



Legislative Assembly of Alberta

The 29th Legislature
First Session

Standing Committee
on
Alberta's Economic Future

Personal Information Protection Act Review

Thursday, October 15, 2015
1 p.m.

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The 29th Legislature
First Session**

Standing Committee on Alberta's Economic Future

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Standing Committee on Alberta's Economic Future

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Christina Hopkins Crichton, Access and Privacy Adviser, Corporate and Departmental FOIP Services
Katherine Olson, Legislative Manager, Legislative Services
Silvia Russell, Access and Privacy Adviser, Corporate and Departmental FOIP Services

1 p.m.

Thursday, October 15, 2015

[Mr. Coolahan in the chair]

The Chair: Good afternoon, everyone. I'd like to call this meeting to order. Welcome to the members, staff, and guests in attendance at this meeting of the Standing Committee on Alberta's Economic Future. My name is Craig Coolahan. I'm the MLA for Calgary-Klein and the chair of this committee. Sorry if my voice gives out a bit. I've had a really bad cold, so I'll try and keep it together here.

I'd ask the members of the committee joining us at the table to introduce themselves for the record, please, starting with the deputy chair.

Mr. Schneider: Dave Schneider, Little Bow.

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

Dr. Amato: Sarah Amato, research officer.

Ms Dean: Shannon Dean, Senior Parliamentary Counsel and director of House services.

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

Mr. Hanson: David Hanson, Lac La Biche-St. Paul-Two Hills.

Mr. Taylor: Wes Taylor, MLA, Battle River-Wainwright.

Mr. Hunter: Grant Hunter, Cardston-Taber-Warner.

Mr. Gotfried: Richard Gotfried, Calgary-Fish Creek.

Ms Jansen: Sandra Jansen, Calgary-North West.

Ms Harker: Jillian Harker, legal counsel with the office of the Information and Privacy Commissioner.

Ms Clayton: Jill Clayton, Information and Privacy Commissioner of Alberta.

Ms Kreutzer Work: Kim Kreutzer Work, office of the Information and Privacy Commissioner.

Ms Gardiner: Joanne Gardiner with Service Alberta.

Ms Hopkins Crichton: Christina Hopkins Crichton with Service Alberta.

Ms Russell: Silvia Russell with Service Alberta.

Ms Olson: Katherine Olson with Service Alberta.

Ms McLean: Stephanie McLean, MLA, Calgary-Varsity, sitting in. Thank you.

Ms Larivee: Danielle Larivee, MLA, Lesser Slave Lake.

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

Mrs. Schreiner: Kim Schreiner, MLA, Red Deer-North.

Ms Fitzpatrick: Maria Fitzpatrick, MLA, Lethbridge-East.

Could I ask that when you speak, you would speak close to your mike. I'm hearing impaired, and even though you're miked, I can't hear you if you're not close enough to the mike. Thank you.

Ms McKittrick: Bonjour. Annie McKittrick, Sherwood Park.

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

Mr. Sucha: Graham Sucha, MLA, Calgary-Shaw.

Mr. S. Anderson: Shaye Anderson, Leduc-Beaumont.

Ms Rempel: Jody Rempel, committee clerk.

The Chair: Thank you. I don't believe we have anybody on the phone. No? Everyone is in attendance. Thank you.

A couple of housekeeping notes before we get going on the agenda. The microphones, like in our other committee room, are operated by *Hansard*. There is no need to touch them at all. Please keep your cellphones off the desk. Even if they vibrate, they might interfere with the transmission. Just a reminder that this committee proceeding is being streamed live by *Hansard*, and transcripts are available on the Legislative Assembly website. I'll just also add that this is the first committee meeting being held in this room with the new technology, so we hope everything goes smoothly.

Okay. We'll move to item 2 on the agenda. It's the approval of the agenda.

Ms Fitzpatrick: I'd like to make an addition to the agenda.

The Chair: Okay. Just one second, please. I'm going to give the opportunity to everyone.

The approval of the agenda. This is the time for members. If there are any changes or additions that they would like to suggest to the agenda, please do so now.

Ms Fitzpatrick: I move to add discussion of the working group to the agenda.

The Chair: Okay. Any additions or changes will go under other business, and we'll deal with that under item 5 after our presentations.

Not seeing anything else, can we have a motion that the Standing Committee on Alberta's Economic Future add discussion of the committee working group under other business to the October 15, 2015, meeting agenda.

All in favour of the motion? Any opposed? That's carried.

We now must call for a motion that the agenda for the October 15, 2015, meeting of the Standing Committee on Alberta's Economic Future be adopted as revised. Would somebody like to move that?

Ms Fitzpatrick: I so move.

The Chair: Ms Fitzpatrick. All in favour? Opposed? Carried.

Now we'll move to item 3, approval of meeting minutes. Does anybody have any errors or omissions to note from the last meeting's minutes? I see none.

Ms McKittrick: I move that the minutes be approved.

The Chair: Thank you, Ms McKittrick. The motion is to move that the minutes of the July 14, 2015, meeting of the Standing Committee on Alberta's Economic Future be adopted as circulated. All in favour? Opposed? Thank you.

Okay. We have the great fortune of having many guests here to help us with our journey through the PIPA review from the office of the Information and Privacy Commissioner and also from Service Alberta. First we'll hear from the office of the Information and Privacy Commissioner and the commissioner herself, Jill

Clayton. They'll speak for 20 minutes of presentation, and then we'll have some time for questions.

Please go ahead.

Office of the Information and Privacy Commissioner

Ms Clayton: Thank you. Good afternoon to the chair and members of the committee. Thank you very much for the invitation to be here today to share with you some of the experiences of my office with respect to the Personal Information Protection Act, which we commonly refer to as PIPA.

I'd like to start by saying that Albertans should be, really, very proud of this legislation. PIPA has been an effective law since it was first proclaimed in 2004. It achieves, in my view, an appropriate balance between the privacy interests of Albertans and the legitimate collection, use, and disclosure of personal information by businesses. It was also purposefully designed to make privacy compliance as simple as possible for small and medium-sized businesses.

Alberta is considered a leader in Canada and internationally for its approach to private-sector privacy. We were the first jurisdiction in Canada to have mandatory breach reporting and notification provisions, which came into effect in 2010, and we've served as a model for other jurisdictions contemplating similar amendments. Recent legislative reforms in other jurisdictions have borrowed from the Alberta model. British Columbia recently completed a review of their PIPA. The federal Digital Privacy Act, or Bill S-4, amended the Personal Information Protection and Electronic Documents Act to include a breach notification scheme. Manitoba has private-sector privacy legislation which has yet to be proclaimed but which was heavily drawn from PIPA, and Newfoundland and Labrador's recent Access to Information and Protection of Privacy Act also draws from PIPA.

Another strength of this legislation is the mandatory review by a special all-party committee of the Assembly every six years. It's hard to believe that when this legislation was first implemented, there was no Facebook, there was no Twitter, we didn't have daily announcements of data breaches affecting millions of people, and there was no federal law to limit the distribution of spam. When it comes to the collection, use, and disclosure of personal information combined with the advancement of technology, I think it's both appropriate and certainly appreciated by me that we have the opportunity to review the legislation to maintain its relevance.

To understand where PIPA came from, I'm just going to cover a little bit going back to when the Freedom of Information and Protection of Privacy Act was introduced in 1995. At that time it was one of the strongest laws of its kind in Canada, and to complement the law, the provincial government developed a very comprehensive suite of tools and resources and undertook extensive training of public-sector workers. In 2001 the Health Information Act was proclaimed, and that followed more than two years of extensive consultation with health providers and health profession regulatory bodies. By the time the Alberta government decided to develop a private-sector privacy law, we were able to build upon that extensive expertise with the public-sector legislation and the health sector.

These access and privacy laws have been characterized by the Supreme Court of Canada as quasi-constitutional as they define fundamental information rights of Canadians. As stated by the Supreme Court: "The ability of individuals to control their personal information is intimately connected to their individual autonomy, dignity and privacy. These are fundamental values that lie at the heart of a democracy."

Service Alberta will be providing a more detailed explanation of the act as they're the ministry responsible for the administration of PIPA, but I would like to illustrate a few concrete examples of what PIPA accomplishes. First of all, have you ever noticed, when paying for something with a credit card, that on your receipt the numbers are truncated and that you might just see the last four digits? This is partly the result of an investigation in 2005 into an incident where files from businesses containing customers' personal information were recovered during a police investigation. We ultimately got involved, and an organization was ordered to obtain the necessary technology to obscure credit card numbers printed on receipts, which set a precedent for other Alberta-based organizations.

1:10

If you've ever been asked to check a box asking whether you would like to receive information about other products, that ability to opt in to receive additional information allows you to control how your information is used and shared with a business for a particular purpose, and if you've ever received a notice advising you that your personal information has been compromised, possibly offering you free credit-monitoring services and providing advice as to the steps that you might want to take to protect yourself from identity theft or financial fraud, these are all examples where PIPA has had an effect.

Simply put, PIPA aims to protect the privacy of clients, customers, employees, and volunteers. It establishes the rules for the collection, use, and disclosure of personal information by businesses and organizations in Alberta, and it requires those businesses and organizations to have reasonable safeguards in place to protect that information, which might be as simple as locking file cabinets or ensuring there are firewalls in place and other security measures to keep hackers out of computer systems, for example.

As a measure to help individuals have control over their personal information, the act generally operates on the basis of consent. There's also a general right of access, so an individual can request access to his or her own personal information, and they have a right to know how it is being used or to whom it might have been disclosed. A right of correction also exists under the act.

That's the high-level approach to private-sector privacy legislation that PIPA achieves, but in order to ensure its effectiveness, my office, my role, is to provide oversight as the regulatory authority for the act.

I'm going to talk a little bit about the role of my office and our experience. As commissioner I have a number of powers and responsibilities under the legislation to ensure that its purposes are achieved, and I'll summarize each of these responsibilities with some examples of our experience carrying out those responsibilities.

To start with, requests for review. When individuals request access to their information held by an organization and they're not satisfied with the organization's response, they can ask my office to review the organization's decision; for example, if someone didn't receive all of the records that they thought the organization had in its possession or if the organization did not respond within the legislated timeline. Under the legislation organizations can also charge a fee to process an access request, and if someone is charged a fee and disputes the amount of that fee, then they can also come to my office to have us review the fee estimate.

Individuals can also make a complaint to my office if they believe their information was improperly collected, used, or disclosed. One of the more common concerns that we receive from consumers is about the amount of information that is being requested by retailers when the individual is trying to purchase a product or wanting to

receive discount cards or memberships. A common complaint from employees – this legislation applies to employees of private-sector organizations as well – has to do with disclosure of personal information regarding references for new jobs, workplace conflicts, or when medical information is being requested by an organization or being shared within an organization.

In total we have received more than 3,000 requests for review and complaints since PIPA was enacted in 2004, and these involve all types of organizations, from credit unions and energy companies to daycare providers, oil and gas companies, and professional associations. Provincially regulated organizations as well as individuals operating in a commercial capacity are all subject to the act.

When my office receives a request for review or a complaint, we investigate and attempt to mediate the matter once an individual believes they have exhausted other options. At the conclusion of an investigation or mediation, if we make findings and recommendations which are not accepted, then the matter can go to a more formal process of inquiry, and that inquiry process can result or must result in a binding order. In total we've issued more than 120 orders under PIPA. All of those orders are posted on our website. Just to give you an idea of what an order might look like, in 2012 an adjudicator in my office had a case involving Budget Rent a Car and found that Budget Rent a Car was contravening the act when it was photocopying customers' drivers' licences. Budget was ordered to end the practice and destroy the information that it had in its possession. This set a precedent for other car rental companies and similar service providers to follow.

In addition to reviewing complaints, I can also open investigations on my own motion. One example where we did that was following the fire at the Shaw Court building in Calgary in 2012. At that time we didn't receive any complaints; however, I was aware that the personal information of Albertans could be affected by the service outage that the fire had caused. Alberta Treasury Branches is a corporation that fell under PIPA and was the respondent organization in that investigation along with others. Although we didn't find any wrongdoing by the organization, we were still able to reassure the public and provide guidance to other organizations through the findings from our investigation. So in a situation like that, oversight by my office ensures that the rules are being followed and serves to educate other businesses that might be in similar situations.

As mentioned earlier, another responsibility under the legislation is to review privacy breaches that have to be reported to my office. I really don't want to understate the importance of that provision. As I mentioned, Alberta is a leader in Canada and internationally as a result of it. Once a breach report is submitted to my office, I assess the likelihood of significant harm resulting to individuals and can require that an organization notify affected individuals. Other than voluntary breach reporting in other sectors in Alberta, only Albertans affected by a breach in the private sector have a legislated right to be notified in a situation where there is a real risk of significant harm such as a harm of identity theft or financial fraud.

Recently the federal private-sector privacy legislation had a breach notification provision enacted. Amendments to Alberta's Health Information Act, which have yet to be enacted, also include breach reporting and notification. The committee tasked with reviewing British Columbia's PIPA has also recommended mandatory breach reporting and notification. Newfoundland and Labrador recently enacted breach reporting provisions, making it the first to do so for public bodies in a Canadian jurisdiction. All of those have followed in Alberta's footsteps.

At times human errors may cause a breach such as leaving a door or a cabinet unlocked, but other breaches can be malicious such as

stolen laptops or computer hacking. Either way, significant harms and direct losses to individuals can and often do result.

Headlines were made around the world recently with the Avid Life Media breach, where users of the Ashley Madison website had e-mails, among other details, exposed by hackers. Like other breach notification decisions that come to my office where we've issued a decision and found there is a real risk of significant harm, the breach notification decision regarding that breach, the Ashley Madison breach, is published on our website. We did require the company to notify the affected individuals.

We rarely get through a day without another high-profile breach of personal information. Albertans should be proud that we were among the first internationally to have this legislative protection in the private sector in those situations where harm does exist to an individual. After all, since 2010 my office has received roughly one breach report every five days from an organization operating in Alberta. Over the past year there have been more than 50 instances where I've determined that affected individuals must be notified by an organization that experienced a breach.

Another important aspect of my office's work is our ability to develop awareness of the legislation by informing and educating Albertans about access and privacy and their rights under this legislation. This starts with building awareness in organizations themselves by providing guidance to those that are responsible for complying with the act. In the early days of PIPA educating Alberta organizations was a major focus of the office, to make sure that businesses understood their obligations under the legislation. Many organizations at that time needed help simply with drafting a privacy policy, let alone managing some of the complex issues that exist. During the first year, as was noted in our 2004-2005 annual report, the office made 119 presentations to stakeholders and received nearly 4,000 questions on the act.

1:20

In partnership with Service Alberta we also developed a lot of resources, including a guide for organizations that continues to be updated to maintain relevance. We also collaborate with other privacy offices in Canada to develop resources. Very recently, actually, we published guidance on bring-your-own-device programs within organizations and also provided guidance on embedding privacy protection if you're in mobile apps. I maintain a memorandum of understanding with B.C.'s Information and Privacy Commissioner as well as the Privacy Commissioner of Canada that formalizes our co-operation in areas of enforcement and policy, public education, and information sharing.

In addition to working together to produce guidance resources, my office has also completed joint investigations with other offices, including one back in 2007 that you might remember. We worked jointly with the Privacy Commissioner of Canada on a breach involving TJX Companies, the parent company of Winners and HomeSense. That was a breach that affected the personal information of an estimated 45 million payment cards globally. One of the lessons that we learned from that investigation was for organizations to collect only what they need and to keep the information for only as long as is required to meet their business purposes. Lengthy retention periods and outdated security measures expose the personal financial information of those affected by that breach.

Another power I have under the legislation is what brings me here today, and that is my ability to provide comments and recommendations on legislative reviews and programs that have implications for access and privacy rights. As I'm sure you can appreciate, the mandate of the office is varied, broad, and constantly changing, which leads me to talk about some of the current trends and issues that we're seeing in private-sector privacy.

As the legislation has matured, I think what we're seeing is that organizations have become more aware of their responsibilities. However, the ability to collect and share massive amounts of information has become cheaper and easier, hackers have become far more sophisticated when attempting to expose or exploit personal information, and a combination of those and a number of other factors just generally increases the complexity of the issues that we deal with.

Some issues have remained since the beginning. As mentioned earlier, employee complaints and requests continue to be and have always been one of the most common matters that we deal with. A subset of employee concerns is around employee monitoring, particularly drawing the line between what is personal and what is for employment purposes and ensuring that appropriate guidelines and policies are in place to direct organizational and employee responsibilities. We issued an order in 2013, for example, that related to a situation where an employee's personal phone calls on an office-issued smart phone were being tracked by the employer, but the organization had no policy in place to restrict personal phone calls or explain how it would be collecting that information and using that information. We see a lot of other employee monitoring issues centred on the use of workplace computers and e-mails.

Another issue that remains relatively constant has to do with the use of video surveillance. We received quite a number of complaints where organizations have implemented video surveillance but in some cases haven't really thought through the implications of that surveillance, and we have published some guidelines on the use of video surveillance. For example, what happens if the camera in the front office is capturing a traffic accident in the street? What happens if an individual requests access to surveillance footage which contains not only that individual's personal information but the personal information of others? What happens if a camera captures inappropriate behaviour of employees outside the workplace? We do continue to receive a lot of complaints around proper notification and what kinds of policies should be in place for video surveillance activities.

Having said that, there are situations in which an organization has proven a legitimate purpose for collecting personal information using video surveillance and has demonstrated that the information is appropriately safeguarded. In 2007 we issued an order that allowed the Talisman Centre for sport and wellness in Calgary to continue its practice of using video surveillance in the men's locker room because it was found and the organization proved that the practice served a legitimate business purpose, to prevent theft in the locker room. To ensure that the practice was legal, the organization properly secured the personal information that it was collecting and ensured that it was used only to curtail the number of thefts.

Those are some of the issues that we've seen since the beginning, and at this point we don't anticipate them disappearing any time soon, but there are other trends that have drawn more of our attention since the last PIPA review, and I'll just cover a couple of those.

One of the major issues we are frequently discussing has to do with information sharing between the private sector, the public sector, and the health sector. PIPA sets out a great many circumstances in which personal information may be shared by private-sector organizations. There are, however, increasing pressures, particularly from government and law enforcement, for organizations to disclose even more information and often without notice and consent. At PIPA's core is the right of individuals to have control over and access to their own personal information, but if you're an individual and you don't know that an organization has collected your information and you don't know with whom it's

been shared, then it's impossible to make a request to access that information and it's impossible to exercise your statutory right under PIPA to make a complaint about the collection, use, or disclosure.

I've made a number of recommendations related to information sharing, most notably in the public sector, to ensure that individuals' access and privacy rights are upheld, but those recommendations are equally important in the private sector and include requiring that disclosures be documented, ensuring that individuals have an express, legislated right to ask for access to and a copy of disclosure notes, and ensuring that they have the ability to come to my office and ask for a review if their questions aren't being answered or if they're not satisfied with the response they receive.

Another issue that has been on the office's radar really since the legislation was introduced has to do with the status of nonprofit organizations under PIPA. As you may know, PIPA applies in a limited way to certain defined nonprofit organizations and only to the extent that those organizations are involved in commercial activities. Since day one my office has been advocating for the full inclusion of nonprofits under the legislation, as is the case in British Columbia. Since the act was enacted, we have had jurisdiction over one of the 24 requests for review that we received regarding nonprofit organizations. What that means is that, essentially, an individual requested access to his or her personal information held by a nonprofit organization to no avail, and seeing no other recourse, the individuals came to my office and asked for a review of not receiving a response, in essence, but we found that PIPA did not apply. As a result, I had no authority to resolve those matters.

In terms of privacy complaints, 91 per cent of nonprofit organizations that were the subject of a privacy complaint to the office were not covered under the legislation. We had jurisdiction in only 9 per cent of those complaints, and we found that the nonprofit organizations were conducting a commercial activity, meaning that the organization was subject to PIPA and we could go in and attempt to work to resolve the issues. It's also been the case that we've had jurisdiction in zero per cent of the self-reported breaches reported to us by nonprofit organizations. So while it's a good thing they are reporting the matters to us, if we wanted to investigate or do a follow-up, we don't have jurisdiction to do that.

In 2007 the all-party committee tasked with reviewing PIPA recommended that nonprofits be fully included under the act, but this was not included in the amendments that went forward. Considering these factors, I do continue to urge that access and privacy rights of Albertans be extended to personal information collected, used, and disclosed by nonprofits.

Another issue that continues to be important in front of our office has to do with solicitor-client privilege. Although individuals generally have a right of access to their own personal information, there are exceptions to that right of access. For example, an organization can refuse to provide access to information in a record that is protected by solicitor-client privilege. When my office reviews an organization's response to an access request, the review includes deciding whether or not an exception has been properly asserted.

1:30

Where an organization claims that a record is privileged, though, we have had some challenges obtaining access to those records in order to decide whether or not the privilege is being properly claimed. This is an issue that affects a significant number of cases in the office and is also currently before the courts, but I expect that we will have more to say about this issue in our formal submission to this review of PIPA.

Since the last review the Alberta government did make one amendment to the act after a Supreme Court of Canada decision found the act to be unconstitutional. An exception to consent was added for the collection, use, and disclosure of personal information by a trade union in limited circumstances related to a labour relations dispute. Between the time the Supreme Court deemed PIPA to be unconstitutional and when the Alberta government enacted those amendments, I was concerned that if PIPA were to lapse, then Alberta would lose the unique benefits afforded by this legislation, and with this review I would like to see Alberta continue to build and reinforce what is already a strong private-sector privacy foundation, that seeks to balance individuals' access and privacy rights with the legitimate needs of businesses to collect, use, and disclose personal information.

As we all know, massive amounts of personal information are being collected and stored and shared at this very moment, so it would be easy to think that it's too difficult to deal with some of these issues, but I don't believe that that's what Albertans want. In fact, in our most recent general population survey 97 per cent of Albertans agreed that it was important to protect the privacy of personal information, yet only 27 per cent felt that their personal information was more secure than it had been five years prior.

Meanwhile, organizations identified the pace of technology, mobile device security, and hacking as among the most important issues that they were dealing with. We all know or have personally been a victim of financial fraud or identity theft, and most of us have heard of those high-profile breaches at Sony or Home Depot or Ashley Madison that we see in the headlines. Of course, these situations are very troubling, but at the very least I think individuals are recognizing that their information should be protected. Along the same lines, organizations are becoming more responsive to concerns from customers about responsible collection, use, and disclosure of personal information.

The issues in private-sector privacy are dynamic, and they are complex, and as a society we are learning more every day about how vulnerable our personal information is. These realities speak to a greater need for legislation that at its core is designed to ensure that individuals have control over their personal information and that they can access the information while balancing the legitimate needs of organizations and businesses. In my view, I think that PIPA can be enhanced to maintain that balance, and Albertans should be and can be very proud of the benefits that this legislation affords.

Thank you very much. I'm happy to take questions.

The Chair: Thank you so much, Ms Clayton. We will open the floor to questions for Ms Clayton. If we have a lot, I can start a list, but maybe we'll just see if there are any questions.

I have a question. You said that you have a memorandum of understanding with British Columbia and the federal government as well. What about other provinces? Are you looking to move in that direction, to align all provinces?

Ms Clayton: No. The memorandum of understanding is between Alberta, B.C., and the federal Privacy Commissioner's office because we are the three jurisdictions that have substantially similar private-sector privacy legislation. I will say that Quebec also has private-sector privacy legislation. It has been deemed to be substantially similar to the federal legislation, but due to some challenges, if you will, Quebec is not always able to participate fully in some of the joint activities that we undertake in the private-sector privacy world.

Having said that, we meet regularly. We have something called the private-sector privacy forum, and our three offices and

sometimes Quebec meet regularly to identify, talk about significant issues in private-sector privacy, to identify opportunities where we can collaborate and share resources, to provide and develop guidance for private-sector businesses, and sometimes to identify opportunities for joint enforcement like investigations.

The Chair: Thank you.

Ms Fitzpatrick: First of all, thank you for speaking into your mike so I could hear you.

You mentioned that there was a 44 per cent increase in the number of breaches. What kinds of items were those breaches? Like, was there one particular thing that dominated the increase?

Ms Clayton: That's a really good question. You know, it's been very interesting. We published a report in 2012 after two years of mandatory breach reporting under PIPA, and I'm looking forward to updating it. I think we'll do something similar now that we're at five years of mandatory breach reporting. The reason I think it's really interesting is because we have seen a shift, and we outlined some of those changes, not in the annual report that we're about to release but the previous annual report. It used to be that what we would see primarily would be breaches that have to do with transmission errors, so e-mails that are sent to the wrong recipient or failing to have a BCC field – so everybody is entered into the CC field instead the BCC field – or mailing mix-ups. So things get mismatched; there's an automated mailing, things are mismatched by one, and thousands of people are affected. That was the case for a long time, including when we had breaches voluntarily reported to us before the act was amended.

What we've seen in the last couple of years are a lot more big database hacks affecting thousands, sometimes millions of people. We're seeing hacktivism. Sometimes the website hacks or database hacks, website hacks in particular, don't on the surface seem to be about accessing personal information. Instead, they're about putting political slogans across websites or taking them down, but they still expose the personal information of individuals. So we've seen a lot of that.

The other thing that we're seeing a little bit more increasingly is phishing attacks, so we have changed some of our assessment of breaches when they come in because we look at – the test under PIPA is: is there a real risk of significant harm? We look at the information that has been impacted by the breach and make an assessment: can that information be used to cause significant harm? If it can, we look at how likely it is that that harm will result from the incident. It used to be that we would see – you know, this was years ago – an e-mail address as part of the affected information elements and think: well, that's an e-mail address; that's relatively innocuous. What we're seeing now, though, are so many cases of phishing, e-mail addresses that are being used to send e-mails to individuals. People are fooled into responding or into entering their credentials into a website that's linked from the e-mail. We're seeing a lot of that.

We're also seeing an increasing amount of reports of social engineering. Again, some fairly innocuous information gets out to the bad guys, but the bad guys are impersonating a client, a customer, an administrator, somebody else who has authority in convincing employees within an organization to basically give them the keys to the castle, to other personal information. We're starting to see a real increase in those kinds of very malicious sorts of activities as opposed to a little bit less of human error and transmission errors.

The Chair: Thank you.

I do have a list going now, starting with Mr. Hunter, followed by Mr. Taylor.

Mr. Hunter: Thank you, Mr. Chair, and thank you for coming and explaining this to us. One of your slides here says that 97 per cent of the people believe that this is important, yet only 27 per cent believe that it's gotten better. Is that a function of – you've talked about how they're getting more sophisticated. Is that a metric of what you guys are doing in terms of protecting? What is your benchmark to be able to say, "We're actually being successful?"

1:40

Ms Clayton: Well, that stat was not tied specifically to activities of my office. We were just trying to get a sense of, you know, how Albertans feel about privacy: are they concerned about privacy, and does this matter to them? Right after I became commissioner, I wanted to run that survey and get a benchmark, so that survey was to establish the benchmark. I'd like to do the survey again to see whether or not there is a trend. I don't know if there's a trend at this point.

If I had to guess, certainly from my own experience – and maybe, you know, I'm attuned to this sort of thing – it seems that every single time I pick up a newspaper, I'm reading something about a breach; I'm reading something about a new initiative that affects personal information, the collection of personal information, whether it is a breach, whether it's a story about big data, whether it's a story about surveillance or body-worn cameras, whatever it might be. I think it's possible that just with increased awareness of these sorts of incidents comes an awareness that: "Oh. There's a lot of personal information out there I'm sharing on social media sites." We know that there are companies that are doing online behavioural profiling. I think there's just a general awareness that information has value and can be at risk and isn't always being protected, whether it's in the private sector, in the public sector, in the health sector.

The Chair: Mr. Taylor.

Mr. Taylor: Thank you. My question. You were saying earlier that, with the drivers' licences being submitted to the rental company, you've corrected that and you've changed that so they can't hold that information? I'm curious. With real estate companies, banks, and lawyers, I still go there and they request and they require those as part of their documentation information, and they hold that. What's the difference? Why would you have that as a change?

Ms Clayton: I think that when you're talking about banks and lawyers and realtors, in particular you're talking about requirements under know-your-customer legislation, so there are certain industry sectors that are subject to legislative requirements, not PIPA but other legislative requirements, that mandate them to collect specific data elements and sometimes to photocopy that information, maintain that information, and sometimes turn that information over to other regulatory authorities. If an organization is required by statute, some other statute, to collect the information, that's an authorized collection under PIPA.

With the rental cars, that matter ended up at a formal inquiry before our office. The adjudicator had submissions from the rental companies, from a number of other affected parties and intervenors to talk about how that information was used by the rental company, what the purpose was for which they were collecting it, whether it was actually effective in achieving that purpose. Bear in mind that there's no legislated requirement for them to collect it. They had to establish that there was a reasonable purpose for collecting the information and photocopying it, and they weren't able to establish that.

Mr. Taylor: Thank you.

The Chair: Mr. Gotfried.

Mr. Gotfried: Thank you, Mr. Chairman. Ms Clayton, in my personal life community groups, school groups, sports groups seem to always be in mortal fear of breaching people's data. What I'm understanding is that they may fall under this nonprofit group. Is it a valid concern of theirs, that they are so overly concerned about the sharing of information amongst team members, for example, on a sports team? Or is it somewhat unfounded, maybe an urban myth, that they are so in fear that they're going to get their wrists slapped for what I would call probably regular organizational sharing of information of their peers?

Ms Clayton: Well, the first thing that I would say is that we do get a lot of questions from minor sports associations, very specific questions, and we have guidance on our website designed to answer some of those questions. One of the common questions we get has to do with: "Can we collect personal health numbers? Are we authorized to collect personal health numbers?" That question is answered on our website.

There are other questions. Some of the typical things that come up around sharing information, around posting information on websites: we do have those questions answered on the website also.

What I would say is that any minor sports association may or may not be a nonprofit group under PIPA, and this is part of the challenge and why I think that this is something that really needs to be addressed by this committee in this review. Nonprofits don't even know if they're under the legislation or not. I've gone to speak to groups of nonprofit groups, and we spend the first hour of an hour-and-a-half presentation just trying to establish: are you or are you not under this legislation? It's complex for them. Is this a commercial activity? Is that not a commercial activity? How are you established? Are you under the Societies Act? Are you under part 9 of the Companies Act? Are you established under the Agricultural Societies Act? Are you federal and operating on a nonprofit basis but don't meet the definition under PIPA? It's complex, and it needn't be complex. What I would say to that is that you're possibly right. Some of them might be under, and some of them might not be. It depends on how they're established.

If they have any questions at all, please advise them to call our office. I think one of these slides showed that in the years that PIPA has been in force, we've responded to 25,000 calls from individuals – a lot of them from individuals – and organizations with questions. I'm always trying to encourage organizations and individuals to call us if they have questions. As a regulator I would much rather be in the position where we are advising up front or directing them to FAQs on our website that already answer their questions. If they are a nonprofit, I can direct them to all kinds of resources out there to help make compliance easy, whether they fall under the legislation or don't fall under the legislation.

If I can just say one thing about your final point, you know: should they be afraid of sharing the information? I'd rather that they phone, but I think that I do have a special interest in this sort of information sharing. Particularly, I am concerned about nonprofit groups. I know from, again, lots of years going out to speak to nonprofit groups and from some of the special projects that we've undertaken in the office that nonprofit groups collect some of the most sensitive information of Alberta's most vulnerable populations. At the very least, there should be requirements to safeguard that information. At the very least, there should be an individual right to access that information, and I think that at the very least they should have a right to ask for an independent review of those decisions, and in most cases that's not the case.

I still haven't answered your question: should they be concerned? I do worry sometimes. One of my big pet peeves is hearing: "Somebody was harmed or in danger, and privacy laws got in the way. We weren't allowed to share the information because of privacy laws." That is almost never the case, but there is a lack of understanding of how the laws work. There are lots of exceptions to consent allowing for disclosure in the legislation. I do think that sometimes we focus too much on, "Be very, very careful; don't ever share the information" as opposed to: "Here's how you can share information. These are the perfectly valid and legitimate circumstances in which you can share information." Do I necessarily think that's a legislative problem or an education problem? I think it's more of an education problem. I hope that answers your question.

Mr. Gotfried: It does. Thank you.

The Chair: Thank you.

I see one more question.

Mr. Hunter: What is the scope of the consequences of a breach? That's my first question. I have a follow-up question on that.

Ms Clayton: Okay. In terms of a deliberate contravention of the legislation or an accidental contravention?

Mr. Hunter: Would you establish that?

Ms Clayton: Well, we do, but we haven't actually had occasion to do that in PIPA so far. With the three statutes that I have oversight for, there are unintentional contraventions of the legislation. If that comes to my office, 80 to 90 per cent of the time we resolve it by working with an organization. We will make recommendations about how they can bring their practices in line with the legislation. That's how almost everything is resolved.

1:50

There are provisions in PIPA, as there are in other statutes, for offences that can result in fines. Usually to get to an offence, what we're looking for, you know, is some sort of intentional: I know what the law is, yet I'm going to deliberately do something else. The last review of PIPA took out some of that requirement for the mental element, but we haven't gotten to an offence investigation in PIPA so far. We've seen quite a number of them, unfortunately, under the Health Information Act, and we've successfully investigated. Those have been successfully prosecuted, resulting in \$10,000 fines, \$15,000 fines, and in one case a criminal conviction, but we haven't seen that in PIPA. But the provisions are there that would get us there for particularly egregious, probably intentional breaches of the legislation. We could get to fines, \$100,000 for an organization, \$10,000 for an individual.

Mr. Hunter: My follow-up question, Mr. Chair. B.C. is doing this right now with nonprofits. Is that what you're saying?

Ms Clayton: For B.C. nonprofits are fully under the legislation, yes.

Mr. Hunter: My question, as that would be our case study here, is: have you seen it have any adverse effect on, say, the rate of volunteers getting involved? I mean, if there's a liability issue for volunteers, would that actually decrease the number of volunteers that want to get involved?

Ms Clayton: I remember that question being raised at the last review of PIPA, and I had gone to B.C. at the time to say: "What is

your experience here? Let us know." At that time they had said that there really was none, not that they were aware of. Certainly, that had not been reported. What we tried to do: we worked very closely with Service Alberta in putting together a workbook for nonprofits to help them develop privacy policies, to identify personal information – to identify what is personal information, what isn't personal information – to provide some guidance on how to safeguard the information, to make it easy for them to meet the basic requirements of the legislation.

Mr. Hunter: Putting that together, would you say that there's been an increase with the nonprofits in compliance without having to have them under the jurisdiction?

Ms Clayton: I would say that there are a lot of nonprofits that want to do the right thing, so they talk to us. They ask us to come out and speak to them. They ask for advice and guidance, and we direct them to the resources that are out there, including the workbook for nonprofits. What is of concern to me is that not all nonprofits are like that, and they're not willing to work towards best practices. I know that because we had 24 requests for a review, where an individual went to ask for access to personal information and got nothing and would have been able to access that information had the organization been under the legislation. It troubles me in that there's no review, that that's it; it's no.

I remember also – and we'll be updating this information for this review, assuming that this becomes an issue – going back and looking at all of the calls, the 25,000 calls, whatever it was, in 2006 that we had about nonprofits and from nonprofits asking about certain practices and seeing that the kinds of issues that nonprofits have are the same as the issues that other businesses have. They're around things like video surveillance and monitoring volunteers and their phone calls, for example, or their e-mails. They're about installing biometric systems, surveillance issues, access issues, gossiping issues, sharing information inappropriately outside the nonprofit. It's all of the same kinds of issues. Those are the kinds of issues that, you know, we have a fair amount of experience in, and we can provide advice and guidance to nonprofits on those issues. But without a legislative framework to operate within, the sky is the limit, and there's no oversight of that.

Mr. Hunter: Sorry. Just one last follow-up question, Mr. Chair.

The Chair: We'll end the questions after this. Thank you. Go ahead.

Mr. Hunter: One more?

The Chair: Yeah.

Mr. Hunter: Thank you.

If you could give your best estimate, what percentage do you think are noncompliant already?

Ms Clayton: Of nonprofits?

Mr. Hunter: Yes.

Ms Clayton: I can't give you that. I can only tell you that a handful of nonprofits, a few dozen over the years, have contacted us for advice and assistance. We've done some work with volunteer associations. We've gone and spoken to them. But I have no idea. A handful of the hundreds of thousands of volunteer organizations in Alberta: that's a very small percentage that we've come into contact with.

Mr. Hunter: Thank you so much.

The Chair: Well, thank you for the questions and the fulsome answers.

In the interests of time we'll move on to our next presentation, from Service Alberta, another 20-minute presentation. Ms Gardiner, take the floor, please.

Ministry of Service Alberta

Ms Gardiner: Thank you. Good afternoon to the committee and the committee members, the chair, the commissioner and her staff, and others present. My name is Joanne Gardiner, and I'm the manager of FOIP services in Service Alberta. Although the title is FOIP services, it does include PIPA services.

I know that we've introduced my colleagues to my right as well, but I just wanted to mention that Katherine Olson is our manager of legislative services and will ultimately have responsibility around drafting any amendments that do go forward. Christina Hopkins Crichton and Silvia Russell are two of our advisers in Service Alberta's PIPA services, and one of the roles that they do have is actually answering the PIPA information line, which receives calls from organizations and citizens in Alberta and anywhere who make calls to the line with questions about PIPA and how it works and the privacy rules. We'll talk more about that as we go on.

We were asked to talk about the background and structure of the act, and we're doing it at a fairly high level, and we are including mention of some key areas that do warrant the committee's attention.

Let's move forward. I just thought we'd start by telling you where PIPA services are located within the government. We, as I've said, are FOIP services, which includes the Personal Information Protection Act, or PIPA. We are the information access and protection branch within the open-government division. We are the administrators of PIPA, and although we have different roles from that of the commissioner's office, we do have a shared responsibility for upholding the intent and the rights of the legislation.

We're a very unique FOIP/PIPA office because we're the corporate FOIP services and the provincial PIPA services office for all of Alberta. We answer two provincial phone lines. One is the FOIP helpdesk, and one is the PIPA information line. We also provide departmental FOIP services to Service Alberta and three client ministries, so we're quite a diverse office.

I just want to talk about, because we were talking about some of the background of the act, four access and privacy laws that apply in Alberta. Of course, we have PIPA, which is provincially regulated. We refer to it as consent based, meaning that it primarily relies on consent for the collection, use, and disclosure of individuals' personal information. There are limited and specific exceptions to that requirement for consent, so I'm just going to do a brief overview first.

There is also FOIP, which many people are more familiar with, and it applies to Alberta's public bodies. That includes government departments, schools, municipalities, provincial police, and even irrigation districts. There's quite a diversity of public bodies. We call this authority based because it sets rules around how collection, use, disclosure, and access are undertaken under the act.

Then there is PIPEDA, "PIPEDA" or "PIPEDA" – some people say tomatoyto, some tomathto – and you'll hear it referred to as both at times. That's the federal version of PIPA. PIPA was deemed to be substantially similar – you may have heard the commissioner using that term – meaning, therefore, that because it's deemed substantially similar, it does apply to Alberta organizations. We refer to them as provincially regulated. PIPEDA, on the other hand,

applies to federal works, undertakings, and businesses, or FWUBs, as they are sometimes called. PIPEDA does also apply to provincial organizations when they engage in commercial activity and personal information crosses borders. So an Alberta organization can be subject to more than one law, depending on what activities they're doing.

Then we have the Access to Information Act and the Privacy Act, and these are the two acts that are the federal versions of our Freedom of Information and Protection of Privacy Act, or FOIP Act, in Alberta. As well, the FOIP Act was deemed substantially similar, so it could be allowed to apply in Alberta. That's just sort of the privacy landscape, which we refer to that as.

Then this slide is pretty self-explanatory. What we are facing is a better informed and privacy-aware citizenry and increased risks in a changing privacy landscape, so I think it's very clear that PIPA matters now more than ever. Those are some of the reasons.

2:00

This slide provides a background of the act's evolution since its inception. After it came into force, on January 1, 2004, there were some minor amendments in 2005. In 2009 there were some pretty major changes to the act, notably the mandatory breach-reporting requirements. They were considered groundbreaking and leading edge, and they're only now being introduced into PIPEDA. That was a very important thing as well as the employee protection for Albertans in organizations. These were some pretty important differences, why we had PIPA in our province.

In 2014 was in a sense a quick fix to the constitutional challenge. We'll talk more about that later, but we think that we still need to pay attention to that freedom of expression challenge that occurred. Now we're having a full review in 2015-16. We're very excited about that and also feel, as the commissioner has expressed, that it's important that we have this opportunity.

What is PIPA? Now we'll look a bit at the act's structure. As I said, this is more high level; we're not going to walk through sections of the act. If you look at these four components of the act, we mention balancing the needs of organizations with the rights to privacy, we talk about common-sense rules, and we talk about individuals' control of their personal information.

Now I'm just going to break this out a little more. We've made the slides pretty dense – I don't want to read them – but then you have it as a resource as well to refer back to. I'm just sort of going to add to them rather than do that. First we might say: what is and what is not an organization under PIPA? We've listed some examples of what an organization is, what it's not, and there are special rules not just for nonprofit organizations but also for professional regulatory organizations. The list is not exhaustive. For example, churches generally do fall under PIPA due to the manner in which they're incorporated. For that same reason, the manner of incorporation, or by virtue of their activity – these are what place nonprofits either fully or partially under PIPA, or sometimes they're fully exempt.

I do have a slide where I'm going to talk a little more about nonprofits specifically. I'm not going to do that here. This is just so folks have a better understanding of what we mean when we talk about Alberta's organizations. Now, you won't see the FWUBs that we talked about under PIPEDA, like our banks or our telecommunication companies. Those are considered federally regulated, so that's why they don't fall under PIPA.

It's really important to understand what privacy is. I'm going to tackle the last bullet first. When we talk about privacy, we have different types of privacy. Here we've listed physical, spatial, and informational. We get calls to our helpdesk, our PIPA information line, and an organization might say: am I allowed under PIPA to

drug test my employees? We tell them that that's an example of physical privacy and not something that's covered under PIPA. PIPA is an informational law. It's about personal information in records. It's important to know that that's sort of outside the scope. However, if an organization has a drug-test result on a piece of paper, then that record becomes subject to PIPA because it's informational.

As well, we get calls, and they'll say: "I want to search my employees' lockers in the staff room. Am I allowed to do that?" Again, we say: that's a type of spatial privacy. It's not really covered under PIPA. I'm simplifying the ideas, but these are real calls that we get. The idea is that, no, PIPA doesn't cover that sort of thing. It's just about information.

Then if you'll notice, the first bullet says that privacy is not defined. A lot of people are surprised by that. The real reason is that it's really different for everyone. It's very hard to create a definition that would absolutely cover everybody's idea of what their perspective on privacy is.

One thing that you may hear from a lot of people talking about privacy is: if there's nothing to hide, why do you worry about that? But it's not about hiding anything. That's the important thing to understand about privacy. It's about controlling what we wish to share of ourselves and with whom. For example, we share differently with our partners than we share with our child. We share differently with our mother than we share with our best friend. We share differently with our boss than we share with our colleagues. The idea, though, is that you can control that, and that's how we create privacy. We refer to this as informational self-determination, and people are able to then control and assert their comfort level with privacy. Some people put everything on Facebook, and others wouldn't even have a Facebook account.

This idea of informational self-determination is represented in this diagram. These are the fair information practices, and these are principles that uphold privacy, and they also underlie all access and privacy legislation. As you can see, it's depicted with the individual at the centre so that if we have rules that meet these bubbles that float around the person, we're going to achieve the protection of personal information, which ultimately achieves or creates privacy. So the laws actually take these principles and create rules to achieve them.

We refer to them as common-sense rules under PIPA. The reason that we say that is because it is intended to not ever make it difficult for an organization to conduct their business and yet meet the needs of people. They're not supposed to be difficult, and they are consent-based with PIPA. That means they primarily require consent for the collection, use, and disclosure of personal information. There are limited, specific exceptions to consent and special rules.

I know that the Legislature researchers have some great resources being prepared for you. That's why we haven't gone through every component of the act. We're just doing the high level, the bullets, on it.

There is a right to access your own personal information, and one of the important distinctions between PIPA and, for example, the FOIP Act is that there's no general right of access. That's something that people sometimes don't understand. For government there's a general right of access under the FOIP Act, so people can ask for the government's records, not just their personal information, but with PIPA an individual can only ask for their own personal information, not all of the organization's business records. That's not subject to the right of access with PIPA.

Always it's important that the organization is collecting, using, and disclosing information that is reasonable and appropriate for the purposes. The word "reasonable" shows up quite a bit in this act. In fact, section 2 defines it, and it is very important that you

always do things reasonably under the act. I'll just say one more thing about "reasonable." I have a really great example that we find helps people to understand how the idea of reasonableness can actually change what's appropriate under the act. If you have an employee and they haven't missed a day of work for two and a half years and they call in sick and then they ask you, "Do you require a doctor's note?" you might say: "No. That's fine. Don't worry about it." Then you have another employee who is missing every Friday and every second Monday, so you tell them, "I require a doctor's note for every absence." You've set a different requirement for each of those employees, but that may well be considered reasonable. That is why that idea of reasonableness can shift, and it's meant to make the act more reasonable for organizations to apply.

Some other important components about compliance with PIPA are these ideas of custody and control. Custody is the physical possession of records or information, and control is actual ownership. But we see more and more, especially when we have agents or contractors that may have custody, that a certain amount of control can be a component of custody. Prior we saw them as much more separate. If someone had custody, they didn't necessarily have control. Control means that you have decision-making power over the ownership of that record. But now we're seeing that because an organization could have custody, that gives them a measure of control. That's something that we see in terms of safeguarding that information and not allowing it to be breached. You wouldn't want a contractor to say: "Oh, I only had custody. I didn't have control of it, so I wasn't responsible." We're seeing that that's blurring a little more as things go through.

An organization is responsible for the compliance of their agents and contractors, and what we always advise them is to ensure that that's clear in their contractual provisions because what we're finding is that sometimes it's not clear. That's where perhaps the commissioner's office has difficulty investigating, because it's not really been made clear what those responsibilities are. An organization needs to make sure that any of their contractors or agents are responsible.

The next bullet is the privacy officer. One of the requirements of the act is that an individual be designated as responsible for an organization's compliance with PIPA. This is often the person we refer to as the privacy officer. They don't have to have that title, but it's an easy way to explain who that is. It's really important that organizations know that someone needs to be making sure that they're meeting PIPA's requirements, and that person is very often the privacy officer.

2:10

The act establishes that an organization must have their policies and practices and, under those policies and practices requirements, include some around service providers outside of Canada. Under their policies and practices they must notify folks about service providers that they have outside Canada. There are requirements when information is transferred to another service provider when there is a service provider outside of Canada.

As well, information about how an organization is compliant with PIPA, their policies and practices, must be made available in writing. That's an important thing so that people know how an organization is handling their information.

We just wanted to give you a high-level sense of the background and structure of the act and some of the important principles underlying it. Maybe I've talked too fast because I'm running out of slides, but we won't keep you too long. We'll have questions.

We have a slide here about what's working well with PIPA. It's certainly the mandatory breach-reporting requirements of the act.

It's appropriate for private-sector organizations. It might be creating a lot of work, but it's really important in terms of organizations becoming aware. Sometimes the only time an organization becomes aware that they need to be compliant with PIPA is when they make an error. Generally there's not a lot of deliberate noncompliance; it's most often that folks don't really understand what their responsibilities are.

Also very important is the protection of personal employee information. This did not previously exist in PIPEDA; that's another new addition to PIPEDA. Again, it's more limited in PIPEDA. While we in Alberta have PIPA – and it's been deemed substantially similar – if another province doesn't have their own substantially similar private-sector privacy legislation, they fall automatically under PIPEDA, yet it never previously had protection for personal employee information. Now I believe it's limited to federally regulated businesses only, even with the new additions to PIPEDA. So this remains a very important safeguard for employees of our Alberta organizations.

I've already talked about the idea of what's reasonable. That really works well for context and sensitivity of information and ensuring that the act remains appropriate in different contexts. It's very difficult to write legislation that accounts for every possible scenario that might occur, so that's a really good thing that we have. I know, for example, that in B.C.'s act they don't actually have "reasonable" defined, and we do in Alberta, and I thought that was something really great about our Alberta legislation. That's section 2 if you're looking at your copy of that.

The other idea is that we always say that it's striking the right balance. We talked earlier about the needs of organizations and the right of people to have that control, or informational self-determination, and protect the privacy of their personal information. Now, an organization can't always get consent. For example, if there's a law enforcement agency that approaches them for information and it's a legitimate request, they're going to disclose that information without the person's consent. This is one of the authorized disclosures without consent. That is something that's going to happen, but for the most part we want people to have a good understanding of what an organization is doing with their information.

Sometimes now we're starting to call it a line of sight. When they hand their information to an organization, they should have a very good idea of where it's going to appear or how it's going to be used. So we do feel that the act strikes the right balance in ensuring that. It's really not intended to prevent businesses and organizations from conducting their business. You know, we can't be regulating business to the same extent that we can control our government departments because they still need to be able to operate as a business, and that's why we say: striking that balance.

We do say in this bottom note that PIPA functions well and that the greatest challenge is having small to medium-sized organizations understand and follow responsibilities for clients. Now, we receive about 600 to 800 calls to the PIPA information line a year. That's not a huge amount over the year but a few calls a day. I would say that many of them are from either the organizations themselves or individuals with questions about how an organization is handling their information. And we do find that it's a bigger challenge for the small to medium-sized organization to find the rules in PIPA, but when they know about them, they're fairly easy to understand. It's just that a lot of times, for small or medium-sized organizations, knowing all their compliance requirements can be challenging for them, but we find that they do find PIPA to be very understandable when they are implementing it.

We do have a couple of slides where we wanted to talk about some observations of issues that we've had, and the first one is the idea of nonprofit organizations. Now, it's under section 56 of the act that you will see the special rules for nonprofit organizations kick in. Basically, if they're incorporated in a certain manner, then they aren't required to be compliant with PIPA. This is, of course, not the legal wording of what the section says, so you do have to read that for the correct legal language. They aren't required to be fully compliant with PIPA.

Most nonprofit organizations that aren't incorporated in the manner set out under section 56 must be fully compliant with PIPA. If they're incorporated in the manner set out under section 56, then they aren't required to be compliant with PIPA unless they engage in commercial activity – and commercial activity is also defined in that section – and when they are engaging in commercial activity, for that activity they must comply with PIPA. So we see some nonprofits fully required to be compliant with PIPA, some partially, and others not at all, depending on their activity, then, at that point.

We do find that sometimes there's confusion, and the nonprofits have to make that determination for themselves, where they lie. When you say, "Well, what's a commercial activity?", a simple example: we sometimes say that it's like selling a membership list. A nonprofit that doesn't normally engage in anything might be approached to sell their membership list, and if they decide to do that, then they have to turn to PIPA and follow PIPA for that activity. So there's some confusion for the nonprofit organizations.

Commissioner Clayton mentioned the guide. We do in Service Alberta advocate for nonprofit organizations to follow PIPA even if they aren't required to because we always say: it makes good sense, and what if it was your information? We do encourage them. We also tell them: if there are too many breaches, then maybe a special committee is going to pull you in, so try to be compliant. We always encourage them. We never know. The last special committee did recommend that they be brought into the act. Yes, they're fully under the act in British Columbia as well. That's just something for consideration. That's very important.

Moving to the freedom of expression bullet here. That was the challenge that occurred last year, and it was so unfortunately close to the special review committee. It was under the wire, just a little past the wire. We had to get an extension from the Supreme Court to get the amendments through. That was just the timing of the House's sitting that impacted that. It was a freedom of expression challenge, and it started with a union picketing and some pictures being posted of someone who crossed it. It was a bit of a fight, and that worked its way through the courts. In the end, we had a year to make PIPA compliant. We had recommendations from the commissioner, so there were a couple of options, and we took the option where we just fixed it for the trade unions. There was a lot of work and consideration done on it in a broader sense, and that is mostly because there could be potentially other similar challenges.

We've put in some special requirements – and I think it's 14.1, 17.1, and 20.1 where you'll see them – under the collection, use, and disclosure provisions. Those are specifically for trade unions in a lawful strike. They may collect, use, and disclose "personal information about an individual without the consent of the individual for the purpose of informing or persuading the public about a matter of significant public interest or importance relating to a labour relations dispute." But our concern is that if, for example, an environmental group is trying to inform or persuade the public about a matter of significant public interest from their perspective, we may face the same type of challenge again.

We did find from a thorough look at the Quebec act, which is actually hard to map against our act because it's quite structurally different, that it really has a different perspective on how privacy

ownership occurs. We thought that that was a good place to look in terms of this idea of a special – when there's something of public importance, we should be able to inform people of without being hampered by the legislation. So that's just another important issue for consideration.

2:20

Another thing that has recently raised its head is this idea of warrantless disclosure. That's happened under the federal legislation, PIPEDA, where folks have asked an organization to provide, for example, an ISP address so that there can be an investigation, and there's not been a warrant. There was a recent court ruling that a bare request without legitimate authority does not a suitable request make. Some organizations under PIPEDA are simply refusing to provide any information under a warrantless disclosure because there's uncertainty about what they're allowed to do. Now, PIPA has similar sections, and those would be sections 20(f) and 20(m), and they allow for warrantless disclosure. We may need to keep a close eye on what happens. I think that the police chiefs are saying, "This is not good," and some stuff like that is happening. We can provide additional information on that when you're at the point of considering it.

There is the question of legal privilege. This really is a problem where there's some recent legal developments in relation to the FOIP Act – and there's a similar provision in PIPA; that is section 38(3) – and in that case the commissioner's office wasn't allowed to compel information that's subject to solicitor-client privilege. It is in the courts, and the important thing is that – we may just have to see what happens – it may well be that PIPA is the ground where it's settled because this is the legislation we're reviewing right now, and this is a very current situation.

The Information and Privacy Commissioner has a very important oversight role, as I mentioned. We're the administrators. We set policy, but they're the ones that provide oversight and investigate and review. If citizens have complaints, then they're able to address them, so we need to make sure that remains robust. We have more complaints – it's just across the board – about the timeliness of it. That's happening in government departments, it's happening with the organizations' processing, and then it's exponentially at the commissioner's level, where they get generally more reviews than organizations may get requests. So it's very important that we consider how we can make sure that this is occurring in as timely a manner as possible.

The commissioner talked about offences. The commissioner makes orders, and she can order organizations to do things, and there are offences, which are pretty high up in terms of, you know, someone being charged with an offence. Consideration may be given to some interim penalty level and even the awarding of costs. I'm not sure how that would look; we're just saying that this may be an option to strengthen that oversight role.

Some very limited other things to discuss: this idea of trade agreements and service providers outside Canada. There's a recent trade agreement being developed, the trans-Pacific partnership, I believe it's called. The privacy community is weighing in that this is an issue in terms of – mostly right now it's only focused on the idea of data localization. Data localization is when a jurisdiction is required to keep their personal information holdings within their jurisdiction or, for example, within Canada. This is the case with the British Columbia FOIP act, but it's not so much the case here. We don't have those same restrictions necessarily, but we're concerned about how that may match up against our notification requirements. PIPA has requirements that when an organization uses a service provider outside Canada, they must notify, so we

might want to take a look at whether or not that has some impact on that trade agreement.

We just added the last bullet on the right of action for breach of privacy by individuals. We don't have anything of that sort in Alberta. There's a privacy act in British Columbia that's really a tort law. The reason we mention this is that more and more individuals have responsibility with organizational resources, and individuals are not subject to PIPA. We wanted to guide the conversation that they aren't part of PIPA, so that isn't something that we would have in the law. It's dealt with generally in other options, and we want you to be aware of that point.

That was all that we had.

The Chair: Thank you so much.

We'll take five minutes for questions.

Mr. Schneider: Can I ask: the last thing you touched on was PIPA in regard to the trans-Pacific partnership. Just fill me in again.

Ms Gardiner: We don't even think there's really a concern. Some privacy experts have weighed in that there may be a potential problem with the agreement and data localization. We don't have data localization, but we do have notification requirements for service providers outside of Canada. We just want to look at that.

Mr. Schneider: I thought that's what I heard.

The Chair: Anyone else? Going once.

Okay. Seeing no more questions, I'd just like to thank everyone from the commissioner's office and Service Alberta for coming in. It was a wealth of information, and we're going to be much smarter for it. Thank you.

We'll take a five-minute recess at this point.

[The committee adjourned from 2:26 p.m. to 2:37 p.m.]

The Chair: Okay. Thank you. We'll reconvene the meeting. We're going to move to item 4(b)(i), the consideration of the discussion guide. With us today is Dr. Amato, who is going to be discussing the three documents that we have on our – sorry. I'll just say that there is an omission. The three documents are the discussion guide, the stakeholder list, and then there was a cross-jurisdictional document that was left off the agenda, but that will be kind of done in conjunction with other research requests.

So if we could have Dr. Amato give her presentation. Hi.

Dr. Amato: Thank you, Mr. Chair. I am going to be discussing this discussion guide that was distributed to all of you, and I'll be really brief. I'm going to make, essentially, two points. I'm going to discuss in general the purpose of a discussion guide and then just orient you a little bit to this document and the sorts of information that it contains.

A discussion guide is prepared primarily for stakeholders to inform them about a piece of legislation and also to invite their input in matters of concern to them about the legislation. So what happens is that if this document is approved by the committee, it is posted on the committee's website, and when stakeholders are invited to make written submissions to the committee, they are also sent a link to this discussion guide. In terms of the information that is included in this discussion guide, you can see that it is a fairly comprehensive coverage of both the legislation PIPA and some matters arising that pertain to PIPA.

If you turn to the table of contents, you can see the list of coverage in the discussion guide, and, if I may, I would like to draw your attention in particular to the executive summary on pages 5 and 6, which lists the questions that the discussion guide poses to potential

stakeholders. I should say that these questions are merely suggestive for stakeholders to respond to, and I note that question 21, the very last question, opens up the discussion so that stakeholders can respond to any issue or any idea they may have and want to raise to bring to the attention of the committee. They may bring any opinion or advice that they have regarding PIPA to the attention of the committee when they respond and submit written submissions to the committee.

Just a little bit more information on how this guide works. If you turn to page 13 – just choosing a random section – you'll find a fairly fulsome discussion of access and correction to records. The questions that are included in the executive summary are at the end of every section. You can see question 7 here. The preamble goes over all of the relevant provisions in the act that pertain to the question.

The intention of the discussion guide is to serve as a starting point to conversation for stakeholders to make submissions to the committee, and it's fairly useful, perhaps to the committee itself, in terms of providing lots and lots of detail about the act itself and issues that already have been drawn to your attention this morning such as freedom of expression, warrantless disclosures, and nonprofit organizations, all of which are detailed in the guide. So the hope is that you will find this a fairly useful document at the very beginning stages of the review and also as you go through it.

That concludes my presentation on this, Mr. Chair, but I'd be very happy to answer any questions and receive any feedback that anyone might have.

The Chair: Thank you, Dr. Amato. We will open the floor to questions.

Seeing no questions at this point . . .

Mr. Carson: I would like to make a motion to defer the release of the discussion guide with comments to be provided to the LAO before November 6 and that the LAO use the comments to develop a revised discussion guide to be circulated at least one week prior to our next meeting and to be considered at our next meeting.

The Chair: Okay. So we're looking for more time, I guess it is, to contribute to the guide. Can we hear that motion again, please?

Mr. Carson: Yes. I'll repeat it. I move to defer the release of the discussion guide with comments to be provided to the LAO before November 6 and that the LAO use the comments to develop a revised discussion guide to be circulated at least one week prior to our next meeting and to be considered at our next meeting.

The Chair: That motion is moved by Mr. Carson. Any discussion on that motion? Mr. Taylor.

Mr. Taylor: Yes. Thank you, Mr. Chairman. My question was: wasn't that part of the comment you said, that this was just a guide for us – this was not a comprehensive piece of information – that we could correct it and use it as we wanted to? With question 21 that kind of leaves that wide open, and doesn't that make it redundant to have to go back and revisit this?

Dr. Massolin: Mr. Chair, if I may.

The Chair: Please.

Dr. Massolin: The purpose of this document, as Dr. Amato said, is just basically to give some guidance to stakeholders when we send it out to them. It's not restrictive in any way. It's not comprehensive either. So the point is that it would be released in conjunction with the stakeholder letter, and, as you can see on the agenda, that's the

next item of business. The plan, I believe, is to take into consideration that stakeholder list, approve it, presumably, and then send out the letter. So in conjunction with that letter the link would be set up. At least, that's the proposal for this discussion guide. That's the plan.

Thank you.

The Chair: Thank you.

2:45

Ms Larivee: I would say that I concur just because it does frame to some extent an understanding of PIPA for the stakeholders, I guess, the ability to make sure that it's comprehensive enough to allow the stakeholders the ability to really understand how it applies to them, concerns that they might have, if it applies to them, you know. I would like more time to look at that and make sure that it really does work well for the stakeholders that we want to be involved.

The Chair: And I'm hearing, I think, provide input as well, further input. Yeah.

Any other discussion?

Mr. Sucha: You know, in light of what we've heard from the Privacy Commissioner and Service Alberta, it may be a good opportunity for us to readdress this discussion guide and then come forward with some suggestions to add to that guide as well.

The Chair: Okay. Yeah. I guess that seems to be what I'm hearing, that there hasn't been enough time and also that people themselves want input on it, Dr. Amato. I mean, I do think that it's a good starting point for discussion for both the committee and the stakeholders. I guess they just want some more input from the committee itself.

Mr. Hunter: How much input have we received so far from stakeholders?

Dr. Amato: From stakeholders? None.

Mr. Hunter: None?

Dr. Amato: We haven't solicited.

The Chair: They haven't been asked yet.

Mr. Hunter: Okay. We have a list. We have no information from them yet, and only the people who are on the list will have the ability to give their input. Can we add to that list?

The Chair: I can answer. Yes, absolutely, we can. The stakeholders list is up next, and that can be discussed. Yes, absolutely, you're free to invite anybody you want to participate.

Mr. Hunter: Thank you, Mr. Chair.

The Chair: Okay. It's been a long time since we heard that motion. Perhaps we could hear it again, Mr. Carson, and then we can vote on it.

Mr. Carson: Thank you, Mr. Chair. I move to defer the release of the discussion guide, with comments to be provided to the LAO before November 6, and that the LAO use the comments to develop a revised discussion guide to be circulated at least one week prior to our next meeting and to be considered at our next meeting.

The Chair: Thank you.

All in favour of the motion? Any opposed? Seeing none opposed, that motion is carried.

Next Dr. Amato will address the draft stakeholders list.

Dr. Amato: Okay. The document that we're discussing is the fairly thick draft stakeholders list. Let me just generally provide some information about the purpose of a stakeholders list and then how this particular stakeholders list was compiled, and again I'm going to ask for suggestions from the committee for organizations to be added to the list or for the list to be amended again as you see fit.

The purpose of a stakeholders list is to identify individuals and organizations who are involved with the legislation that is under review. Drafting a stakeholders list allows the committee to solicit advice and opinions from interested members of the public, essentially. In forming this fairly thick stakeholders list, I had some information at my disposal, and the first piece of information was the very, very large list that had been used to compile the stakeholders list for the last review, in 2006-2007. All of those organizations again appear here. That list underwent fairly substantial amendments because of lots and lots of changes since 2006-2007. Additional organizations were added. An initial draft of the stakeholders list was circulated to both Service Alberta and the office of the Information and Privacy Commissioner, and the stakeholders list was posted to the internal committee site, and we received some additional suggestions, which were added to this list.

In terms of the ways in which the list is organized, again, you can see the organizations in the table of contents on the first page: businesses and business associations, labour organizations, nonprofit organizations, PROs, which are professional regulatory organizations, and private-sector education bodies. Let me just say that, as you heard this afternoon, potentially all private-sector organizations in Alberta are in some way subject to PIPA, so this makes drafting this list challenging, and we very much welcome your feedback in suggesting organizations that we might add to this list.

Thank you. I'll wait for your feedback.

The Chair: Thank you, Dr. Amato.

We will open the floor to questions. I have a question. How are they notified? Is it electronically? Is it through the mail? Are they called?

Dr. Massolin: I think that's a question for our committee clerk.

Ms Rempel: What the general practice has been in recent years is that a letter is prepared advising them that the committee is doing the review and including a few details such as the submission deadline and so on, and then those letters are sent electronically to the various. . .

The Chair: Signed by whom?

Ms Rempel: By the chair, of course.

The Chair: Are there any other questions?

Ms McKittrick: Just on the matter of process I was wondering if in the past you have sent information to the umbrella organizations for the francophone associations in Alberta and to the umbrella organizations for immigrant organizations? Is that a matter of practice? I was just wondering about that.

Dr. Massolin: Is it a matter of practice?

Ms McKittrick: Yes.

Dr. Massolin: For other reviews, you mean?

Ms McKittrick: Yes.

Dr. Massolin: Certainly, yes, we would consider them if they were relevant.

Ms McKittrick: Okay. Thank you.

The Chair: Mr. Gotfried.

Mr. Gotfried: Thank you, Mr. Chairman. Just a couple of questions, I guess, on process and also just a comment. I'd like to know what the formal process is for us to add people onto this list. Secondly, just in doing some quick browsing, particularly in the nonprofit sector, I see that there may be some holes in terms of representation from the aboriginal and some ethnocultural communities and maybe some of the more international representation that I would hope we could focus on and follow that process for adding them if possible.

The Chair: Who can speak to the process?

Ms Rempel: I wouldn't say that there's truly a formal process. You can just send us an e-mail if you have some suggestions. As you know, we did circulate the list in September, and we did get feedback from a few members. Normally it is sent through the chair and/or the committee clerk to ensure that it gets added to the document.

Dr. Massolin: If I may add, Mr. Chair, we could be doing this right now if you have some specific groups right now, and the committee could, you know, by consensus agree with that.

Mr. Gotfried: I'll send you a detailed list – maybe I can just circulate it through the chair – of those that I know of. I'm sure other people will have similar lists to add on. Apologies for not having done that at this point already.

The Chair: I think we should agree on that. There will be two ways that you can send the additions: through the chair and through the LAO clerks, the specific person.

Ms Rempel: That would be me.

The Chair: Sure. Okay. Through Ms Rempel.
Any other questions?

Mr. Horne: If there are no other questions, I would like to move to defer the approval of the stakeholders list until the next meeting, with feedback to be provided to the LAO on or before November 6 and a revised list to be provided to all members at least a week prior to the next meeting and to be considered for the next meeting.

The Chair: Okay. Thank you.
Any discussion on the motion? Mr. Hanson.

2:55

Mr. Hanson: Yeah. Are there committee meetings being held outside of this group that we don't know about?

The Chair: I'm not sure what you mean by that.

Mr. Hanson: Well, the very well prepared statements there for these motions: I was just wondering where they came from.

The Chair: Well, do you not have meetings with your caucus prior to these meetings?

Mr. Hanson: No.

The Chair: Perhaps you should.

Mr. Sucha: Mr. Chair, I would like to support Mr. Horne's motion. It's a lot in kind of support of what Mr. Gotfried mentioned. I think, especially with the approach this government has taken in regard to reconciliation with the First Nations, it's very important for us to make sure that when we start the consultation process, we're reaching out to these organizations promptly and prudently as well.

The Chair: Yeah. That's along with what Mr. Gotfried was saying, too. I agree with that.

Any other discussion on the motion? Do we need to hear it again to be clear?

Ms McKittrick: I just want to take the opportunity to thank the staff of the LAO who have done so much research already in identifying the organizations. I know how quickly addresses and names and phone numbers can change for some organizations, so I'm really aware of the amount of work that has taken place by the LAO staff. I wanted to thank you as we give you even more work, as we send you more organizations to find. So thank you for the work that's been done already.

The Chair: Thank you. Well deserved and well put.

Okay. Any other discussion on the motion? Perhaps we could hear it again, Mr. Horne.

Mr. Horne: Of course. I move to

defer the approval of the stakeholders list until the next meeting, with feedback to be provided to the LAO on or before November 6 and a revised list to be provided to all members a week prior to the next meeting and to be considered at the next meeting.

The Chair: Thank you.

All in favour of that motion? All opposed? Seeing none, that motion is carried. Thank you.

Ms Dean: If I may just supplement some of the comments that have been made about timing and scheduling. As members know, when the estimates process is under way, this committee will be meeting to review estimates and isn't able to meet to conduct this review unless there's special approval granted from the House. Assuming that estimates will be under way, then a further meeting on this subject will likely be taking place, I would presume, Mr. Chair, sometime beyond November 6.

The Chair: Correct.

Ms Dean: Okay.

The Chair: Yeah. I hope that we will motion to release all the documents that we're talking about today at the next meeting. That would be ideal.

Dr. Amato, are you doing the crossjurisdictional, or are you, Dr. Massolin?

Dr. Amato: At the risk of a bit of an information dump, the last document that I would like to bring to your attention is the crossjurisdictional comparison, that is – good news – slightly thinner than the other documents. This document was prepared in response to a research request at the last meeting of this committee. What it does is compare Alberta's PIPA to the substantially similar legislation across Canada that was discussed earlier in this meeting, particularly to British Columbia's PIPA, to the federal jurisdiction's PIPEDA, and to a newer piece of legislation that is not yet in force

in Manitoba, which is Manitoba's PIPITPA – there are a lot of acronyms here – which stands for the Personal Information Protection and Identity Theft Protection Act.

It's hopeful that this document may be useful to the committee at two stages in its deliberation. Possibly right now, as you familiarize yourself with the privacy landscape in Canada, this document might give you a little bit of context again in terms of: what is PIPA, what does it do, and then what are other jurisdictions doing?

If I may suggest, Mr. Chair, this document may be most useful towards the end of the process, when the committee is, in fact, in its deliberations, and the committee at that point may be interested in very particular provisions and differences in the provisions of Alberta's PIPA compared to PIPEDA and B.C.'s PIPA and even Manitoba's PIPITPA. So if I may suggest hanging onto this for the moment in which it may in fact be most useful.

Thank you.

The Chair: Dr. Amato, is this in its final form, then?

Dr. Amato: Yes. This is an information document in its final form.

The Chair: Okay. Thank you.

Any questions for Dr. Amato on this document?

Seeing none, thank you so much.

Dr. Massolin, you're going to tell us about other research requests.

Dr. Massolin: Well, more of just an ask, Mr. Chair, of the committee. We've got our homework here in terms of the discussion guide and the stakeholders list, but are there any other requests from the committee right now in terms of its research needs?

The Chair: I see none, but I think it would be helpful if we had some idea of what's available to us as a committee in terms of research requests.

Dr. Massolin: Well, I think you've got a lot so far, to be quite honest, if I can be frank. [laughter]

The Chair: They don't want any more work.

Dr. Massolin: Yeah. Well translated, Mr. Chair.

But, certainly, if there's something that comes up at subsequent meetings, we're there to help out. Certainly, different briefings or reports and the need for those can arise at any point, but I think the next step might be to summarize the written material that we get back from stakeholders and possibly members of the public should the committee decide to go that route as well. We'll be available to do that and amalgamate the issues as they arise and summarize them and prepare them in a digestible format so that the committee can consider them at a later stage in the deliberative phase that Dr. Amato referenced. Those things are on the radar, but I don't think they're necessary right now, or they'll just come up when they occur. If anybody has any requests at this point, we're certainly willing to do that.

Thank you.

The Chair: Thank you.

Any questions?

Mr. Gotfried: Mr. Chairman, just following on our past discussion, I guess it's also in line with the discussion around what looks like maybe a potential request to include nonprofits in this legislation going forward. The list of nonprofits, again, as referenced before, is quite small in here. I guess that from a research perspective, if

there was anything I might ask – we all know lots of nonprofit organizations, but we don't necessarily know all the right ones or the biggest ones – if we could find or add to this list or through research some of the larger nonprofit organizations, either by membership or by activity or however you want to rank that, we can ensure that they're represented in the nonprofit outreach that we do to ensure that we're getting robust feedback from them, with the possibility that they may be included in this legislation in the future.

The Chair: Thank you.

Dr. Massolin: Can I just comment on that?

The Chair: Yes.

Dr. Massolin: Certainly, we can do that type of research, Mr. Chair. Just so that you understand maybe the approach to the research – and maybe you do – we try to include the umbrella organizations for this just to streamline it a bit. But we can certainly branch out, to mix my metaphors.

Thank you.

The Chair: Any more questions? No? Okay. Thank you.

We'll move on to 4(c), communications/proposed timeline. The first part of this discussion: we do have a list of stakeholders that we are going to, I guess, bolster until November 6, but we have not had the discussion on whether we will open this to the general public. We don't need a motion on this. We need a discussion and a general understanding if we agree to move this into the general public. Then what we need a motion on is taking that forward in an advertising campaign. Should we decide to do so, then we will have a presentation from Ms Sorensen, who will tell us about that.

Can we open the floor to discussion on moving this into the general public and making them aware of this review?

3:05

Mr. Schneider: Mr. Chair, can I ask those that are in the know: in 2007, '06-07, whatever, was there an allowance for the general public to come to those, in particular?

Dr. Massolin: Yes.

Mr. Schneider: Okay. That was just my question. Thank you.

The Chair: Thank you.

It does broaden the scope. I'm sure we've all talked about this amongst ourselves because it was brought up before that we would have to discuss this at some point. I mean, it is personal information, and I think it's at the forefront of everybody's mind right now. I'm of the opinion that we do it and look at what the costs are and how we're going to go about it. I think that, generally, we need to put this out to the public.

Mr. Schneider: Just another question: when it was done last time, was it done in Edmonton, or did the committee travel? Do you recall?

Dr. Massolin: Well, I think we're talking about sort of written feedback solicited from across the province.

In terms of their meetings I wasn't involved with that committee, so I can't recall, and I don't know if anybody recalls.

Was it all in Edmonton?

Dr. Amato: Yeah, it was.

Mr. Schneider: Okay. Thank you.

The Chair: I guess that's the second part, isn't it? We'd have to determine, based on the feedback that we get, if we need to do that type of consultation and where it will be done. Right now we're talking about an advertising campaign, really.

Ms Sorensen: Mr. Chair, if it helps the committee at all, what I'm seeking from the committee today is kind of the go-ahead to prepare some strategies for you. In other reviews we supplement the stakeholders list with a bit of a broader net that invites participation from the public at large through advertising, usually province-wide. We also put in strategies for social media and traditional media that provide tools to the committee members to even push that a little further within their own communities to get the word out and to solicit as much input as possible.

Mr. Hunter: With this process, then, we're just trying to find out. You're going to give us a budget of what it would cost. Is that where we're at right now?

Ms Sorensen: Certainly, if that is the wish of the committee, I can come back. Just given the discussion around here it looks like there'll be another meeting, sometime after November 6. I could come back at that time with a communications plan outlining strategies with costs and perhaps draft ads, if that's the wish of the committee, for you to look at and approve at that time.

The Chair: Ms Larivee.

Ms Larivee: Thanks. With that clarification, I'd like to move that the LAO communications staff present to us on the various options for effective public consultation, including costing, at our next meeting and that the communications staff share with all the committee members information on those various options at least one week in advance of the next meeting.

The Chair: Thank you.

Discussion on the motion? It's as if Ms Sorensen read your mind. No discussion on the motion? Then I will ask: all in favour? Any opposed? That motion is carried.

Okay. We're going to look at the proposed timeline document that we had asked the LAO to put together at the last meeting. Clearly, things have changed already. We don't need a motion on that, but perhaps we'll just ask the LAO to revise it as this meeting concludes, and the changes that happened in this meeting we can add. Any discussion on that?

Actually, I do have a question. We had given ourselves a six-month cushion, so it's fairly malleable at this point. We have a December 2016 deadline, correct? So we're talking about December 31, the end of December.

Ms Dean: Eighteen months.

The Chair: Just for clarification, what was the start date of that?

Ms Rempel: The first meeting, which, I believe, was July 14.

The Chair: So wouldn't that push the end date out a month? I don't have a calendar in front of me.

Ms Rempel: Yeah. To January 14, I believe.

The Chair: Okay. So we'll revise the document as well to reflect a new critical date.

We can move on to item 5, other business, now and the motion to discuss the working group. I will ask for discussion on that. Ms Fitzpatrick.

Ms Fitzpatrick: Since I asked to put this on the agenda. I gave a lot of thought after our last meeting to the working group, and given the small size of the working committee and the importance of this work, I feel that it is most responsible to Albertans if this work incorporates the diverse views of all the committee. With that in mind, I move that
the working committee be dissolved.

The Chair: Thank you, Ms Fitzpatrick.
Any discussion on that motion?

Mr. Hunter: On July 14 we talked about this, and there were only two dissenting votes at the time. I guess I have a few concerns about dissolving this working group. Firstly, we have representation from the Official Opposition, from the government, and also from all parties. Basically, when that working group is discussing and talking, they have the opportunity to express the views of all three caucuses, and it is a way for us to be able to shorten the time that we have to spend in our committee on issues. I think that this is a precedent that has been set in the past.

The Chair: I hear your comment.
Mr. Schneider.

Mr. Schneider: Yeah. I think we talked about this in depth at the July 14 meeting, and the understanding was that the working group was to streamline the committee. So if the committee has to meet every time an issue comes up, that is just about doing the opposite, is it not?

The Chair: I'll just say perhaps. I don't think we can say for certain that that's the case. I think what Ms Fitzpatrick is moving towards is actually a more equitable way of coming to conclusions, to be honest.

Ms Larivee.

3:15

Ms Larivee: Yeah. Thank you. Same thing. After reflection I realized that there was more to this. I mean, there are a lot of voices around this table, not just three, and streamlining isn't always – it's nice to spend less time. I mean, we all have a lot of meetings to be at, but it is important to have the diversity of voices representing the diverse constituencies that we cover, not just our caucuses as well, so I support her on this motion.

The Chair: Thank you.
Mr. Gotfried.

Mr. Gotfried: Thank you, Mr. Chairman. It's my understanding from our July 14 meeting that the purpose of the working group was really to provide a bit of a filter, to bring relevant and important issues to the table to be decided at this table, and that it wasn't – although you could use streamlining as a comment there, it really was a bit of a vetting process in terms of bringing relevant, important issues to the table here. To echo Mr. Hunter's comments, to have representation from the three different caucuses here – I'm assuming we all have strong voices for our caucuses that can be brought to those tables and that that consultation can be brought to those working group meetings. I'm looking forward to the working group and to being a contributing and collaborative member of that working group. Based on the majority carrying that on July 14 and the robust discussion at that time, I would suggest that we stick with that and see if it works, and if we have some issues, this table here still has the opportunity to dissolve that if it's not working well.

The Chair: Okay. Thank you.

Mr. Hunter: In thinking about this before, I was thinking about a comment that was made, and I want to read this to you. It says:

The Official Opposition provides a very important role in the Legislature in general and in these committees specifically. I think there are several reasons why I believe that this would be the most judicious course of action given the reality and the gravity of the matters before this committee as well.

That's from *Hansard* in 2015, and that was from Minister Eggen. So, you know, your own colleagues understand the importance of these committees and the importance of making sure that we run them in a way that is effective and efficient and that represents opposition parties as well.

The Chair: Thank you.
Mr. Taylor.

Mr. Taylor: Yes. Thank you, Mr. Chairman. Yeah, it's the democratic process that we've already gone through. We voted, and I feel that's where we need to stay, with the way we voted. We have an understanding that it will be voices from the three parties that will streamline this, and it really says here on our minutes that these were to "prepare recommendations to the Standing Committee on Alberta's Economic Future." They're just preparing the recommendations for us to be able to go and discuss. They're not going to be circumventing everything that we want to do in this committee, I don't believe. Again, as Mr. Gotfried said, if it's not working, then we can revisit it.

The Chair: Okay. Thank you.

Mr. Sucha: Following meetings with stakeholders over the summer, I'm really concerned that I may not be bringing a lot of their concerns to the table as we discuss PIPA, so I think it's prudent that we dissolve this while we are in the discussion of PIPA because I have a lot of stakeholders, both in the corporate and the not-for-profit sectors, that would have an opportunity to bring a lot to the table while we review this.

The Chair: Thank you.
Mr. Anderson, did you have your hand up?

Mr. S. Anderson: I did, yeah. I was one of the ones that before was thinking about the working group working well as well, but after all of the discussions we've had here – you know, I'll be honest with you. I think that the more voices we have speaking to this, going kind of along with what people have said here – it is very important to hear opposition voices; it's important to hear everybody's voice. I think we have more brainstorming when all of us seem to be throwing stuff off each other, and I would prefer, I think, having all of us at the table, to be honest with you.

The Chair: Thank you for your comments.

Mr. Taylor: It seems to me to be clear that you don't have to have all of the voices at the table all the time. You had a meeting ahead of time. You have representation at this table. You don't need to keep having more representation. You already have that.

Mr. Gotfried: Mr. Chair, I think maybe my comments here are that although the voices around this table and in our Legislature are highly important, the most important voices to be heard are those of Albertans. If we build the process appropriately for both organizational and individual engagement, those voices are the most important voices for us to listen to. The working group, I think, should be in charge of making recommendations to ensure that that process is valid and broadly represented and that this table

here endorses that, makes improvements to it, makes changes to it to ensure that that process is as robust as it can be in hearing the voices of Albertans.

The Chair: Thank you.

Mr. Hunter: I am new to this process, and I am trying to understand it better. It's my understanding that the working group – they talk about some of the issues that need to come forward. Then, seeing as we have representation by all the caucuses, they can go back to their other internal committees or the caucuses and discuss this with them and get a broader sense of what the caucus wants to represent. Is that correct?

The Chair: I think so, to some degree, and I think you've hit the nail on the head. I think that's why the motion came up, because we didn't have a clear understanding.

Mr. Hunter: That being said, Mr. Chair, wouldn't the working group facilitate a broader sense from all the caucuses? We have the opportunity when we work in the working group to talk about the issues, and then we have the ability to go back to our caucuses and get a broader sense from the caucuses and then come back. It's a more informed approach to being able to work through some of these issues. I see it as being a win-win for every caucus.

The Chair: Okay. Thank you.

Ms Jansen: Just one thing to add and one thing that I've noticed in the past when I've been on committees. When you have an opportunity for a working group to sit down and consider what we've been doing and the body of the work we do here, that's an opportunity to double and even triple the amount of oversight we give an issue. So a working group actually provides a broader look at the work we're doing and increases the ability for us to look at a greater stakeholder list, for instance, which is one good example. Where we have an opportunity to meet a certain number of times as a committee, the working group has an opportunity to meet more often as well and to bring that information back to the individual caucuses. So I would say that the working group provides us an opportunity for more fulsome coverage. I can't understand for the life of me why anyone wouldn't want to get more bang for your buck out of the committee, and you do that by having a working group.

The Chair: Your comments are duly noted. In the interest of time I'd like to call a vote on this motion. I think we should hear it again, however. It's been a while.

Ms Fitzpatrick: I move that – well, I can give you my preamble again. After very careful thought, given the small size of the working committee and the importance of this work, I feel it is most

responsible to all Albertans that this work incorporates the diverse views of this committee. So I move to dissolve the working committee.

Mr. Schneider: A recorded vote.

The Chair: Okay. Mr. Schneider, the deputy chair, has called for the vote to be recorded. As such, we will go around the room and ask for everyone's vote. We'll start on this side with the deputy chair.

Mr. Schneider: I'm opposed to that motion.

Mr. Hanson: I'm opposed to that motion.

Mr. Taylor: I'm opposed to that motion.

Mr. Hunter: I oppose that motion.

Mr. Gotfried: I'm opposed to the motion.

Ms Jansen: I oppose that motion.

Ms Larivee: I'm in favour of the motion.

Mr. Carson: I'm in favour of that motion.

Mrs. Schreiner: I'm in favour of the motion.

Ms Fitzpatrick: I'm in favour of the motion.

Ms McKittrick: I'm in favour of the motion.

Mr. Horne: I'm in favour of the motion.

Mr. Sucha: I'm in favour of the motion.

Mr. S. Anderson: I'm in favour of the motion.

The Chair: Okay. The motion is carried.

Okay. On to number 6. The date of the next meeting I will send out or the LAO will send out. We're looking at sometime after November 6 due to estimates, that we will be very busy with. We'll meet on some of these items that we've discussed today and keep working on PIPA.

If there's nothing else that the committee would like to discuss, then we will call for a motion to adjourn.

Ms McKittrick: I'll make the motion to adjourn the meeting until after November 6.

The Chair: Meeting adjourned. Thank you.

[The committee adjourned at 3:26 p.m.]

