

Title: Tuesday, December 12, 2006 PIPA Review Committee

Date: 06/12/12

Time: 1:00 p.m.

[Mrs. Ady in the chair]

The Chair: I'd like to call the meeting to order today and welcome everyone and ask if we can maybe whip around the room and introduce the players that are here today. I'll start with myself, and maybe we'll move to the right. Even those of you in the back: if you'd like to introduce yourselves so we know who's here. I don't know that everybody will be on mike, but let's just go ahead and do that.

[The following committee members introduced themselves: Mrs. Ady, Mr. Goudreau, Mr. Johnston, Mr. Liepert, Mr. Lougheed, Mr. MacDonald, and Mr. Martin]

[The following staff of the office of the Information and Privacy Commissioner introduced herself: Ms Denham]

[The following departmental support staff introduced themselves: Ms Kreutzer Work, Ms Lynas, Ms Lynn-George, and Mr. Thackeray]

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: Thank you.

It's been a while since we've been together, but I will tell you that lots of work has been happening while we've been apart. The group on my left-hand side has been very busy.

Dave Rodney has just joined us from Calgary-Lougheed. Welcome.

Mr. Rodney: Hello, Chair.

The Chair: I will say thank you very much to the committee. As you know, after our last meeting we began our public consultation process. We did find it necessary at one point in time after the summer's end to request of the committee that we give an extension because not all had been able to submit and wanted to. Because it had been over the summer months, we felt that that was important. So I think those committee members that via phone, I think it was, gave permission for us to create the extension. I think that that was time well used.

We now have some 63 submissions that happened while we were all not asleep over the summer but at rest, if you will, while the public consultation went on. We had, as you know, at the beginning of this consultation a total of 13 questions that we were asking, and today as we go through the agenda, you'll see what we're going to be doing for next steps.

In front of you you have two huge binders. I want to see anyone dare raise their hand and say that they've read them both because we will call you a liar. We don't want to identify a liar in our group.

Mr. Rodney: Lifted them both.

The Chair: Oh, lifted them both.

I don't want you to be intimidated by the size of the binders. I think they're very well laid out. As I was able to cover and go through them this afternoon just a bit, I think you'll find them useful tools in the work that we're going to do. They're not nearly as intimidating as they look. I thank the support staff for the good work that they've done around this. Those were delivered to your Legislature Annex offices on December 6.

To begin today, I need an approval of the agenda from those of you that have it in front of you. Can you all see the agenda? Hector Goudreau moves that the agenda for the December 12, 2006, meeting of the Select Special Personal Information Protection Act Review Committee be adopted as circulated. No revisions? We will just assume that there are no objections. Thank you.

Also, I am looking for approval of the minutes – you have those in front of you as well – from our last meeting, which was June 28. Are there any additions, problems, issues with the minutes?

Mr. Goudreau: Madam Chair, I'm just wondering if they reflect the discussions that we had on the phone whereby we had agreed to extend the deadline date.

Mrs. Sawchuk: There was discussion at that time, but the actual decision by the committee, no. This was from June 28, and that was later on in the summer.

The Chair: These are just the minutes from June 28, okay. But for the record we did have a phone conversation. Each of the members was contacted to see if they would allow the extension, and I'm assuming that we had approval from all committee members. But I think that that's good to put that on the record, Hector. Thank you.

How about the minutes for June 28? Any additions, problems? No. Would anyone like to move that these minutes be approved? Art Johnston moves that the minutes of the June 28, 2006, meeting of the Select Special Personal Information Protection Act Review Committee be adopted as circulated. Thank you.

Once again we're going to return to the budget item. We did discuss this in the last meeting. A copy of the committee's proposed 2007-2008 operating budget is included in the members' meeting binder, and I'd like a motion to adopt the budget as presented. Just for information purposes this budget covers the remainder of the committee's 18-month mandate, which ends in December 2007, so this budget estimate covers only the 2007-2008 fiscal year. Does that make sense to everyone? It's about a nine-month budget, basically. It is about \$55,000 as you can see. Would anyone like to move that? Rob Lougheed has moved that

the 2007-2008 budget estimates for the Select Special Personal Information Protection Act Review Committee be approved in the amount of \$55,000 as circulated.

All in favour? Thank you.

Well, we're moving right along. This is great.

Now, if you were to try and figure out your two big binders, the first binder that I'd like to point out is the one that looks like this, called Submissions. If you open that up, in there are tabulated the 63 submissions that we received in writing, and they're all tabulated very nicely. So you can place that on one side and perhaps move to the second binder, if you will, the one that has the agenda in the front of it.

I'd like to begin with an overview of the consultation process. If you'd go to tab 5 in your nicely organized binder, you will see in there a list of all people that offered submissions, 63 submissions. The submissions are separated by numbered tabs, and the same list is located at the front of the submissions binder as well. It's in both binders.

The breakdown of responses and issues raised in each submission will be addressed by us and by government staff during the review of the responses received to each question, which we will be looking at later under item 8(a) on today's agenda.

So, really, just to kind of make it simple for you, we are going to do a few things today. We're going to take the first question that was asked, and we're going to actually review that today in our work. We're also going to be speaking next about the request for

people to appear before the committee and talking about how we're going to set that up. That's kind of the work that we will do today, if I can just sum it up for you. There are 13 questions. We're going to look at the first question today. I don't want to call it a sample, but it will show you how the work will proceed in the future. We're also going to be speaking about the request to appear before the committee.

So I'd like to move, if I can now, to the request to appear before the committee. It's item 6 on the agenda, and if you go to tab 6, you'll see a list of those that have requested that they come before the committee. There are eight of them. Of all of them, the only one that did not make a written submission, I understand, is Patrick Merrick, the number 2 item. Today I'd like to have a discussion about whether the committee would like to have them actually come and present and how, so I'll turn it over to you for a moment.

Mr. Thackeray: Just a point of clarification. I spoke to Mr. Merrick this morning, and the Association of Alberta Registry Agents is not interested in appearing before the committee. They would like to receive the interim report if one is prepared, and then they would provide comments there, but they aren't requesting an appearance before the committee.

The Chair: So that would take us essentially down to seven that are asking for the opportunity to personally visit the committee.

Okay. So first I'd like to open the floor for discussion as to whether we are open to having public presentations, if you will: people come and approach the committee as opposed to written.

Mr. Lougheed: This Sue Rock. Her submission is numbered 0. Did she not submit either?

The Chair: It's actually 44. Sorry. That's a typo. Good eye. Okay. Any discussion?

1:10

Mr. Liepert: Well, I'd like a little bit of input from the folks who have received the submissions and had an opportunity to go through them because I'm not one who believes that just because somebody requests to appear before the committee, that should automatically be granted. There may be submissions that are much more comprehensive and much more representative that we should hear from versus those who just simply say that they want to appear before the committee. So I'd like to get a sense from departmental officials as to, I guess, number one: have they had an opportunity to do a fairly thorough review of the submissions? Are there a few submissions in that 63 that are not on this list that they think would be representative and helpful for us not only to have presented to us but for us to ask some questions of versus someone who just said, "Well, I want to appear before the committee"? That would be my question to the department officials.

The Chair: Tom, can you answer that for us?

Mr. Thackeray: Maybe I could answer it by referring to work done by previous committees reviewing statutes like the Personal Information Protection Act or the Freedom of Information and Protection of Privacy Act. During those discussions it was agreed by the committee members that preference would be given to organizations or associations that represented a number of groups in making presentations to the committee. The committee also felt that it was important to hear from organizations like the Privacy Commissioner, who has responsibility for oversight of the legisla-

tion, as well as the deputy minister of the department responsible for the administration of the legislation. So you will find those on the list: Mr. Work and submission 63, the deputy minister.

Submission 62, which is under my name, is a group that was established by the Minister of Government Services just prior to PIPA coming into force, and it represents organizations like the Better Business Bureau. They sit around the table with the Alberta Chambers of Commerce, the Canadian Association of Petroleum Producers, the Canadian Federation of Independent Business, financial institutions that are provincially regulated, the Independent Insurance Brokers Association, the Law Society, and the Association of Fundraising Professionals. They represent the views of an awful lot of organizations or businesses across the province.

It would certainly be my suggestion that a member of that committee would be probably quite prepared and would provide quite insightful comments as to how the legislation has impacted the sectors that are represented around that table.

The Chair: Okay. Any other discussion?

Mr. Liepert: Well, just before you move on, I'm not sure that my question was answered. Is it the assessment, then, of the officials from the department that this list adequately covers a cross-section of the 63 submissions received, or are there one or two of the submissions that we received that we should have before us that did not ask to come before us?

Mr. Thackeray: I believe that if the committee wanted to hear from these seven or eight organizations that have expressed an interest in making an appearance before the committee, it would provide the committee with some valuable information in their deliberations on potential changes to the act.

The one area that I don't believe is represented on this list which may be of interest to the committee once we get to that question is the nonprofit sector.

Mr. Liepert: Okay. Obviously, I haven't had a chance to look at the 63 submissions, but in just looking at a couple of the seven, I would have some questions. I'm not going to identify them here, but I'd have some questions as to why we would hear from two or three of them that are on the list.

The Chair: Do any other committee members want to comment at this point?

Mr. Rodney: I'm of a very similar mind from the moment hon. Liepert started speaking, believe it or not. I think it's really important that we get a great snapshot of all the different aspects that should be covered here, but we don't need to repeat things, and we don't want to miss anything either. I'll just repeat one line that I heard: are there groups missing that should be here, or are there groups here that should be missing? If we can attend to that, that would be great. Just because someone wants to be heard doesn't mean that they necessarily should be, and just because a group hasn't identified themselves, maybe we can help out with that. So I guess that we're just looking to your expertise and experience in helping us to determine: are these the six we should hear from in person, or are there others? Are there more? Are there less?

The Chair: The correction is that there are seven.

Mr. Rodney: Minus the one from Merrick, I believe. Is that correct?

The Chair: Yes.

Tom, do you want to respond, or do you want us to come to a decision?

Mr. Thackeray: I would suggest that there are probably some names or organizations on the list that may not necessarily provide meaningful input for the committee and also suggest that there may be some types of organizations that are not on the list that may provide meaningful input for the committee. As the support group we should probably go back and try to identify which groups those are and bring them forward to the committee at the next meeting.

Mr. Goudreau: Well, you know, it's not like we've got 100 people or 100 organizations that want to present to us. I, for one, would be quite open to honour the fact that they've requested to appear before the committee and, certainly, to allocate some time limit then maybe to the individuals. I, like my colleagues, would like to maybe see a few more added to the list to assure ourselves that we've got a good representation of everybody across the province of Alberta.

Mr. Liepert: Well, I was just going to suggest that we ask the officials to go back and bring forward up to 10 names of groups that it would be appropriate and most beneficial for us to hear from.

The Chair: Okay. Anyone else want to comment? Hugh, please.

Mr. MacDonald: Thank you. I just think it's important that if people want to make a presentation before the committee, they be given the opportunity to do so. I, for one, am certainly here to listen. Whatever they may bring that may improve the statute, I think we should make the time available for them to make a public presentation before us, Madam Chairman.

Thank you.

The Chair: Well, as the chair my inclination, of course, is to not shut people out that have asked to come and present to committees. I recognize that there is value in our time and that we have limitations to that, but I personally have always felt that an open, inclusive arrangement is better. That being said, I would also like to say that I like the suggestion of perhaps the not-for-profit sector being included so that when we do make recommendations, we're able to make the most balanced decisions.

Unless somebody strongly objects, I like Ron's suggestion that we have them come back with 10 appropriate names but that we do not disinclude anyone that has actually made a formal request to the committee. Now, obviously, I'm open to the committee changing what I'm saying here, but that would be my recommendation at this time. Does anyone feel strongly one way or the other about that?

Mr. Liepert: Well, I would not support that, but I would do what the committee decides. I believe that I would like to hear the 10 most representative coming before this committee versus some 10 who might want to come.

Mr. Martin: I would support the chair's ruling. Again, I think that because people are taking their time, they obviously have something they want to say to us. I don't think we should be saying: no, we're not going to listen to your organization; your submission is good enough. I think the process has to be seen as transparent. So I certainly would support the chairperson's ruling.

Mr. MacDonald: I have a question, perhaps for Mr. Thackeray. When other statutes were reviewed by select standing committees of

the Legislature, can you recall how many people actually came before the committee to make a public presentation? It wasn't that many, was it?

1:20

Mr. Thackeray: About 12, as I recall. Some were individuals, and some were organizations. That was in the FOIP review done two or three years ago.

Mr. MacDonald: Yeah. Thank you.

The Chair: Okay. Seeing no more hands, I'm going to put forward the question: would the committee like to have the support staff bring back to us 10, with some representation from those areas that they think might be missing at this time that would be of value to this committee, for public presentation but inclusive of all those that have at this time requested that they submit to the committee? All those in favour? All those opposed? We've got four opposing and three agreeing. Is that what it came down to? So I suppose that went down. Okay. Let me reword the question.

Are you understanding what I put forward?

Mr. MacDonald: I certainly am. I don't think we should limit it to 10.

The Chair: Oh. Is that the problem that you have?

Mr. MacDonald: That's the problem I have with this. We may have 12. We may have 15.

The Chair: Well, let me restate that then.

Mr. MacDonald: I also have a point of order.

The Chair: Okay. Go ahead.

Mr. MacDonald: Perhaps the chair can clarify this for me. Mr. Rodney voted on this motion – I'm referring to the minutes that were provided for the Wednesday, June 28 meeting – and I don't see Mr. Rodney listed as a member of this committee. He's certainly welcome to participate in this committee – is he not? – but is he eligible to vote?

Mr. Rodney: Those were members present. I was out of the country at the time on AADAC business.

Mr. MacDonald: Okay.

Mr. Rodney: As far as I've understood, I'm definitely a member.

The Chair: Wonderful clarification. He was not present at the first meeting, but he is on the committee. So I would say that he's entitled to vote today.

Okay. The sticking point appears to be that I placed a number on it. I'll put that forward again, although I do want to create some limitation because I don't think that we want to be here for 700 years while we have 200 submissions. So there's a part of me that would like to see at least some kind of parameter placed around this.

Can I say again that we would like to have public presentations, that they should be limited to those that are on the list in front of us and those that Mr. Thackeray's group feels would also have value to the committee as we review this process? They might not choose to come. Particularly the not-for-profit sector is one I would really like to see you include.

Is the group in better agreement with that? Any questions before we vote?

Mr. Rodney: One question. I heard you say that you'd like to put a number on it. I wouldn't mind as well, both in terms of number of individuals presenting but also perhaps the timeline that they be given.

The Chair: Well, we'll discuss that next, the timeline.

Mr. Rodney: We can do that. Our colleagues can tell us what they think, but I'm wondering if we would prefer to see up to 15, which would give anywhere between the seven we see and double that plus one.

The Chair: Would you like to put that forward as a motion? Apparently I can't put the motion on the floor.

Mr. Rodney: I would so move.

The Chair: You would so move? You said up to 15?

Mr. Rodney: Yes.

The Chair: Up to 15. Does the group have a problem with that?

Mr. Martin: Including the seven?

Mr. Rodney: That's correct. It could be eight more, or it could be only these seven. I want to give them the latitude to either keep it as it is or double it.

The Chair: We'd like to hear the motion.

Mr. Rodney: Okay. I move that Mr. Thackeray and his staff be commissioned with the dubious honour of approaching not only these groups who have said that [not recorded] speak before us. I know that's awfully long.

The Chair: And we'll bring that list back to the committee for approval.

Mr. Rodney: Yes. Brought back to this committee for its approval. Do you want me to restate that?

The Chair: No. It was way too long the first time.

Mr. Rodney: Yeah, I know. That's what I'm saying. I move that Mr. Thackeray and his crew bring back to this committee a list of up to 15 individuals or groups who will be representative of the needs across the province.

Is that a little tighter?

The Chair: Are we in agreement?

Mr. Liepert: Well, for clarification, he did not say that these seven have to be included in that motion.

Mr. Rodney: That's right. Yes. I want to give them a little more latitude.

The Chair: So all those in favour? All those opposed?

Mr. Martin: Now I am confused.

The Chair: Let's see if I can clarify for you. We're saying: up to 15.

Mr. Martin: But he said originally that it would be this group plus. Now I'm hearing that it's not this group.

The Chair: No. I was under the understanding that this group would be included in the 15.

Mr. Liepert: That wasn't what he said.

The Chair: No?

Mr. Rodney: Madam Chair, if I may, that's why I thought I should restate it. I believe that this group should have the freedom to determine up to 15 groups. They've been here for the whole thing. They know that it's the will of this group that it may well be that all of these seven are represented, but I think the most important thing is that we need the stakeholders across the province represented. If it includes these seven plus another seven or eight more, I believe that if they've done their research – and they have the experience and expertise – we should leave it up to them to recommend who it's most efficient and expeditious for us to see.

Mr. Martin: Well, that changes the motion.

The Chair: Okay. We're going to try this again, not to put too fine a point on it. The motion that Mr. Rodney has put forward says that there would be up to 15 and that Mr. Thackeray and his department would determine those 15. All those in favour of that motion, raise your hands. There are five. All those opposed? There are two. The motion carries.

So we will turn that over to Mr. Thackeray and ask him to bring back before this committee a list of not more than 15 that they think would be representative. They might include all seven of these. In fact, a wise man might include them. I don't want to prompt you or anything. As the only female on the committee I can say things like that. We ask Mr. Thackeray if he'll do that and bring that back to us in the future.

Before we do that, I'd like to conclude the discussion with the parameters that we might place around these public presentations. What has been suggested is that we generally set a 20-minute time limit for the presentations with about 10 to 15 minutes for questions from the committee. In former work that I've done, I've found that a group that needs longer than that is wandering anyway. So I'd like to recommend that as the format but open again to the committee for their suggestions.

Mr. Liepert: I would agree in general, and I would place a maximum 10-minute presentation because we already have their presentation in writing. We know which ones we're going to be receiving. If we're committee members that are doing our homework, we should be reading the presentations before they present. So I think it's very important that the presentation itself be limited to no more than 10 minutes to allow for at least 10 minutes of questions.

The Chair: Do any other committee members have an opinion about this?

We've not got to the scheduling yet, so we will leave this discussion for later, but we'll go and assume at this point in time.

Mr. Thackeray: Would it be fair to assume that it's the general view of the committee that 10 and 10 or 10 and 15 is what is going to be approved, so that when we do approach organizations, we can tell them that they don't have half a day?

The Chair: So they can plan. Yes.

Mr. Thackeray: Yeah.

1:30

The Chair: I would agree. The other thing that I think would be awfully good is if we could find a way to schedule all of these groups together so that we're not wandering over two different meeting dates. Or does the committee feel that it would be too onerous in a one-day swing to see that many groups?

Mr. Martin: It depends how many people they have.

The Chair: Well, if we had 15, could we do it in one day as opposed to separating it and splitting it up?

Some Hon. Members: Two days.

The Chair: You want two days, then, if we go to 15. Let's say that we stay around the 10 mark. Would we be comfortable?

Mr. Liepert: No.

The Chair: Still two days?

Mr. Liepert: I think you should plan for two days and give a third-day option held in abeyance in case there's someone who absolutely can't make those two days. By and large, these are the two days we would ask you to be here to make the presentation, but if there is some absolutely extenuating circumstance that you can't, let's have a third-day option a week or so later.

The Chair: Okay. Thank you.

They've also asked us to kind of try and have a bit of conversation at this point about dates in order to do this, when we feel it would be best for us to try and schedule these so that the work can be done.

Mr. Liepert: Sorry, but I think it's also important when we're scheduling that we consider having a late afternoon/evening time frame because it would make it easier for people to present in the evening than it would at 9 o'clock in the morning.

Mr. Loughheed: Is the location always here? Would we go to do one in Calgary or all of them here?

The Chair: The difficulty we have is that because of the nature of this committee it has to be recorded, so there are some limitations to other locations and this kind of recording. We have this fabulous conference room, that has been paid for by taxpayer dollars, for that purpose, so I suspect that we would probably be better to stay in this space. I recognize that that might create travel for some because of that particular problem.

Anyone else?

Mr. Rodney: I would like to echo Mr. Liepert's notion to go an afternoon and an evening, especially for those travelling. The evening may work well, and we may want to respect that. I would go further and suggest that then the next morning we could continue.

Therefore, we would have all portions of the day available to folks, and I would hope that all of these groups would be able to fit into the two days. If we need a third day, absolutely. Let's go for it. I would like to know the will of the group and what the thought of the chair is in terms of what our time frame is. We want to respect the fact that some of these folks may need just a little bit of time to get this organized. I don't know if we're talking the end of January, the middle of February. We can't do this while we're sitting, can we?

The Chair: Yeah. The recommendation that I'm receiving is perhaps from the third week of January on. I mean, obviously we're going to be heading into the spring session at some point in time, which is going to limit a lot of our ability to meet with groups in huge blocks of time, so the third week of January is the recommendation. How do committee members feel about that time frame?

Mr. Liepert: I'm okay with that, but we will need to have another meeting of this group prior to that yet as well, so keep that in mind.

The Chair: Perhaps that meeting would not need to be overly long at that point in time. We could hook it onto other work that we're doing, a review of the questions perhaps.

Okay. I'm looking at the month of January right now, and the third week is obviously the 21st. If we were to check with the committee members' calendars, maybe the 15th is what she's looking at at this point in time.

Well, how about we do this? How about we have the staff take a look at our different calendars – I'm sure we've not all got them in front of us at this point in time – and maybe shoot for that third week?

Mr. Loughheed: Maybe we can even do a little poll. It seems that January certainly is a time when a lot of people are away, and maybe February might be what we'll have to start looking at it.

The Chair: Okay. So what I'll do is have them contact your assistants and get a read on our calendars and see if there's one date that's better than the others, but we're shooting for the end of January, the first of February perhaps. We'll see what works out when we do the polling. Okay?

Mr. Liepert: Well, keep in mind that it's not just our calendars. We're asking 15 groups to come and present, as Rob mentioned.

The Chair: Exactly.

Mr. Liepert: I think that, quite honestly, we should not be pushing this too far. Why don't we just look at February as the month for the presentations and sometime in January for our own next meeting?

The Chair: Maybe that's the best suggestion yet. Okay.

We do have the Government Services staff out of province from the 14th to the 17th, so that's one consideration we're going to have to, you know, pay attention to. Well, we'll leave that up to staff to kind of help get us some dates that we can work with, but at this point in time we're looking at the committee reconvening to make some more decisions about the different presentations on the list, if you will. Then sometime at the end of February, the first of March we will be looking at beginning the public presentations for the committee for two, perhaps three days. Is everybody in agreement?

Hon. Members: Agreed.

The Chair: Okay. I'm going to move to the next agenda item, which is number 7. Thank you. That was a great discussion.

If you can go to tab 7 in your wonderfully organized binder, you're going to see a coloured sheet in there at the very front of it. I think this is a good piece for us to look at, and I'll let Tom describe it. Basically, if I were going to describe it very briefly, it's who's covered, who's not. That is the way I look at this sheet. I'm going to ask for a better description for committee members on who's covered, who's not. I think that's important because PIPA is a little different than just the freedom of information act.

Ms Lynas: What I'd like to do is review this sheet in a little bit of detail today. In Alberta there are these four privacy acts that may apply, and they apply to different entities and different records and information. So the chart before you lays out each of the different pieces of legislation and then briefly describes what information and what organizations are covered in each. In some of the submissions the respondents have indicated that they may be subject to four acts, so I think it's important to be clear on that. I'll just review them, and it's with the idea that it's important for us to understand which organizations are covered by the Personal Information Protection Act.

If we start at the right-hand side with the federal privacy act – that's the one in the purple – this one applies to the federally regulated businesses, so we're talking about banks and telephone companies and that type of thing. It applies to their client information but also to the personal information of their employees. Now, for the provincially regulated businesses that are under the Personal Information Protection and Electronic Documents Act, it applies in provinces without substantially similar legislation. So it doesn't apply in Alberta, B.C., and Quebec, but it does apply to businesses in the other provinces. In those cases it only applies to client information. It doesn't apply to their employee information, and that's because of the division of powers between the federal and provincial governments and that legislating the workplace is within the provincial purview.

Now, the federal legislation will apply to Alberta businesses when they are involved in a transaction that crosses a border. We have our own provincial legislation that covers them when they're collecting, using, and disclosing personal information within the border, but once they start moving across a border, it gets captured by the federal act.

If we move over to the left and look at our own provincial Personal Information Protection Act, in the deep pink, PIPA uses the term "organization," and it does apply to personal information. Now, an organization is defined in the act as

- (i) a corporation,
- (ii) an unincorporated association,
- (iii) a trade union as defined in the Labour Relations Code,
- (iv) a partnership as defined in the Partnership Act, and
- (v) an individual acting in a commercial capacity.

1:40

What that translates into is that it applies to provincially regulated businesses, the ones that are operating here but aren't captured by PIPEDA. It also applies to self-governing professional organizations, groups like the Law Society or the Alberta Teachers' Association. It also applies to delegated administrative organizations, and these are typically organizations set up by government, such as the Safety Codes Council. It applies to registry agencies if they're carrying out an activity that isn't part of their sort of registry agent business that they're under contract with the government to do. For example, a registry office may also offer Ticketmaster services, so

that part of their business would be captured. It also applies to private colleges and schools and also to school councils that are associated with public schools. It applies to some organizations for certain health information which is not subject to the Health Information Act – and I'll explain that a little bit later on – and it applies to nonprofit organizations.

Now, with nonprofit organizations PIPA only applies to the same extent that the federal legislation would apply if we didn't have our own legislation. It was set up that way so as not to put nonprofits in a different situation than if they were, say, located in Ontario. What captures a nonprofit under PIPA – and they would need to follow the rules – is if they're engaged in a commercial activity. So if we take the example of someone like the YMCA, that runs a fitness centre, offers memberships, and where the rates are pretty well competitive with private fitness clubs, that would be considered personal information. They need to apply PIPA to that information they collect from their members, but PIPA doesn't apply in that case to their employees' or volunteers' personal information.

Nonprofit is defined for the purpose of the act, and it includes organizations incorporated under the Societies Act or under the Agricultural Societies Act or that are registered under part 9 of the Companies Act. Of course, there are other kinds of not-for-profit organizations out there. Some of them may be registered federally, they may be set up by an act of the Legislature or a private member's bill, but they don't meet the definition of nonprofit for the purpose of the act. They may have a charitable registration number, but they are fully subject to PIPA. The last group on the list is labour unions, and they are considered organizations under the act.

Moving to the left, then, we have the Freedom of Information and Protection of Privacy Act. It's the public-sector act, and you may be fairly familiar with that range of public bodies, as they're called. Now, a public body may contract with a private-sector business for services. For example, a government department may hire a business to issue cheques on its behalf. When it does so, the department would retain control of that personal information that it gives to the business in order to provide the service, and in that case PIPA does not apply to that information. FOIP continues to apply. The department kind of passes on its obligations to safeguard that personal information to the business, but FOIP rules continue to apply. Basically, the business has to comply with their contractual obligations. It's not that they become subject to the FOIP Act.

On the left-hand side we have the Health Information Act. The Health Information Act uses the term "custodians" for who it covers, and it also applies to health information. Generally speaking, health information is a kind of personal information, and it's usually related to diagnostic treatment and care information to patients in the health care system. We've shown HIA under yellow and green boxes. The ones in green are custodians. They're subject to the Health Information Act for health information, but they're also subject to the FOIP Act for other kinds of personal information that they have.

Then there's a category of custodians, the ones that are in the yellow box, and those ones are not subject to the FOIP Act. They are subject to the Health Information Act. There are a few of those custodians, such as pharmacies, that follow the Health Information Act for the health information that they have, but they're also subject to PIPA for their employee information and any other kind of personal information they have, so they're one that's under two acts.

The other piece of the Health Information Act is that for health information part of the definition is tied to whether the service was paid for as part of the health insurance plan. In some cases there are health services that may be paid by a private insurer or by the patient themselves or by the federal government if someone is entitled to some kind of benefits. That corner of health information is not

subject to HIA, and that is captured under PIPA as well. Now, in practical terms, if a physician has some of that information, they tend to treat it as though it was covered by the Health Information Act and just follow those rules, but technically there is some health information that is covered by PIPA as well.

Are there any questions?

The Chair: I certainly hope that clarified that for all of you.

Okay. Keeping with the simple procedures of this committee, basically this is just for information, I believe. Are there any questions about this particular chart? I defy you to find one.

Mr. Johnston: I just had one under PIPA, and that's labour unions. Is that associations also? Is that the same?

Ms Lynas: Yes. Any trade union as defined in the Labour Relations Code would be included.

Mr. Johnston: Okay. Thank you.

Mr. Goudreau: When I look at the list, certainly we talk about organizations and agencies and groups of all types. My question is on the individual. For instance, somebody gives me a resumé, and I don't have a job for that particular individual. Then somebody else comes along and says, "Do you know of anybody that might be interested in working?" and I pass on that resumé to somebody else. How does that fit in under PIPA, for instance? What are my responsibilities as maybe a custodian of that resumé for a short while?

Ms Lynas: Is this if you receive the resumé as a business?

Mr. Goudreau: As a business or personal. You know, even as a farm owner, for instance, as an individual.

Ms Lynas: Yeah. It doesn't apply to individuals. If you're, you know, just a friend and somebody gives you a resumé and says that they're looking for a job, it wouldn't apply then. If you're receiving it as a business owner, then you're collecting it, and it is personal information. You have to consider whether you can pass it on or not, and that may depend on what the individual has told you, you know: I'm applying for this specific job. Then perhaps a business shouldn't pass it on without speaking to that person first and saying: hey, there may be another job over here. Or if someone has said: "I'm looking for a job. You know, I'm interested in this job or other jobs, and I'd appreciate your help." It depends on the context. But, yes, it is personal information.

Mr. Goudreau: Thank you. Another comment that I would have and I think I brought up at our first meeting was the fact that as an individual I might own a rental, a basement suite for instance, where I've accumulated information on an individual that might have spent some time there. Then that individual goes out to get other accommodations, and I receive a phone call saying, "What type of individual was he?" or those kinds of things. How much responsibility and liability am I exposing myself to, and, you know, should that be addressed as part of our ongoing discussions here?

Ms Lynas: Yes, as a landlord asked to give a reference for a former or current tenant, it really should be done with consent. A landlord is considered to be running a business and having personal information on a tenant.

1:50

The Chair: What does that do to references?

Mr. Goudreau: That's right. That's very important.

Ms Lynas: Yeah. There's a distinction made between references of a tenant and an employee. Employee references are handled differently. There's a portion in the act talking about personal employee information. One of the specific questions that we're going to get to later is whether the provisions allowing certain reference information to be given out are appropriate or not.

The Chair: This section was for information only. Are there any other questions that you would like to ask the department at this time about who is in and who is out? I'm really hoping that as we continue through the review, that will become clearer to me as well because there is a lot of complexity around this issue for sure.

We're going to move now to tab 8(a) in your binder. Tab 8(a) in your meeting binder is a summary document that addresses the responses received to question 1 in the discussion guide. If you remember, we asked 13 questions. So if you look at this particular portion, you can see that it's laid out really well. You get your question first of all. Question 1 is: "Is the process for providing access to records containing an individual's own personal information appropriate?" That was the first question, which kind of seems general, I guess. As I was looking at the responses that we received, 40 per cent chose not to comment, 30 per cent said that it is appropriate, and 30 per cent said that it's inappropriate. I don't know about you with the 50-50 rule.

I'd like to turn some time over to Tom – did he leave the room for a moment? – to let us know a little bit about the responses to our first question, and then maybe we can comment as a group.

Ms Lynas: Okay. If I may, I'd like to just talk a little bit about the documents since this is what we're proposing in terms of presenting the information on every question. What we've produced is a summary of the comments in the public submissions. So we do start out with the stats as Mrs. Ady pointed out. Then we try and group them under some kind of appropriate headings so that we can deal with things in some kind of order.

We provide an excerpt of a comment from a submission, and we include a footnote as to what organization made that comment, in case you want to go back and look at the original wording. After we provide that, then we provide some commentary on the point raised by the respondent. It might be an explanation of something that's in the act or information on some discussion we may have had on this issue before. At the end we include some references. We have related discussion that would indicate that there may be some related topics coming up in one of our future meetings and, under further information, any briefings or policy option papers we may prepare for the committee to review, and then a question if there is one that comes out of the discussion. So that's the basic document that we have put together.

Just a brief background on what this question is about. An individual has a right to make a request for access to his or her own information. It has to be information that's in a record, so it can't be something oral that's in somebody's head, and it has to be in the custody of the organization or in the control of the organization. The individual making the request to a business has to provide enough information so that the organization can make some kind of reasonable effort to find it. It isn't really good enough to just say: I want everything you have about me. They have to say: "I'm a

customer. I made a complaint, and I would like all my records related to that complaint.” Or whatever. Give some kind of indication of where the organization might find the records.

An organization can accept an oral request if it wants to and the individual is unable to put it in writing. An applicant may ask for a copy of the records or to see the information, and the applicant does not have to say why they’re asking for the information.

An organization has 45 calendar days to respond after receiving the request. They can designate a specific office to receive the request, and the clock wouldn’t start ticking until it arrives at that particular office. There are situations in the act that would allow longer time frames in certain circumstances to respond to a request.

Unless the organization doesn’t have any records or it can refuse to release them under the act, the organization must provide access, tell the individual what the information has been and is being used for, and tell him or her to whom and in what situation the information is being or has been disclosed. There’s an overarching requirement that in dealing with an access request the organization must act reasonably.

There are two other questions that we’re going to be getting to in later meetings that have to deal with access to records. One is whether the reasons for refusing access to records are reasonable, and another one has to do with charging fees. So those are two we’re going to get to later.

Just in terms of the comments in this one I’m not going to go through everything that’s in here. In terms of the 50-50 and people supporting it, if people made any kind of suggestion to change the access process, we put it down as not being appropriate, so that makes it seem probably a little higher than it is. So in the first category of right to access, one organization suggested that the access provision should not apply to credit information since the credit and personal reports regulation sets out another process for obtaining this information. In most cases individuals are likely to be satisfied with this process. However, what the act does is that it provides a broader right of access. So the regulation specifies that there’s certain information an individual can access under that process, but under PIPA individuals can ask for any personal information about them.

Also, making a request under PIPA provides a right of review by the office of the Information and Privacy Commissioner to any information that was not released. PIPA does not take the place of other processes to allow access to information. Quite often it does or it may provide a duplicate process, but it does also allow for that independent review of a decision not to release information.

Another point was that two organizations recommended establishing a definition of work product information in PIPA. This new category of information would be excluded from the application of the act. We did provide a briefing note, number one, on this topic. Kim is going to explain what work product is.

The Chair: Just to remind the committee, if you turn to tab 8(b), you’ll see the briefing on work product information.

Ms Kreutzer Work: As was just mentioned, the Personal Information Protection Act provides an individual the right of access to his or her own personal information. Personal information is defined in the act as “information about an identifiable individual.” Therefore, an individual may request access to information that is about that individual.

Work product information is generally understood to mean information prepared or collected by an individual as part of his or her employment responsibilities, so, for example, correspondence, reports, or memoranda written by an employee. Alberta’s PIPA does

not define work product information nor does it expressly exclude it from the definition of personal information as does the B.C. act. Rather, Alberta PIPA takes a contextual approach to the matter.

The act requires an organization to examine the context surrounding the information in question in order to determine whether or not it is personal information and therefore subject to the act. This is because information that is typically considered to be work product may in a particular context be personal information of the individual who prepared or collected it. For example, the correspondence or report created by the employee may be considered work product. However, if that letter or report is used by the human resources department in a performance appraisal as evidence of the employee’s knowledge or skill and it is part of the personnel file, the information might then be considered personal information. In this context it would be important that PIPA provide a right of access to that information.

2:00

The contextual approach is an approach that is used elsewhere in the act. In PIPA business contact information is considered to be personal information and is subject to the provisions of the act except when the information has been collected, used, or disclosed for the purposes of contacting the individual in his or her employment capacity.

The contextual approach is also used in the FOIP Act regarding the disclosure of business contact information. An individual making an access request may ask the Information and Privacy Commissioner to review the organization’s response to the request. The commissioner may determine on a case-by-case basis whether the information in question is about the individual and therefore subject to the act. The federal Privacy Commissioner has also used the case-by-case approach to work product information under PIPEDA, which also does not contain a definition of work product.

Finally, if an organization wants to provide an employee with a copy of the work that she or he has done for the organization, the organization has the ability to disclose this work product information outside of PIPA, but the organization is not required to do so.

The Chair: Okay. Basically, my understanding at this point in time is that if you were to look behind tab 8(a), under Questions for Consideration question 1(a) says:

Should the Act be amended to exclude “work product information” from the definition of “personal information,” such that an individual does not have a right of access to personal information in a record prepared or collected as part of an individual’s employment or business responsibilities or activities?

That is the question that we as a committee at this point in time, I understand, are considering. We have the ability to create a motion one way or the other to that effect. According to my briefing note it says that we might also want to defer this motion on the question until we have completed the discussions related to the briefing notes under tabs 8(b) and 8(c).

So I guess my first question to the committee is: do you feel prepared to have a discussion at this point in time as to whether we want to leave the work-related stuff in or out? Am I correct? Is that it in a nutshell? Or would you rather wait until we’ve had a description of briefing notes under tabs 8(b) and (c)?

Mr. Goudreau: Madam Chair, it seems that when I look at the question – and, you know, I commend the staff for having done this work and even for the preparation and putting all the binders together – are these questions not premature? Should they not come back after we’ve heard from individuals wanting to present to us and after we’ve gone through all of the questions?

Ms Lynn-George: I don't think that any of the people who requested an opportunity to present to the committee wanted to address this point.

The Chair: So it did not come up under any of the written submissions.

Ms Lynn-George: Well, it's in two written submissions but not from anybody who requested an opportunity to appear before the committee. This is everything there is.

Mr. Rodney: I think this goes back to the motion a while ago, whereby I don't know if those two who did submit something in writing requested that this piece be looked at closer. I guess that what I'm trying to say is this. I don't see a problem with deferring this until after the presentations. We'll just be more knowledgeable, and I think we can make a quicker decision at that time.

The Chair: I'm checking the comfort level of the committee at this point in time. Do you feel like you have enough information at this point in time to make a decision regarding this question?

Mr. Lougheed: From listening to the comments, it sounded like it was working quite well. That was the impression I was left with, what I interpreted from what you said. If that's the case, then we don't need to do anything particular right now, I would think. Leave it for a while.

The Chair: So if it's not broken, let's not fix it. Is that what we're saying?

Mr. Martin: Well, I don't know what 8(a) and (b) are, but if there's some relevance to what we're discussing, we probably should wait. If there's some relevance to it, it would make sense.

The Chair: So perhaps what we can do is go ahead and cover points (b) and (c), and then we'll return to the question and see if there's a comfort level to make a decision. If not, we'll follow up on the suggestion that we wait till after the public presentations.

Okay. Can we have you continue with both (b) and (c)?

Ms Lynas: Okay. The next category of comments is processing requests. Once a request is received, an organization has to process it. Some suggestions were made to assist applicants when making a request, such as adding a form or checklist as a schedule to the regulations, something that would help applicants to formulate their requests. Both Alberta Government Services and the office of the Information and Privacy Commissioner have developed some guidelines and publications to assist organizations to process requests and the individuals to make requests under PIPA, although there isn't a specific form for that purpose.

Another suggestion was that organizations should be required to create an index of records of personal information collected by an organization. This is similar to a concept that we have in the public-sector legislation of creating a list of all personal information held by public bodies. Currently an individual, to make a request under PIPA, must identify the information he or she is seeking, and the organization is obligated to respond as accurately and completely as reasonably possible.

An individual recommended that the act should allow for continuing requests, a new category of requests, and this would enable an individual to obtain ongoing disclosure or periodic updates of the information they're interested in. This is one of the other briefing notes that we've prepared, and Jann can speak to this one.

Ms Lynn-George: The issue of continuing requests was raised by just one individual, but it was an individual who had some experience in using the act to obtain access to personal information. The recommendation is also of interest because of the way it highlights some of the differences between Alberta's public-sector and private-sector privacy legislation.

So where does the concept of the continuing request, or standing request as it's sometimes called, come from? It's in Alberta's FOIP Act, which allows an applicant to make a request that has effect for a specified period of up to two years. If a public body agrees to the request, a schedule can be established for responding to the request. There are some special rules for estimating the cost to an applicant for processing each instalment of the request.

PIPA, in contrast, does not allow for continuing requests. If an individual wants to receive information at regular intervals, the individual must submit a new request each time. The continuing request is actually a bit of a rarity in privacy legislation. The only acts in Canada with provisions for continuing requests are the Alberta FOIP Act and the Ontario FOIP Act. The Ontario act was one of the models for the Alberta equivalent.

If we look at statistics on continuing requests under Alberta's FOIP Act, it's apparent that the process is actually used very infrequently, and as a result staff in offices tend to have to refamiliarize themselves with the process when these requests come in. Estimating the cost of a continuing request can be a particular challenge since the records don't actually exist at the time that the request is being made. So there's some administrative overhead with continuing requests, and it's overhead that may be merited within the context of government accountability, but it's less clear that it would be reasonable for the private sector.

At the same time, we should recognize that there are clearly cases where it may be very reasonable for an individual to want to get regular updates of personal information. A case that comes to mind would be where an individual is concerned about identity theft and they want to get a regular credit report. But it's quite likely that where there is a case that can be anticipated, there is an existing process. For the few other cases it may not be unreasonable to require an individual that wants to get updates to submit a new request.

Are there any questions about that?

2:10

The Chair: Any questions on this section? My understanding of this section is that somebody would be able to put in a request and have an ongoing, open process that – I don't know – seems complex to me.

Mr. Goudreau: As part of your comments, the continuing request could have a drop-dead timeline, you know, a request that would last for a year or two years, and then it would disappear.

Ms Lynn-George: Under the FOIP Act it's two years.

The Chair: Did I understand you correctly when you said that there are already other processes that could cover this?

Ms Lynn-George: Well, if you think of the typical cases when you want updates of personal information, it's things like your retail charge card accounts or statements from financial institutions, and there is often a process already in place for getting that information. The other situation is when you're in some sort of adversarial relationship, and there would be a legal process, and instituting a process of continuing requests under those circumstances might not actually assist in resolving whatever conflict there is, in any case.

Mr. Martin: Looking through, I think you said that the only bodies in this are FOIP in Alberta and in Ontario. We certainly should know about Alberta. What has been the result? Has the continuing part of the FOIP Act in Alberta been burdensome, if I can put it that way, or has it been a relatively easy thing to administer?

Ms Lynn-George: It's very, very rarely used. There are a few cases that we're aware of, things like those stale cheques. What are they called?

Ms Lynas: I think that in the public sector it's not often used for personal information; it's used for general information. So if someone is interested in a particular issue that just goes on and on, they would ask for an update every three months on that, but I don't know that it's being used very much at all in the public sector for personal information.

Mr. Martin: But do we think that in dealing with people, it would be used more often if we had it, or it probably wouldn't be used that often here?

Ms Lynn-George: It's likely that it wouldn't be used very often, and it may seem rather onerous for a private-sector organization to set up a mechanism for something that is very seldom used. It may also seem to the private sector that where they have a mechanism in place for regular updates, establishing a parallel process might be an added burden for the organization.

The Chair: Mr. Martin, do you have a follow-up question?

Mr. Martin: No. That's fine. Thanks.

The Chair: Good.

Any other questions on this particular point? No?

Seeing none, let's go ahead and move to (d), and then I'd like to come back and rediscuss this work product information. I have a few questions. I just want a little bit more of a simpler look at what we're looking at. So if you could go ahead and do (c).

Some Hon. Members: We just did (c).

The Chair: Oh, so we are complete with this, then. Okay.

Can I just ask a general question? Basically, at this point in time is work product information in the PIPA Act or out of the PIPA Act?

Ms Lynas: Well, we don't have a concept right now of a definition of work product in PIPA. It's usually used to refer to records created in the course of employment. So if I write letters or e-mails as part of my employment, the fear is kind of that an individual will come in and say: I want a copy of everything I did with my name on it. But the way PIPA works is that you have to make requests for your own personal information. The letters I write about carrying out business are not my personal information. What is personal information on there may be my name and my title and business contact information. Well, that's already excluded, so what may be left on there is something like my degree or credential, and that's such a minimal amount of personal information left. There's a concept under access that the organization has to respond to requests that are reasonable, and if it means getting blank pieces of paper and all that's left is a degree and everything else is severed, it really isn't reasonable to process that request.

The Chair: So what we're asking the committee to decide is whether we should put a specific definition in the PIPA Act at this

point in time or leave it as it is. Isn't that really what we're looking at? Okay. Is the committee comfortable answering that question at this time? Can I get a degree of comfort or noncomfort with this? I know, Dave, that you had requested earlier that we wait until after the public presentations.

What this is today for us is a good sample of how we're going to see the next 12 questions proceed at us, so I think it's important that as a committee we have a degree of comfort as we move forward at this point that this is the process that will help us make these decisions.

Mr. Martin: I think we can go forward. It doesn't mean that we can't come back and review something if we got more information later on that causes us to change our minds. We can certainly come back. It's not written in stone. Am I correct about that?

The Chair: Yeah. We can always come back.

Is the committee comfortable right now discussing how they feel about this particular question, maybe, you know, discussing it just at this point in time?

Mr. Martin: Going back, maybe I'm putting words in your mouth, but the only place that seems to be doing this is British Columbia. Your assessment was that this is probably not a major problem but that it could develop if we put it in because if it had something to do with some work and it was used in an evaluative sort of way, then that could create some problems if we put this qualification in. Am I correct about that?

Ms Lynas: Yes. I would say that some businesses would see that putting in a definition of work product would make things more certain, that certain information is excluded from the act and they would not have to process an access request for it. However, other people are not as certain because the act in B.C. is fairly new. It's not a term that's been interpreted, and there are concerns that it may be interpreted more broadly, that perhaps work product might include some kind of surveillance of employees for productivity purposes. So when you put a definition in, it is subject to interpretation.

The Chair: Any other questions, comments?

Mr. Goudreau: I guess my comments were more on my comfort level. If I understand some of the comments by some by the committee members, we could probably make recommendations on the questions as we move along. I would accept that providing that we recognize that they are only recommendations as we move forward, with some final voting later on once we see the whole picture.

The Chair: Okay. So then rather than bring forward motions at this time.

Ms Lynas: Elizabeth may want to say something about it.

Ms Denham: Just in terms of work product information. When the Privacy Commissioner's office comes in to review a request – someone has been denied their information, and we come in to do an independent review – it's often a former employee who wants access to their information. If they're asking for information, we've interpreted work product even though it's not defined in the act by really looking at what is personal information: what is information about the individual versus what is information they created as part

of their position? So if you think about somebody who had a lot of client files, maybe someone who worked in a financial industry, the information they produced for the company in their role is not what we would consider to be personal information. We would consider that to be, quote, unquote, work product information even though that concept is not defined in the act.

2:20

The Chair: So we go back to the question. We're really deciding whether we're creating a definition or not. Correct?

Ms Denham: That's correct, and as a result of maybe 150 reviews that we've done, we haven't had difficulty in not having the definition in the act. Is that clear?

The Chair: So if not's broken – I'll say it again – why fix it? Are there any others?

Mr. Johnston: Madam Chair, I just wonder if we could possibly have the federal Privacy Commissioner discussion paper and any documents related to that. Would we have that? I'd like to look at that myself. I know there was a conclusion made when she reviewed that, but I'd like to have that to look over. I'm not sure if other members of the committee would.

Ms Lynas: We could provide that.

The Chair: Any others?

Mr. Rodney: I would just like a copy as well. I guess it's under tab 8(b), the second page, under Other Jurisdictions that Mr. Johnston was just referring to. It shouldn't be a surprise that we might be spinning our wheels on this just a bit right now because, as you can see, there's a discussion paper with a lot of questions, and in the end it was decided upon to be case by case. I don't think we need to speed through this. We can view it now, and we can gain further information and come back to it and make a better decision at that time.

The Chair: Okay. Just in the interest of staying organized in some way to get through our 13 questions, would the committee consider the idea of deferring the decision today until we have time to actually look over this material a little bit better? Then maybe I'll put the question to you prior to going over the next question when we meet next to handle question 2. I don't know how it's organized. I know that some of the questions aren't quite as complex as others. We could perhaps at that time, then, put the question back to the committee. I think there's just a bit of discomfort at this point in time because the material is so new to the committee members. Maybe we'll just let this seed a little and then bring forward those motions in the next meeting.

Mr. Lougheed: Perhaps it should be noted that there appears to be some comfort with the current set of circumstances.

The Chair: Yeah. I mean, if I were going to look at it right now, I would say that I'm comfortable – I feel comfortable, personally, as a committee member – with it as it is. That would probably be the way that I would choose to vote. I just want to know if the rest of the committee is comfortable making a decision today.

Mr. Martin: Well, you can always come back. That's the point. This way you go through, and we've sort of agreed, but then when

we come back and actually vote on it, there may be other information. Otherwise, we would be deferring an awful lot.

The Chair: Yes. That's why I'm saying we can't defer forever. Mr. Goudreau, did you have a comment?

Mr. Goudreau: I would agree with Mr. Martin on the basis that we can always come back, and I re-emphasize that we can make those recommendations and certainly move forward on those recommendations with a final vote at the end.

The Chair: Okay. So would it be the first or the second option that we would be comfortable with? I'm just asking you guys because they're so wordy, I can't tell which just says what we wanted. Let me just read them to you. The first one says that the Select Special Personal Information Protection Act Review Committee recommends

that the Personal Information Protection Act not be amended to exclude work product information from the definition of personal information.

Mrs. Sawchuk: Madam Chair, can I try to put the record straight? When I was drafting the motions or the wording for the motions and reading this, obviously from a layman's point of view, I was assuming that work product information was addressed in the act. So in that case it's not correct, the wording of that motion. It would be whether to exclude a definition, not to add one.

Ms Lynn-George: No, what you said was correct.

Mr. Goudreau: Well, Madam Chair . . .

The Chair: Let's do it this way: go ahead and comment, and then I'll let Hector comment.

Ms Lynn-George: The reference to amending to exclude is correct because what you would be doing is adding a definition of work product information, defining personal information to exclude work product information and therefore excluding that category of personal information.

The Chair: So this first one would be correct if we were voting that way.

Ms Lynn-George: That would be the correct motion if that's the way you wanted to proceed.

Mr. Goudreau: Well, I found the motion to have, it seems, a double negative. Is there a possibility of wording that motion differently to say a positive thing rather than two negatives?

The Chair: Okay. So that would be the motion that would come back before us. Again, I would like to make the recommendation that we have that rewritten, brought back in front of the committee at our next meeting, and that we be prepared at that time if we can to vote upon it so that we are not continually deferring all 13 questions to the 12th of never. Is everyone in agreement with that?

Hon. Members: Agreed.

The Chair: Okay. Perfect. Thank you.

According to my schedule are there any additional items that the committee would like to discuss? Tom, did I skip something?

Mr. Thackeray: Yeah. We weren't quite finished our commentary on the first question.

The Chair: Oh, I thought we did.

Mr. Thackeray: No.

The Chair: That's what I thought I was asking for before.

Mr. Thackeray: We're almost there but not quite.

The Chair: Okay. So can you do it in under three minutes for me, please?

Mr. Thackeray: I can't, but Hilary can.

The Chair: Thank you, Hilary.

Ms Lynas: Okay. A couple of organizations suggested that PIPA should provide for organizations to authenticate the identity of individuals providing access to his or her own personal information. This is something that isn't explicit in the act, but in practice it is required in order to avoid handing personal information out to the wrong person. One organization recommended that 45 days to respond to an access request should only start from the date that a complete request was received; i.e., after any clarification was received. Currently the act allows an organization to extend their time for responding by up to 30 days if they need additional time to talk to the applicant to clarify what information they are interested in receiving.

Moving right along to the last category, which was the abuse of process, there were a number of comments expressing concerns about access requests that are being made for illegitimate purposes and perhaps that these requests create an administrative burden and costs for organizations. PIPA permits an organization to ask the Information and Privacy Commissioner for authorization to disregard one or more requests if, because of their systematic or repetitive nature, the request would unreasonably interfere with the operations of the organization or amount to an abuse of the right to make those requests or if the requests are frivolous or vexatious.

Where individuals have a grievance, they may use the right of access and other processes to try and resolve their grievance. PIPA includes a provision designed to encourage applicants to take grievances through other complaint mechanisms if they're the most appropriate forum before resorting to PIPA.

The Chair: Thank you. Okay. So that was (c). I jumped to (d), and there was no (d). That's why. I thought I got to the bottom of it.

So basically we have looked at the first question, and we have looked at the briefing – or maybe not had the time we want to look completely through the briefing information on (a), (b), and (c). Just to recap, we are going to call the question but not until the beginning of the next meeting, so I would ask that committee members be prepared at that time. We can always defer it if need be, but I think that gives us some time to look at it. That would be my request to committee members, that they be prepared for that.

I'm uncertain as to how many questions we will look at the next time we meet. Tom, could you tell us: is there any time we can look at more than one question?

Mr. Thackeray: Yes.

2:30

The Chair: Yes. Thank you. My understanding is that some of them are fairly . . .

Mr. Thackeray: We will attempt to have the documents prepared in advance for as many questions as possible. So if the committee is on a roll and we can go through three questions, then we will try to have the documentation ready for those three questions.

The Chair: So our homework, if you will, will be that next time we meet, we kind of have a sense of how these questions are going to be handled, we've done the reading and the briefs we need to do, so that when we're coming, we're asking the questions so that we can make decisions.

Now, the question that I have for you is: should those questions be considered prior to the public consultations, or should we have the public consultations before we consider the questions?

Mr. Liepert: If I remember our discussion a while back, we're agreeing in principle; we're not actually finalizing our decision. I think we could do them in concert. We could be having presentations and continuing to consider questions. I don't think one has to come before the other if, in fact, we're not making a final decision each time we consider a question.

The Chair: Agreed? Okay. I think that makes some sense. Thank you. Then if that's the case, we will not be bringing a motion forward on this question at this time.

We've already had the discussion on the date of the next meeting. Well, I guess we've decided on the public consultations. But as far as the date of the next meeting itself, we're between the 22nd and the 31st of January. Again, I think my recommendation would be that we poll through your offices to see if there's a more appropriate date when we can all meet, trying to take into consideration other people's schedules. I'm uncertain on that. So if I could ask you if you would mind doing that for us as a committee.

Are we looking at a full day or half a day?

Mr. Goudreau: Madam Chair, I'm just wondering how much time our staff will need to prepare three, four, or five questions that could be considered at our next meeting. I like the format that you've established. I think it's good. I'm just concerned about the time and the presentation.

Mr. Thackeray: I have been advised that we would probably have the next three questions ready for discussion at the next meeting.

The Chair: So is there a comfort level that we could do three questions in, like, half a day?

Mr. Martin: It depends on the question.

The Chair: Yeah. I have a feeling that we're going to be mentally bricker next time and more capable of moving through these a little bit. So I would say half a day. Is everybody in agreement with half a day?

Mr. Liepert: Not a full day.

The Chair: Not a full day.

Mr. Martin: That's going to be from the 22nd on, somewhere in there.

The Chair: Yes. From the 22nd to the 31st. I don't want a rebellion.

Mr. Liepert: Remind me again when our reporting deadline is.

Mrs. Sawchuk: By December 2007.

Mr. Liepert: Okay.

The Chair: Well, that being said, we are looking at a half-day meeting between the dates of the 22nd and the 31st. We hope to consider three more questions. Hopefully, next time when we reconvene, we will have read our briefing books and be ready for those. We will be also calling maybe this first question to see what kind of feedback we get after thinking about something.

I see Mr. Liepert's hand in the air.

Mr. Liepert: At our next meeting we will have brought forward the suggested personal presentations.

The Chair: Thank you. The list for the personal presentations. Yes, that would be wonderful.

Other than that, I'd just like to wish everybody a Merry Christmas because it's coming. I want you to go home, hug your families, spend some time with them. And not in January; do it in December.

Maybe we'll leave the final point to Tom.

Mr. Thackeray: Thank you. Just a quick question through you to the members of the committee. I heard Mr. Goudreau say that the format that we used for this first question was appropriate and helpful. Is that the general consensus of the group? Should we continue with this format?

The Chair: I see a lot of nodding of heads. It took me a minute or two to kind of catch on to what we were doing. But now that I have, I have some comfort level with it. I think it's good. It's supporting what I want to see. Does everybody else feel the same? It just took me a minute or two to get used to it.

Mr. Rodney: All I'd say is that you are the professionals, and if you figure you should switch gears, do something slightly differently, I wouldn't be opposed to that at all. I'm saying that I'm comfortable with the way that it is, but if you find that there are ways to be a little bit more expedient or efficient or need to go more in depth – whatever you think we need to do the right job.

Mr. Martin: That's right. We're only MLAs.

The Chair: That's right.

A final comment just as further feedback to taking our show on the road: it would cost additional money, as well, to do it. We could do it. It is possible, it is feasible, but it would add extra costs to what we've already budgeted. So I at this point in time would like to recommend that we stay in Edmonton for the purposes of this meeting unless somebody feels strongly otherwise. Okay?

Well, thank you very much for coming. We are almost 25 minutes ahead of schedule. Good work, group.

Could we have a motion to adjourn?

Mr. Goudreau: I so move.

The Chair: Hector Goudreau moves that we adjourn. Thank you.

[The committee adjourned at 2:36 p.m.]

