps? Having listened to this conversation, I think it's abundantly obvious that all members do want to hear from the War Amps. Or is the issue whether the members of the committee should receive some form of briefing, nonspecific to the War Amps but rather more specific to any other special interest group, and what are the positive and/or negative ramifications of allowing and/or not allowing exceptions to the act to those groups, without particularly focusing on the War Amps?

THE CHAIR: I think that's a good question. I thought the question was narrow as to: we're going to go through this list of three applicants and decide who we're going to hear from. But that's opened up a bit of a can of worms, so it's opened up, in the chair's view, some corollary issues.

I think we've come to a consensus here: first of all that we're going to hear from the War Amps and, two, that some background information is going to be provided by the technical team outlining the issues, which will be presumably attached to their written submission, to provide background to the members before we hear from the presentation. Am I understanding correctly? Does that satisfy everybody?

MR. MASYK: Mr. Chairman, the three applications here, like I said earlier, are three different areas of interest. Is it possible to classify each group, like War Amps and different organizations like that? I don't have a problem with oral presentations because I personally kind of like them, but classify War Amps or organizations like it versus, say, the oil industry – two totally different areas of interest but different classes – just for the sake of oral presentations.

THE CHAIR: Well, I mean, I suppose every applicant is unique in its own industry and its own particular interest in FOIP legislation. Who else would be classified on War Amps day? Would the Law Society be an appropriate applicant to hear from that day because they, too, are an exception to the motor vehicle registry exclusion or have been traditionally?

MR. THACKERAY: Without having the benefit of reviewing any of the submissions of these three organizations that are on the agenda today, it is my understanding that the issue was the same for all three of them. They're all seeking access to information.

THE CHAIR: And that being stated, presumably all classes of applicants will fall into one of two categories: there'll either be those

that are seeking access to some information or those that are seeking enhancement of their privacy rights. So put in its most generic format there are really only two classes of applicants. Does that help?

MR. MASYK: Mr. Chairman, I was basically being general.

THE CHAIR: Well, let's do it this way. I want to get back onto my agenda, so let's go through the list of applicants that have made requests for oral presentation. After we have an approved list, if there is some sort of logical connection between certain oral presentations, we'll try to schedule them for the same day. Is that fair? Okay. Back to the agenda.

On March 28, 2002, I received a letter from Brian Fjeldheim, from the office of the Chief Electoral Officer, for the Alberta Legislative Assembly stating in part:

The Election Act allows the Chief Electoral Officer to update the Provincial Register of Electors using any information obtained by or available to him. This broad authority is intended to facilitate continuous updates utilizing the most timely, accurate information available.

A presentation will enable us to share the possibilities and challenges we face with our data acquisition efforts. My staff and I look forward to meeting with you and the rest of the Committee.

Any questions or comments regarding the request by the Chief Electoral Officer to make oral presentation to this committee? I think it's sound. I don't need a motion. In favour? It's carried.

We received on April 3 an application from Don Wilkinson, from the Alberta Association of Private Investigators. It reads in part:

The association welcomes the opportunity to respond to the nineteen (19) questions as outlined in the mailout package from the Committee. Our response to these questions will be mailed to you in the near future.

As an Association, we represent the interests of the private investigation industry in Alberta. The complexity of the private investigation business does not lend itself to cover all of our various concerns with FOIP in responding to the questions in the mailout. To properly assist the Committee in reviewing this issue, it is requested that representatives of our Association be allowed to appear before them and give a brief verbal presentation on this topic.

I guess it's fair to say that they, too, have interest in the whole motor vehicle registry conundrum. Certainly the chair would be in favour of hearing from the Alberta Association of Private Investigators. Any comment or debate? Anybody opposed? Okay.

Now, as part of this agenda item we have a draft invitation list for oral presentations that was circulated in the materials that were provided last week. We've received three requests. It's not a long list. There are only about 15 organizations on it. The question is: are we going to wait for those organizations to apply for oral presentations, or are we actually going to invite them to do so? I have concerns either way. It appears that we're sort of creating two statuses of applicants if we invite some to give oral presentations and wait for the rest to apply. Alternatively, there's not a group on this list that I wouldn't want to hear from. So I just throw that out for discussion.

MRS. JABLONSKI: Mr. Chairman, would it be possible to just give each one a date and time and invite them to present at that time? That way it's better management. If they choose not to present, then that will be their choice. This way, we don't have to wait for them, because we do have a tight schedule.

THE CHAIR: Well, they're going to have to apply by May 10. May 10 is the deadline for applying for submitting a written submission or applying to make oral submission.

Anyone else?

MS CARLSON: I thought we were inviting them, and I think we should go ahead and do that. I know your concerns, and I share them, but I think I want to hear from those groups for sure.

THE CHAIR: I think I err on your side on this. I have concerns both ways, but I think I err on that side as well.

So without having a motion, we have a proposal that the list of potential presenters as distributed in a document named Draft Invitation List for Oral Presentations, updated April 4, 2002 – the suggestion is that we actually write to them and invite them for an oral presentation in addition to submitting a written submission. Does anybody have any problems with that? We're going to go ahead and draft those letters, and I'll sign them.

9:40

Okay. The next item on the agenda is tentative dates for presentations and hearings. Now, other than that they have to be after May 10, Tom, I understand that you have some suggestions or comments in this regard.

MR. THACKERAY: I guess my initial suggestion would be that the former commissioner could probably be invited just about anytime and probably sooner rather than later because of his involvement.

THE CHAIR: I guess I'm wrong. They don't have to be after May 10. We could start sooner.

MR. THACKERAY: I know that Mr. Clark will not be making a submission to the committee, but he would just be here because the committee expressed an interest in having him respond to some questions, give his view of the first six years. So I think Mr. Clark could be scheduled just about anytime. As I understand it, the War Amps' submission is ready to be mailed in, so basically anytime after their submission is received, they could be scheduled. I think the same goes for the other two organizations that the committee responded positively to this morning. Is it fair to say that once the organization has made their submission, then anytime after that they can be scheduled for an oral presentation?

THE CHAIR: I guess that is. I had my mind improperly wrapped around the fact that they'd all have to occur after May 10, but that's not correct. They can occur now. Frankly, I see some advantage to hearing from the private investigators, the War Amps, and Mr. Clark on the same day. So with the indulgence of the committee, can we set that up for our next meeting, which can be held prior to May 10?

Tom, the War Amps' request for a hearing – and it's certainly

only a request – is that it occur in the early portion of May, because I understand that the chairman is going to be in western Canada doing other speaking engagements. We're under no obligation to conform to his schedule, and I don't know that it's practicable. He only left a window of about three or four days. We have four people that we know we're going to hear from, three that we approved today and Mr. Clark. Is it possible that we could schedule them for, say, a Monday three weeks from today? It's not a onetime shot. If for whatever reason one of the applicants is unable to present when we would like, they'll certainly be given another opportunity.

MR. THACKERAY: That would be the 29th of April?

THE CHAIR: That's only my suggestion. I'm open to comment. Does that seem reasonable? We'll try to have that done. If it can't get done, we'll do something else.

MR. MacDONALD: April 29?

THE CHAIR: Yeah. At 8:30 in this room.

Now, the clerk has handed me a note that we have to discuss reimbursement for travel expenses for individuals and groups that come. The note that I have been handed says: it will be understood that the committee would not pay for any travel expenses for any group wishing to make presentation. Right? That's what it says.

MR. MASYK: Unless they want to amend your budget. It's pretty skinny.

MRS. JABLONSKI: Mr. Chairman, everyone has the opportunity to submit a written proposal or a submission, and if they would like to come and give an oral presentation, that is a choice that they're being offered. Therefore, I don't think that we should have to be responsible for expenses.

THE CHAIR: I tend to agree. When groups come before Private Bills, for example, when they come up from Calgary, their expenses aren't reimbursed.

MRS. DACYSHYN: I believe they're not.

THE CHAIR: Okay. Any other further discussion on this matter? What I propose to do – we've already said that we're going to write out invitations to these other groups, and presumably they will respond. Then what we'll do is sit down and come up with a tentative schedule, and we'll put that tentative schedule before this committee on April 29. Does that seem fair? Okay.

Any other business?

The date of this next meeting will be April 29, 2002, at 8:30 in the morning in this room. I'll try to be here on time.

Anything else? Could I have somebody move that we adjourn? Mr. Masyk has moved that we adjourn until April 29 at 8:30. All those in favour? It's carried.

Thank you very much.

[The committee adjourned at 9:47 a.m.]