



Legislative Assembly of Alberta

The 27th Legislature
First Session

Standing Committee
on
Public Safety and Services

Thursday, October 9, 2008
11:02 a.m.

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Standing Committee on Public Safety and Services

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Kang, Darshan S., Calgary-McCall (L), Deputy Chair

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Bill 10 Sponsor

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11:02 a.m. Thursday, October 9, 2008

[Mr. VanderBurg in the chair]

The Chair: I'll call the meeting to order. The approval of the agenda.

Dr. Brown: So moved.

The Chair: Dr. Brown. All in favour? It's carried.
For those that are listening via Internet, we'll go around the table for introductions.

Mr. Jacobs: Bryce Jacobs, Cardston-Taber-Warner.

Ms Woo-Paw: Teresa Woo-Paw, Calgary-Mackay.

Mr. Barker: Matt Barker, Solicitor General and Public Security.

Mr. Meade: Bill Meade, Solicitor General and Public Security.

Mr. Reynolds: Rob Reynolds, Senior Parliamentary Counsel.

Dr. Massolin: Good morning. I'm Philip Massolin, committee research co-ordinator, Legislative Assembly Office.

Ms LeBlanc: I'm Stephanie LeBlanc, legal research officer with the Legislative Assembly Office.

Ms Friesacher: I'm Melanie Friesacher, communications consultant, Legislative Assembly Office.

Ms Calahasen: Pearl Calahasen, Lesser Slave Lake.

Mr. Sandhu: Good morning. Peter Sandhu, MLA, Edmonton-Manning.

Mr. Anderson: Rob Anderson, Airdrie-Chestermere.

Dr. Brown: Neil Brown, Calgary-Nose Hill.

Ms Rempel: Jody Rempel, committee clerk, Legislative Assembly Office.

The Chair: I'm George VanderBurg. I'm the MLA for Whitecourt-Ste. Anne, and I chair this committee.

We'll review and approve the minutes from the September 23 meeting. Any comments or suggestions? Moved by Peter Sandhu. All those in favour? It's carried.

On item 4 we have the draft budget and some comments attached with regard to travel, office equipment, office administration, advertising. Of course, we all agree that the advertising budget is too high, but it's in there. It doesn't mean we have to spend it. First of all, any comments with regard to the budget preparation?

Dr. Brown: Mr. Chairman, if I could ask how we calculated the travel with respect to the number of meetings projected and the number of people that are coming from out of town. I know that I flew up today specifically for the purposes of this meeting, and the airfares nowadays are in excess of \$300. It doesn't look like an awful lot in the budget there for travel if you're going to have the meetings outside of session when we're not up here anyway.

The Chair: I figured, you know, in your case we're going to give you a bus ticket from now on.

Dr. Brown: I take the Red Arrow quite frequently, Mr. Chairman.

The Chair: I know that, and it's good use of public dollars that a lot of people don't understand.

Dr. Brown: I had to be back this evening for a meeting, so I had to make an exception for an airfare on this occasion.

The Chair: Jody, do you want to remark on that?

Ms Rempel: Sure. As you know, with the budgeting process it's always a bit of a best-guess scenario, so what we did is that we looked at expenditures from policy field committees last year. We also took a look at committee membership and what the average mileage claim was for the members on the various committees and just did an estimate as to how many out-of-session meetings there might be in a year. But, of course, because this is only our second year with the policy field committees, you know, we didn't have a lot to go back to.

The Chair: Jody, what would be the opportunity if we're finding that we've got to send Neil Brown to Washington with a couple of committee members and we want to take \$10,000 out of our advertising budget and move it into travel? Is that a process where we have to have a minute approved by the Treasury Board? How does that process work?

Ms Rempel: No, not by the Treasury Board. Certainly, all the individual committee budgets roll up into the overall committees envelope, so we do have some flexibility as to where we end up spending our money based on the committee's direction and needs.

The Chair: Okay. So if we've got to go south in February, it would be okay?

Ms Rempel: Absolutely, as long as you take the clerk with you.

The Chair: Okay. I think my point is that we have flexibility.
Any other questions?
I'd ask for someone to move the budget as presented.

Mr. Jacobs: So moved, Mr. Chairman.

The Chair: Moved by Bryce Jacobs. All those in favour? Carried unanimously. See, Stephanie? This is why we're going to get you out of here by noon.

Discussion and Deliberation on Bill 10. So staff know, what I'd like to do is go through the issues that you've done the document on, build consensus, make a recommendation at the end of the meeting that we either recommend that Bill 10 moves forward or not to the Legislature, with these items of advice. It's not my intention that we do this through motion but that we do this through consensus. If needed, we will take a straw vote on each item to build that consensus. I don't know if we'll need that or not. Then, in turn, your group would draft a report. We'd have a meeting in a couple of weeks and go through that report. Is that okay?

Dr. Massolin: Sounds good.

The Chair: That's my intention. That way we don't get hung up on

wordings of motions, and your group can review that with the co-chair and I. The co-chair and I had a good discussion yesterday about the process, and we're very happy with that type of process.

Anybody object to that? You're okay?

Ms Rempel: I am.

The Chair: Okay. We're all happy.

Issue 5(a), Review of Identified Focus Issues. Thanks for doing that work, Stephanie, and providing us with a clear rundown of what's been in front of us.

Again, I want to say this for the listening public: this bill has been reviewed by two MLAs, 250-odd submissions, department review, and I think we're getting down to a very good piece of legislation. I think there were 12 or 13 submissions that we dealt with in the all-party review, so what we have in front of us is an opportunity now to make some recommendations whether we agree or not.

We're going to go to our list of issues. My plan is to go right down the list, build some consensus for staff to clearly offer some advice to the Legislature. Issue 2.1, should the police be given a supervisory role for the granting and registering of locksmith licensing? I've never felt that this was the intention of this bill.

Rob Anderson, some comments.

11:10

Mr. Anderson: I would concur that the bill was never intended to do this.

Hon. Members: Agreed.

The Chair: Agreed. Is that a good enough consensus, Phil? This is how we're going to do it. Do you need comments?

Dr. Massolin: No.

The Chair: Okay. We're not going to beat this thing to death. The answer is no.

Dr. Brown: Mr. Chairman, just with respect to procedure. I don't disagree with the idea of trying to achieve a consensus or just asking whether the committee concurs in a particular position, but I think we should make it clear on the record that people should be free to register on the record if they disagree or if they dissent in some way so that it is on the record.

The Chair: Oh, sure. I'm never saying that the train is going down the track and you're in the way. You can get on the train or whatever.

Okay. Issue 2.2, does the definition of security alarm responder in section 7 capture retail managers who are required to go to their place of work when the security alarm goes off? We've been provided with what B.C., Ontario, and Quebec have in place. Any comments?

Dr. Brown: Yes, Mr. Chairman. I think this is one area where we could improve the wording of the bill somewhat. I think that the point made by the Retail Council of Canada is a good point, and that is that where security firms are alerted to the fact of an intrusion, their normal procedure would be to call the manager or the assistant manager or the owner of the premises to the location of the break-in, I suppose to ascertain whether or not anything has been taken or whatnot. I think, clearly, we're not intending to capture those individuals who are not paid first responders, so I think we need to clarify that particular piece of work.

I think that the provision in the B.C. act, which is set out in the document that the committee members have before them, would do the trick in terms of putting some qualifiers on that. That provision states that section 2(c) of the act provides that an individual "does not need to hold a security licence if the registrar determines that the security work the individual carries out is incidental to the individual's primary work." What I would propose, Mr. Chairman, is that the committee recommend to the Legislature that some qualifiers be put on the issue of this particular provision so that it only applies to paid first responders.

The Chair: Okay. So the wording that B.C. uses in 2(c) of the act: are you happy with that?

Dr. Brown: Well, I'm not going to get into the drafting, and I don't think that the committee ought to get into the specific wording of the drafting.

The Chair: Go ahead.

Mr. Reynolds: Thank you, Mr. Chair. I was just going to reinforce Dr. Brown's point in the sense that these bills – and this one is no exception – have not gone past second reading in the Assembly to date, which means that unlike last year, when committees were faced with a number of bills that passed second reading and the committee came back with specific wording and specific amendments, that's not really necessary, in my view, in this case. There could be a general recommendation or, more or less, a narrative of what could be in the amendment. I just want to reinforce Dr. Brown's point on that.

Dr. Brown: Mr. Chairman, if you wish me to clarify, I think that the recommendation from the committee ought to be that the bill be amended to restrict this provision to paid first responders.

The Chair: Right. Okay. Any other comments? Do we have consensus on those comments, then?

Hon. Members: Agreed.

The Chair: Agreed. Clear for staff? Yup.

Issue 2.3, what training should individual licensees require? Again, I always understood, when we had our discussions over the last couple of months on Bill 10, that issues like this would be covered in regs, not legislation. Rob, can you comment on that?

Mr. Anderson: Well, I just think that the training is going to change and standards are going to change and best practices are going to change over time, so I think it makes sense to leave the training requirements in the regulations. Of course, if any of the members feel that certain things should or should not be in the regulations, by all means, I think that that's something to contact the minister about. If it makes sense and if it has a basis, then we can make the regulations conform to that. But I don't see any need to put training requirements and such into the actual bill.

The Chair: Any other comments?
Consensus? Agreed?

Hon. Members: Agreed.

The Chair: Staff, you're okay?

Issue 2.4, should there be a grace period or temporary licence provided to new trainees so that they can work while awaiting approval of their licence? Comments?

Dr. Brown: Mr. Chairman, the suggestion has been that there ought to be some sort of temporary licence or a grace period. I think that if one looks at the intent of the legislation and the mischief to which this particular bill is directed, it's in large measure to the use of force and the proper training in the use of force and the graduated use of force. If we were to put in a grace period, for example, for security guards or bouncers or security staff in a bar or whatever, I think it would negate the intention of the bill, which is to make sure that people who are in a position of using force are properly trained in the graduated use of force. So I'm not in favour, as the Retail Council of Canada has suggested, of having a temporary period where they don't have to comply with the requirements of the act. I would suggest to the committee that we not amend it in that fashion.

The Chair: So just leave it as is.

Dr. Brown: Leave it as is.

Ms Calahasen: Well, I think that 90-day licence fees are appropriate, to be able to have that. I'm not a lawyer, and I wouldn't argue the same way that my hon. colleague is arguing; however, I think that a 90-day licence similar to Manitoba is really a good one and should be included in the bill. I think it's just a nice little time for people to be able to carry on what they need to do while they're waiting.

The Chair: Any other comments?

Mr. Cao: Probably, from my perspective, the owners of the premises or the businesses – if we bring in the legislation for the current people that are working there, somehow we have to announce that prior so that the training is ready for implementation. Like, the hon. member is talking about no need for a grace period. My point is that if we have no grace period, that means we need to have a transition period somehow.

Mr. Jacobs: I think the point that hon. Calahasen makes is good, but what bothers me is that, you know, we could have individuals employed who don't have sufficient training or knowledge to execute their responsibilities. Given a serious challenge, they may get into a situation which is difficult for them to handle, and they might make mistakes or do things they shouldn't do. So I guess at the end of the day I'm going to support the fact that the people who apply should be trained for a period of time before they take over the responsibility. I think I'll support that point.

The Chair: So as is.

Mr. Jacobs: Yes.

The Chair: Any other comments?

Dr. Brown: Just to follow up on Mr. Cao's point with respect to the transition period, I think that that would be accommodated. There will be notice of the bill's passage, presumably, through the House, and we do have tools, such as delaying the time of proclamation, in which we can make sure that the industry out there knows what the

requirements are going to be and that there would be a proper transition period before those particular details would be enforced. So I think that we can accommodate the fact that there will be a transition period.

11:20

Ms Calahasen: Well, I really like what Manitoba has: "Where the registrar receives an application for a licence, he may, pending his decision, issue a temporary licence for a period stated in the licence but not exceeding three months." I think that what it does is give an opportunity for an individual to be able to determine whether or not they want to continue in this facet. I think what it does is provide an opportunity for an individual to be able to see – at least, a three-month period is really a nice waiting time.

The Chair: We have diverging opinions. To build consensus, as the chair I'm going to ask for a straw vote on leaving as is. All those in favour? That'll be the consensus.

Ms Calahasen: I disagree.

The Chair: No, I understood when you didn't put your hand up for that.

Is that okay with staff? You got that one? As is.

Issue 2.5, should the requirement in section 19(d) to report an incident of excessive use of force instead be a requirement to report any use of force? The CPA suggested a standard use of force report for any incidents. That could be a difficult one to determine.

Mr. Anderson: Mr. Chair, there are several ways we can go about doing this. What section 19(d) of course is referring to is: in what cases does a business – you know, licensee – report use of force to the registrar? I think the problem with the provision as is is that "excessive use of force" does seem to be a bit of a vague term. So what I would suggest is that we change "excessive use of force" to "alleged criminal use of force." Any such alleged criminal use of force would be reported to the registrar.

In addition, what I would suggest is that another provision be put in where any material use of force as defined in the regulations – putting on handcuffs, putting someone on the floor, locking someone in a cell, that sort of thing – should be reported internally to the licensee company by the staff and then that information be kept on file so that if the registrar wants to do an audit or wants some more information should a complaint come in from an outside source, you can go back, ask the company for that information on what happened, and they can provide that. That would be my suggestion in this section.

The Chair: Any comments to that suggestion?

Mr. Jacobs: Just a question for clarification: could one of the learned legal profession clarify for me what criminal use of force means?

Mr. Anderson: It's allegation of criminal use of force. That's key, of course. But it's in the Criminal Code.

Legal counsel, do you have anything to share in that regard? You're looking puzzled.

Mr. Reynolds: Yes. Appearances can be deceiving.

The wording, as I understand it, is that you want to propose criminal . . .

Mr. Anderson: Alleged criminal use of force.

Mr. Reynolds: Yes. Well, of course that would mean criminal under the Criminal Code. It's an interesting situation. I haven't seen this proposal before, so I'm taken a bit by surprise, not that anything is improper. I'd have to address my mind because the thing that comes to mind is that, essentially, you're planting a criminal law standard in provincial legislation, which may not be a problem in this regard. But it would be useful to know if that's the intention. Is that it? To apply the Criminal Code standard?

Mr. Anderson: I think it is. This is, of course, what will be reported to the registrar. So if someone is put down on the ground, for example, forcefully and with his arms behind him and handcuffed and is alleging that that is a criminal assault, the company or the licensee would have the duty to report that allegation to the registrar.

Mr. Reynolds: Ah, yes. I see.

Mr. Anderson: In addition to that, any material use of force as defined in the regulations – so that would be something just simply where a person is handcuffed but the licensee is not accused of criminal behaviour in doing so – that would still have to be recorded by the licensee and kept on file so that should a complaint come to the registrar, the registrar can then go and find a record with the licensee as being complained against for that incident. If that makes sense.

Mr. Reynolds: All I can say is that it certainly makes sense with respect to if there's a criminal charge laid against someone. I mean, that's very easy to document in the sense that, you know, someone has been charged with excessive use of force or whatever, assault. That's easy to say. I guess the only problem that I would foresee is that you'd have to have someone else determine what an alleged criminal offence would be. Or is that your intention, that the licensee would have to respond to what might be an alleged criminal offence?

Mr. Anderson: I would say yes. If someone reports to the police, you know, "This person has assaulted me" or that this person has done something and the police contact the licensee about that, then I think at that point the licensee would be . . .

Mr. Reynolds: Oh, yes. Certainly, I thought that in the second instance you were saying that there hadn't been something to the police.

Mr. Anderson: Yeah. In the second instance, it would be a case where they just keep it on their internal records, not the registrar, the licensee, so the company. The company hires a security guard. He throws someone on the ground, puts handcuffs on him. The record of that incident would have to be kept with the licensee company, but they would not have to then report that to the registrar unless that person complained to the police and said, "Oh, this is an assault," et cetera. The point of it is that if every incident of every use of force had to be reported to the registrar, that would be incredibly burdensome to the registrar.

Dr. Brown: I agree a hundred per cent with the intention of Mr. Anderson with respect to, you know, dividing these things into two various types of use of force. I think it's reasonable that the material use of force be kept account of by the licensee because of the fact

that there could conceivably be injuries arising from that which are not apparent at the exact time that the use of force is made. But I just wonder about the issue of allegation. I think I share some of Mr. Reynolds' concerns with respect to the allegation. We are talking about allegation by whom? I mean, if somebody is a bystander and says, you know, "Somebody was assaulted," or "My friend was assaulted in the nightclub," is that sufficient for it to be reported to the registrar?

I don't think we need to go that far. I think that maybe what we want to do is consider the actual laying of a charge or the swearing of an information, which a private citizen, incidentally, can do in front of a justice of the peace. Anybody can lay a criminal charge, not just the police. So if there is an information sworn of criminal conduct, I think that would be the appropriate, perhaps, test to report it to the registrar because almost anyone who is thrown out of a nightclub could say "I was assaulted, and I didn't deserve it; I wasn't drunk," and so on. So I wonder whether or not we may want to restrict it a little bit more to questions where there is an allegation that is solidified, if you want, or made into a more concrete form of a laying of an information against an individual.

I'll leave that with you.

Mr. Anderson: I have no problem with that. I think that was really the intent of what I was saying: we want to clearly define it as a criminal charge being laid instead of "using force." That's fine. We can do that.

The Chair: Rob, any comments?

Mr. Reynolds: What, me?

The Chair: Yeah. I thought you were commenting on this.

Mr. Reynolds: No, no. I think it's possible to work with that and to come back to the committee with something if that's your wish.

The Chair: In the draft report.

Mr. Reynolds: Yes, in the draft report, Mr. Chair.

The Chair: Agreed?

Hon. Members: Agreed.

11:30

The Chair: Okay.

Issue 2.6, should the limitation period of 90 days for filing a complaint be increased? I don't know why. Someone tell me why it should be increased or not or be left alone.

Ms Calahasen: It's the 90 days, right?

The Chair: Well, the period of 90 days for filing. Should the limitation of 90 days for filing complaints be increased?

Ms Calahasen: Mr. Chair, I was looking at this and thinking that, you know, if we want to be consistent with other acts, especially the Police Act – that goes for a year – that's basically what I was looking at. Now, I'm open to listening to the argument that maybe Mr. Anderson will bring to the table and maybe even Dr. Brown. I don't know. We'll see what kind of argument we get. But I'm willing to listen to see because that was my issue. I didn't think 90 days was long enough, but a year may be too long. I'm not sure. I

guess my question would be: what are we finding with the Police Act? Is it working well for the one year, or is it too long? What are the problems associated with that?

The Chair: Comments, Dr. Brown?

Dr. Brown: Well, Mr. Chairman, I think that the way the complaints policy is set out in the draft bill is okay. With respect to the issue of 90 days I think that the requirement to make a complaint in writing about an individual licensee to the employer is an appropriate period of time, and I wouldn't want to see it any longer than that because I think that memories do fade after a period of time. If there was going to be any investigation by the employer, it could well be that some of the staff that were on shift that night may have disappeared, and witnesses may disappear. I think I would be hesitant to increase it anything beyond 90 days.

I also want to point out that the way the appeal procedure is set out in the act right now is that there is a 90-day period. There's a 30-day period thereafter where the employer is required to respond to this allegation. So that puts it out to 120 days. If they want a review by the registrar, there are another 30 days after receiving the employer's disposition for the complainant to request the registrar to review it. So by the time we're getting out there, we're up to . . .

Ms Calahasen: A year?

Dr. Brown: Well, a long time, at least five months, anyway.

The Chair: So you're saying: leave it alone.

Dr. Brown: I think it's an appropriate time period, a limitation period, in which to make a complaint. Ninety days: if you haven't figured out by then that there's something to be complained about, I don't think that you should be doing it later.

Ms Calahasen: Well, I take issue with that, Mr. Chair. I mean, you know, sometimes people don't get to feel anything until maybe six months down the road. So when you're talking about memories fading, in the legal system isn't there a two-year limitation for any kind of conduct or criminal activity or whatever the case may be if you're going to take it to court? Isn't there the 10-year drop-dead clause? That doesn't reflect memories or workers disappearing. If you can give me some information on that, I'd appreciate that.

The Chair: Go ahead, Rob.

Mr. Anderson: Yeah. Agreed. This legislation only applies to licences being handed out and given back and forth. This doesn't affect anybody's civil rights with regard to, you know, suing somebody. If they were to eventually see an injury, I believe it's a two-year limitation period that they'll have to bring a suit, and criminally as well there is a limitation period. If it's a criminal offence, the Criminal Code would cover that, so I don't think the 90-day period has any effect on your civil rights.

The Chair: Seeing that consensus has been built, I say that we leave it alone. Agreed?

Hon. Members: Agreed.

The Chair: Issue 2.7, should the employer be the investigator when a complaint is made about an individual licensee? I'd say yes. I

mean, that's where it should go to first, and that was always the intention. So I'd say: as is.

Mover of the bill, what are you thinking?

Mr. Anderson: I think that's natural. I mean, they can always appeal to the registrar. The first point of contact is the employer. I think that makes sense.

The Chair: Member Cao.

Mr. Cao: Yeah. I just want a point of clarification here when we say: the employer. Let's just say that for my business I hire a security company, and they send an agent licensee to my premises to do things. Now, is the complaint to me, who hired the security company, or to the employer of the agent? There are two types of employers that I see in here, so can you help to clarify?

Mr. Anderson: I believe it would be the company with the licence, so the licensee company. If you hire Beretta security or whatever to do a job and then one of their agents does something wrong, the complaint would go to Beretta in that case. It wouldn't come back to you. If that makes sense.

Mr. Cao: Let's just say that I own a bar, and the client just knows me as the bar owner, doesn't know the security hired. How is it worked out that they're informed?

Mr. Anderson: I'd assume that you'd tell them what the security company is, and then they'd go to the security company. I would think that that's how it would work.

Mr. Cao: Okay. Thank you.

The Chair: Teresa, did you have a comment?

Ms Woo-Paw: A question. It is understood and clearly communicated to the public that the next step is the registrar?

The Chair: It's in the act.
So as is. Consensus? Agreed?

Hon. Members: Agreed.

The Chair: Issue 2.8, should a complainant be given another level of appeal beyond the registrar? Any comments?

Dr. Brown: Just briefly, Mr. Chair. I think that the way the act is designed right now, there is the intention that that be final. I mean, that's what's called a privative clause, I guess, in the legislation there, and I don't see any reason to have a further appeal. I think that there's got to be some end to it.

I would make this suggestion. If there are instances where a registrar were going to deny someone a licence, I think that there ought to be some clear criteria set out in the legislation for the grounds upon which that could be denied. That would in some way, I suppose, restrain any sort of arbitrariness or abuse of discretion on the part of the registrar. Right now it doesn't really spell out with a lot of certitude what the actual criteria would be upon which a licence could be denied, and I wonder whether or not we might just embellish those particular reasons for which a licence might be denied. Just a suggestion.

The Chair: But, bottom line, you're saying: another level of appeal.

Dr. Brown: No. I don't agree with that.

The Chair: Okay.

Any other comments? Those in favour?

Hon. Members: Agreed.

The Chair: So the answer is no.

Mr. Anderson: Could I just put something on the record here? In section 16 it does outline the refusal of a licence application. It says:

The Registrar may refuse to issue a licence or refuse to renew a licence if the Registrar is satisfied that the applicant

(a) has contravened or is contravening this Act or the regulations,

(b) has not met the requirements of this Act or the regulations,

and so forth. So there are many grounds there that the registrar can use.

The Chair: I think Dr. Brown's comment is that there be written justification on why that decision was made.

Mr. Anderson: I understand, but I guess it's: where should we put these restrictions? I would suggest that maybe we should put them in the regulations because I'm assuming that in the regulations there will be training requirements. There will be those types of things.

The Chair: Right.

Dr. Brown.

Dr. Brown: Yeah. My comments were more directed towards the use in that particular section of the words "in the opinion of the Registrar, is not a fit and proper person." I just thought that there was a lot of discretion embellished in there, and I wondered whether or not we wanted to make it a little bit more precise with respect to who might not be a fit and proper person. It's just too open ended.

11:40

The Chair: Issue 2.9, should the Law Enforcement Review Board be the final level of appeal for a licensee? I always understood, when we discuss this act, that the registrar would be the final appeal.

Mr. Anderson: Currently, actually, under the act I believe the LERB is the final level of appeal for the licensee. I would suggest that the Edmonton Police Association's point here is actually quite a valid point. The LERB is extremely strapped right now. There's a huge backlog of cases, and I don't see the need to put any more unnecessary burden on them. A person can always, after they've gone to the employer and then after they've appealed to the registrar and perhaps asked the registrar to reconsider, go to court under a judicial review process. So there are lots of options. I don't see why we should burden the LERB further on this.

The Chair: Member Woo-Paw, you have a comment?

Ms Woo-Paw: Thank you. A question for whomever in the room wishes to provide an answer, I guess. I'd like to understand why the B.C. act also includes a reconsideration by the registrar as the final level of appeal.

The Chair: Stephanie.

Ms LeBlanc: Thank you, Mr. Chair. I should first sort of point out that the registrar is the final level of appeal for a complainant, but where a licence has been suspended or cancelled or the terms varied, then the licensee has those extra levels of appeal.

I'll just grab my flow chart here. The licensee has an appeal to the director and then a further appeal to the LERB. In British Columbia their levels of appeal are to the registrar and then a reconsideration by the registrar, and that's it. In Ontario their final level of appeal is the Licence Appeal Tribunal, and in Quebec the final level of appeal is the Administrative Tribunal of Quebec. So it's just differences in terms of where the last place of resort is for an appeal under their legislation.

Ms Woo-Paw: So it's still a two-step process?

Ms LeBlanc: There is in B.C. There's the registrar, and then there's the reconsideration by the registrar.

Ms Woo-Paw: Okay. What we're proposing here is two steps, too, or one? Just with the employer and then the registrar.

Ms LeBlanc: For the complainant if it's a complaint about a business, it goes straight to the registrar. If it's a complaint about an individual licensee, it goes to the employer, and then there's an additional appeal to the registrar. If a licence is suspended, cancelled, or the terms varied, then there are two additional levels of appeal, but that's just for the licence holder and not for the complainant.

Dr. Brown: Given the fact that we have the director in here, is there any utility in providing something like the B.C. provision that there be the ability to have a reconsideration by the registrar? I guess I'd ask Mr. Reynolds if he could comment. You know, do we need to put that in the legislation in order to have a reconsideration? It says in there that the decision of the registrar is final, so they're sort of functus at that point, I guess. Once they make their decision, their hands are tied.

Mr. Reynolds: Dr. Brown, in fairness, I'd have to look at the law on that. I believe the law has changed a bit in administrative law with respect to limiting the doctrine of functus officio, which for those listening at home and overseas who may not be familiar with Latin means that your official function has finished and that you can't reconsider things. That is the practical implication. I know that the courts have been more lenient in that, but I can't say with a hundred per cent certainty that that's where the law is. Either I'd have to take a look at it, or perhaps it would be the safest bet that if that's what you wanted, it would probably be wise to include it in the bill if it was necessary.

The Chair: I guess I can see your comments. If new evidence comes along, a new witness, you know, you say to the registrar: "Here are some new circumstances. Would you reconsider my appeal under these new circumstances?"

Mr. Anderson: I was going to say that I don't think it would hurt, I mean, if we want to clarify it, you know, so that the final level of appeal is reconsideration by the registrar for licensees as well as for complainants. I have no problem with that.

The Chair: Okay. So similar to what's happening in B.C., then. Stephanie, you've got some comments?

Ms LeBlanc: No comments, just questions. Is it the will of the committee, then, that there only be a reconsideration by the registrar? First of all, would that be for both the complainant and the licensee? And the second question would be: does that take off the last two levels of appeal, so both the appeal to the director and the appeal to the board?

Mr. Anderson: I believe that's what we are saying, right?

The Chair: So the LERB is not involved at all, then?

Mr. Anderson: Nor is the director of law enforcement.

The Chair: Right.

Mr. Cao: Does this apply for both complainant and licensee? It applies for both licensee and complainant, right?

Mr. Anderson: Yeah. So the final level of appeal is a reconsideration by the registrar for both any complainants as well as licensees. That's it.

The Chair: Those in favour?

Hon. Members: Agreed.

The Chair: Those opposed? That's the wish.

Issue 2.10, what should the registrar's system of record keeping be? Should the act provide for a database to be created within the records relating to the licensees? This is a regs thing; this isn't a legislation thing.

Member Anderson, is this, in your opinion, regulation? Legislation?

Dr. Brown: It should be regulation.

Mr. Anderson: I would agree. I think it's a regulatory matter.

The Chair: Any other comments? We'll leave it as regulation, then.

Mr. Cao: I have a comment.

The Chair: Oh, sorry.

Mr. Cao: For the documentation, would it be, like, a licensee documented by his or her employer? That information: is it private or public accessible or FOIP or whatever? Is there any thought around that yet?

Mr. Anderson: That I don't know. How does FOIP apply in these situations?

Mr. Meade: Well, if the direction was to do that, then we would have to examine all the other ramifications, but certainly at this stage I don't see on the surface anything that would prevent it. We would have to honour the other pieces of legislation on the protection of information.

The Chair: FOIP would cover that. We wouldn't cover that in here. We're not about to review FOIP. That's for sure.

Mr. Cao: Okay.

Mr. Anderson: I guess the main thing to take into consideration here is that I think a database system would make a lot of sense. You know, we want to make this as easy as possible, as user-friendly as possible for companies and individuals, but I just don't see how enshrining that in legislation – I mean, we should be flexible enough to let the department handle that sort of thing, I would think.

The Chair: Okay. Regulation seems to be the consensus. Agreed?

Hon. Members: Agreed.

The Chair: Okay.

Issue 2.11, would the requirement that a business licensee display a licence and the requirement that an individual carry and produce a licence upon request reduce the effectiveness of loss prevention workers? How would it? I mean, you have your licence in your wallet, and if you're asked to prove it – I don't know. There must be something else here that I don't understand.

Dr. Brown: I think you're exactly right, Mr. Chairman. There's nothing in there that says that you have to show it visibly on your person, but certainly you should be required to produce identification showing that you're licensed if asked to do so in the course of your duties.

The Chair: It's the same as a business. They should display the licence.

Dr. Brown: If you're an undercover police officer, you carry identification to show that you have the rights to be arresting somebody.

The Chair: So I'm hearing no, right?

Hon. Members: No.

The Chair: The consensus is no.

Issue 2.12, should the act permit a licence to be granted to a peace officer? Any comments?

Mr. Anderson: Under the current act it is allowed, so this was a little bit of a confusing part of the document I found. But I don't see any reason why a peace officer shouldn't be able to take off his peace officer uniform if he wants to make some supplemental income and moonlight as a security guard as long as he's not holding himself out as a peace officer while carrying out his duties as a security guard.

11:50

The Chair: So that's as is right now?

Mr. Anderson: Leave it as is right now.

The Chair: Agreed?

Hon. Members: Agreed.

The Chair: Okay.

Issue 2.13, should section 36 be reworded and clarified? Then it goes on to talk about the notes and comments that companies have made. I'd say that the answer is no. Anybody else?

Hon. Members: Agreed.

The Chair: Agreed.

Issue 2.14, should the term “security officer” be removed from section 39, which would permit its use? Any comment?

Mr. Anderson: I guess the reason I would say no to this suggestion is that part of the reason for this act is to make sure that there is no confusion in the public as to who is a security guard and who is a police officer or a peace officer. I don't see any reason why a loss prevention worker should be given the title loss prevention officer as that might cause confusion in the public.

The Chair: So as is, then, you're saying.

Mr. Anderson: That's what I would like.

The Chair: Agreed?

Ms Calahasen: A comment, Mr. Chair.

The Chair: Sorry.

Ms Calahasen: Could you please say that again in layman's terms? Should the term “security officer” be removed from section 39, which would permit its use? B.C. says that the terms “detective,” “law enforcement,” “peace officer,” and “police” are excluded from use under section 44. In Ontario the terms “detective,” “private detective,” “law enforcement,” “police,” and “officer” are excluded from use. So every other province says: we exclude the use of that term. Does this say that we are going to be the only ones across Canada using this term under that same situation? Rob, or any one of you.

Dr. Brown: It's the use of the word “officer” that may confuse people. They may think that they have the sanction of law or that they're peace officers, and they're not. I mean, the intention of the legislation the way it sits right now is to make sure that there's no confusion in the public's mind as to whether or not these people are peace officers. Anything with the word “officer” in it is excluded, and I think it should be.

The Chair: So you're a security guard.

Ms Calahasen: Yeah. Exactly. Okay. So it's not going to be used according to what you're saying.

Dr. Brown: That's right. The way it is now, the status quo in the bill.

Ms Calahasen: Okay. Then that's fine staying the way it is.

The Chair: Stephanie.

Ms LeBlanc: Thank you, Mr. Chair. In section 39 it sets out several terms that are excluded from use. The word “officer” alone isn't excluded from use. Certain terms including the word “officer” are included in section 39. The terms that cannot be used are private detective, law enforcement officer, protection officer, and security officer, but officer alone isn't in section 39.

Ms Calahasen: I like the way it is.

Dr. Brown: Why don't we just put “officer” in as well, then?

The Chair: We can do that.

Dr. Brown: That's the intention, so there's no confusion as to whether somebody is a peace officer.

The Chair: Bill, you've got some comments?

Mr. Meade: Just that when we reviewed this in the drafting, the challenge came back with the word “officer,” chief financial officer. There are a lot of other acts that allow for the term “officer.” We were bumping up against that problem, which is why we said security officer. That's where it came from.

Dr. Brown: It's a good point.

The Chair: So as is.

Dr. Brown: Leave it as is, Mr. Chair.

The Chair: Okay. That's consensus: as is.

Issue 2.15, should individuals in the computer forensics field be licensed under this act? That was never the intention. Agreed?

Hon. Members: Agreed.

The Chair: The answer is no.

Issue 2.16, should licensees from outside the province be permitted to perform their duties while in Alberta?

Dr. Brown: Well, Mr. Chairman, I think that given the fact that we have a trade, investment, and labour mobility agreement with our neighbouring province of British Columbia, we ought to put some qualifier on there and an exception. I would propose that the committee recommend to the Legislature that an exception be provided such that where there's a reciprocal interprovincial agreement which allows such recognition of licences, it be permitted.

The Chair: So where we already have agreements in place, we work towards that.

Dr. Brown: Yeah. We'd embody that in the legislation to say that where there is a reciprocal interprovincial agreement, those credentials would be recognized.

Ms Calahasen: I agree. I like that, reciprocal.

The Chair: Any comments?

Hon. Members: Agreed.

The Chair: Staff, you've got some work to do. Maybe we'll meet on the 22nd instead of the 21st.

Issue 2.17, could 4(1) of the bill be interpreted to include trainers of dogs for persons with disabilities? I don't think that that's what the intention was.

Mr. Anderson: I personally think it clearly does not apply to dogs trained for persons with disabilities.

The Chair: Okay. We're not going there. The answer is no. Anybody else? We all agree: the answer is no. So we've reviewed that.

Is there anything else that members would like to have included in the focus issues and the discussions? Teresa.

Ms Woo-Paw: Thank you, Chair. I need to go back to 2.12. I would just like to have it recorded – I think it was going a bit fast for me – that I do not agree that the act permit a licence to be granted to a peace officer. I'd just like to have it recorded.

The Chair: When we rule with consensus, we're not worried about individual's issues, but it's on the record right now.

Ms Woo-Paw: Okay. Thank you.

Mr. Cao: Mr. Chairman, just on a point of clarification for my understanding here. If a security guard from another province comes here, then we're already covered by that reciprocal agreement, right? There's another point that we made earlier about giving 90 days' grace, so a person can come and work for the 90 days even though there's no reciprocal, right? Then if we interpret that further outside Canada, like dignitaries who come from other countries bringing in their own bodyguards, security guards, how do we deal with that?

Ms Calahasen: That's a good question.

Mr. Meade: The ability to do that and have their people come with them doesn't fall under security guard. They're not considered to be security guards. It falls under either the Police Act or other acts that are more senior. People coming with them wouldn't be considered security guards, and they would have their authorities from other pieces of legislation.

Dr. Brown: Mr. Chairman, I'm just a little bit concerned that we met today and have discussed possible revisions or recommendations for revisions to this bill, and I don't see any of the opposition members present in the committee room today. I'm concerned that we may not have heard all the views there. I'm wondering whether or not you were given advice in advance that they were not able to attend.

The Chair: The process is that the committee clerk surveys the membership for a good time. It's hard for all of us to consider whether we can make these meetings or not or that we take the opportunity to appoint others.

I did talk with the co-chair last night. His intention was to be here, but for personal reasons he couldn't be. I had the opportunity to review the issues with him very closely and feel confident that when I'm speaking, I'm speaking of the co-chair's comments as well.

Dr. Brown: That's good.

The Chair: You just have to know and feel that the two of us have had a good, frank discussion on those issues. Other members did not contact me, but I just can't deal with everybody individually. We work as a committee, and we set our meetings. In fairness to the co-chair we did have a good review of everything discussed here today. I feel confident that the two of us are talking in harmony.

12:00

Dr. Brown: Thank you.

The Chair: They will all have an opportunity in the Legislature.

I think we're very clear on consensus-driven. We'll prepare a draft, build in those comments for advice. There is no reason why this bill can't move forward to the Legislature.

Dr. Brown: In the fall session?

The Chair: Yes. I think the intention is that we would report by the end of the month or at least early in November.

Ms Rempel: It has to be by the end of the month.

The Chair: We would report by the end of the month, Jody says. So what Jody says goes.

If there is no other business, I would propose the morning of October 20, 9 to 11. How does that work in your schedules? October 20, Monday, 9 to 11, just to get a start on some dates. We will still have to check with the other members. If I see the nods of most heads, we will go through the process of notifying like we normally do, and I will talk to the co-chair to make sure that the dates work for him because I would never propose a date that the two of us can't make. The two of us work in harmony on setting those dates.

Mr. Jacobs: What time frame did you give us on that date? Nine to 11?

The Chair: Nine to 11 I'd propose. That's going to be a starting point if I can see consensus. I'm trying to work it so we don't conflict with other meetings. Jody tells me that we're not going to on that morning.

I'd ask for a motion to adjourn. Moved by Pearl. Those in favour? Carried. Thank you. Let's stop for lunch. Good work, everyone.

[The committee adjourned at 12:03 p.m.]

