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SPECIAL COMMITTEE TO REVIEW THE

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

Victoria

Monday, January 19, 2004

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BLAIR LEKSTROM, MLA, CHAIR

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SPECIAL COMMITTEE TO REVIEW THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

Victoria
Monday, January 19, 2004

Chair:	* Blair Lekstrom (Peace River South L)
Deputy Chair:	* Mike Hunter (Nanaimo L)
Members:	* Bill Belsey (North Coast L) * Harry Bloy (Burquitlam L) * Jeff Bray (Victoria–Beacon Hill L) * Tom Christensen (Okanagan-Vernon L) * Ken Johnston (Vancouver-Fraserview L) * Harold Long (Powell River–Sunshine Coast L) * Sheila Orr (Victoria-Hillside L) Barry Penner (Chilliwack-Kent L) * Gillian Trumper (Alberni-Qualicum L) John Wilson (Cariboo North L) * Joy MacPhail (Vancouver-Hastings NDP)
	** indicates member present*
Clerk:	Kate Ryan-Lloyd
Committee Staff:	Josie Schofield (Committee Research Analyst) Mary Walter (Committee Researcher)

Witnesses:	Michael Doherty (B.C. Freedom of Information and Privacy Association) Darrell Evans (Executive Director, B.C. Freedom of Information and Privacy Association) Murray Mollard (B.C. Civil Liberties Association)

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MINUTES

SPECIAL COMMITTEE TO REVIEW THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

Monday, January 19, 2004
2 p.m.
Douglas Fir Committee Room
Parliament Buildings, Victoria

Present: Blair Lekstrom, MLA (Chair); Mike Hunter, MLA (Deputy Chair); Harry Bloy, MLA; Bill Belsey, MLA; Jeff Bray, MLA; Tom Christensen, MLA; Ken Johnston, MLA; Joy MacPhail, MLA; Harold Long, MLA; Sheila Orr, MLA; Gillian Trumper, MLA

Unavoidably Absent: Barry Penner, MLA; Dr. John Wilson, MLA

1. The Chair called the meeting to order at 2:06 p.m.

2. The Committee reviewed witness registration for the Kelowna and Prince George public hearings and the cost-effectiveness of these events.

Resolved, that the Committee cancel the Kelowna and Prince George public hearings and forward the request for written submissions or teleconference to the witnesses who had pre-registered. (Gillian Trumper, MLA)

3. The following witnesses appeared before the Committee and answered questions:
1) Murray Mollard, BC Civil Liberties Association
2) Darrell Evans, BC Freedom of Information and Privacy Association
   Michael Doherty, BC Freedom of Information and Privacy Association

4. The Committee adjourned at 4:01 p.m. to the call of the Chair.

Blair Lekstrom, MLA
Chair

Kate Ryan-Lloyd
Clerk Assistant and
Committee Clerk

MONDAY, JANUARY 19, 2004

The committee met at 2:06 p.m.

[B. Lekstrom in the chair.]

Update on Witness Registrations

B. Lekstrom (Chair): Good afternoon, everyone. I would like to welcome you here to the committee meeting, the Special Committee to Review the Freedom of Information and Protection of Privacy Act. It was much sunnier when I left the north this morning than it is here, but a little more snow up there. I would like to thank the committee members as well as our guests for coming this afternoon.

We will vary the agenda slightly. We had planned on four public hearings, for our committee to travel to Vancouver, Victoria, Prince George and Kelowna. They were advertised. There was information sent out. We have had a fairly good response from both Victoria and Vancouver as far as people wishing to come and address the committee. Unfortunately, with, I'm sure, people's busy time schedules, in Prince George we had only one person wishing to come and present to the committee. As well, in Kelowna we had two people registered.

The cost for this committee to tour to those two areas is $14,515. With that in mind, I know we have many other options for people around the province to address our committee through written submissions. We can make ourselves available personally as MLAs. I would look to the committee for their wish. I can tell you, as the Chair of the committee, that it would be my recommendation in the interest of looking at the dollars — the amount here — that this committee would probably not proceed to both of those communities but would contact the registered participants, notify them, ask them what their wish would be — whether it would be to have a teleconference call with the committee, possibly, or to go forward with a written submission.

It seems quite costly to take the committee to deal with three participants.

G. Trumper: Do you need a motion for that?

B. Lekstrom (Chair): I'm not sure we need a motion. We could put one on record.

G. Trumper: But I would certainly concur with that. It seems to me a waste of money for us to do that. Certainly not taking away from the importance of the individuals, but there are other ways that they could probably make the presentation if there are only two or three people. There's teleconferencing. There are all those other ways of doing it, so I would certainly support not spending that money to do that.

B. Lekstrom (Chair): Okay. Is there discussion on it?

S. Orr: I concur. I think that in this day and age of modern technology, we should be able to have a teleconference call. Actually, because there are so few of them, they will get undivided attention and will be heard just as well by the teleconference as they would be if we flew out there.

I totally agree. Spending that money would be just absolutely unacceptable.

B. Lekstrom (Chair): Okay. I'll go to Tom next.

T. Christensen: I'm just noting that in terms of the Kelowna witnesses, Mr. Chair, one of those I've met with before on matters not related to information and privacy, but I'd certainly be more than happy to do that. Perhaps when the Clerk contacts…. I'll speak to the Clerk afterwards in terms of making that contact and ensuring that if this person wants to meet with me about these issues, I'm more than happy to do that, because that can be done on a more local basis then.

B. Lekstrom (Chair): Thank you, Tom, and we will make that commitment.

H. Long: Just on the case of if in fact we are going to do a teleconferencing call, I would like to have a written submission in front of me during that conference call.

[1410]

B. Lekstrom (Chair): We can duly note that.

I have noted that a mover of the motion has been Gillian Trumper, seconded by Bill Belsey — to concur with the cancellation of these two and forward the request for written submissions or teleconference to these participants.

I see no further discussion on that. I'll call the question.

Motion approved.

B. Lekstrom (Chair): We will begin the notification of that.

Expert Witnesses

B. Lekstrom (Chair): Today we are here to discuss and talk about the review of the act. I'm sure all of our committee members have gone through it. I found it very interesting. Much of it you have to study quite in depth, I think, to get a great understanding of what each clause means and so on. Today we are going to begin our meeting with one of our witnesses, hearing from Mr. Murray Mollard of the B.C. Civil Liberties Association.

Murray, I'd like to welcome you here and thank you for taking time to come to address our committee. I think it's a very important act and one that opens up doors for many people in our province as to how they access the information they may feel they were neglected in getting at some point. I welcome you, and I will turn the floor over to you.

M. Mollard: Thank you very much, Mr. Chair as well as members. First, let me thank you for the invita-

tion to come and speak before you today about this act. When Kate Ryan-Lloyd asked me to come, she said I would be one of the so-called experts to come, which of course is an honour but all of a sudden this great, great burden. If I can leave this meeting and perhaps plant a small seed or two that gets you thinking about some of the issues I want to raise, then I'll have considered my expertise fulfilled.

I want to just take a moment to introduce you to the B.C. Civil Liberties Association, for those that aren't familiar with it. It's both a mouthful to say at times and also a head full of ideas to think about. In a word, if I can sum up what we do, it's about promoting individual freedom in the context — and this is important — of a society in which there are times when even our organization recognizes that individual freedoms need to give way to collective public interest imperatives. There is a balancing at times, but certainly on the freedom side…. We often fall down on the freedom side in terms of promoting and defending individual liberties.

Why is this legislation important? I think as you go through your process, it's always important to keep that question in mind. Why is this legislation important? What is its goal? What is its purpose? That should always guide you in your deliberations and your thinking about the act and how to improve it, essentially. That's, I think, your task in looking at the legislation after almost ten years of existence: how can you improve it? There's been a previous legislative committee that looked at it and received recommendations. We as an organization made substantive submissions five or so years ago.

I think it's important to note that on the access side, what this legislation is really about is promoting accountability and participation. One of the things I think those that are interested in democracy like to say is that the pinnacle of the democratic moment is elections — that four-week span or so where we have elections. I'd like to challenge that thought and suggest that if we're going to actually have a vigorous democracy, the period between elections is as important, in fact, in terms of individual and citizen participation in decision-making about decisions that affect them. I think this act very much promotes that in the sense that it obliges public bodies to disclose information and furthers that overriding goal of democratic accountability in terms of our elected representatives and what they're doing on our behalf.

On the privacy side of things, this act…. Of course, it has these two flip sides of perhaps the same coin — maybe not always. On the privacy side this act is meant to make sure government respects certain principles with respect to protecting personal information in its collection, use and disclosure.

I'm going to have a couple of general thought-provoking points I want to make. I'm not going to have a lot of detailed submissions today. I think our organization will attempt to provide something at a later date in writing, but there are a couple of philosophical points or more underlying points that I want to leave you with, to get you thinking about in your research agenda and in your deliberations when you speak to other people and groups throughout the province.

[1415]

The first question on the access side I want, generally, to ask you to consider is…. I mean, we know the act has a bunch of rights about access — about when you want to get access to particular information and a process about how that proceeds — but I think it's important to step back and ask: does this act facilitate routine access without actually having to make disclosures or requests for personal information or other kinds of information? Does this act actually promote that and promote public bodies to take an approach of openness and transparency, generally speaking, without people having to resort to the sometimes time-consuming and expensive task of making an access request?

I think that's an important question to ask, and I want to ask it in the context of a couple of experiences that we've had recently with trying to get access to particular information. The context here is our organization's continuing work in terms of police accountability and, in particular, some issues around the Vancouver police department. There are a couple of issues, a couple of facts, that I want to relate to make a point or two here about this larger question: does the act actually promote routine access, never mind the special requests that we have to make from time to time?

Recently, as you're probably aware, there were six individual officers who have been convicted of assault in Vancouver. I don't want to go into the incident. That's not why I'm here. Part of that scenario involved what's called a breach-of-the-peace policy by the Vancouver police department because the police were acting under…. They say they were acting according to the breach-of-the-peace provisions to a certain extent. Part of the policy, of course, didn't justify some of the things that went on, but when they took certain individuals to Stanley Park, this was part of the breach provisions. Of course, we wanted to know: what does the breach-of-the-peace policy say? So I did what you would do, sort of, before the existence of this act. I phoned up a senior member in the police force, a deputy chief, and said: "Look, can I get a copy of the breach provision?" Of course, that worked well for me. They had already released it to the press and the media, so there was no real issue there.

It worked for me and still works even though we have access legislation. It still works where you have personal relationships with somebody in a particular public body that you know you can call and say, in an informal way: "Listen, can you provide this information for me?" It's quicker, and it's less expensive, probably, for the organization than having to process a formal access request.

Of course, ultimately, this isn't really the way you want to do things on an ongoing basis, because it depends upon that personal relationship, which not all citizens in British Columbia have. Nevertheless, they should be able to routinely get access to particular

types of information. For example, if a citizen is interested in the breach-of-the-peace policy of the Vancouver police department or any particular department, do they need to make an access request to get it? I would suggest that they shouldn't have to, which leads me to a second point about a recent….

In this case, we made a formal request to the VPD. We asked for a copy of all their policies and procedures, because, again, we work on police accountability issues on a general basis and it would be useful for us to have a sort of comprehensive access to or a copy of their policies and procedures generally. We were told in the response, "Look, can you narrow your request? Tell us what you really need, because there are a lot of exceptions in the act that apply, of course, to law enforcement — sensitive information about law enforcement. We really don't know what you want" — which is, I think, in the framework and the frame of mind of the act, a reasonable response. You know: "Don't ask us for everything; just ask us for what you want."

In fact, from our point of view, from an accountability point of view, why doesn't the Vancouver police department have a comprehensive list of their policies and procedures to the extent that they could be released? There are certainly going to be exceptions under the act, but in the breach-of-the-peace policy, for example, there's no law enforcement exception that would apply in that case. Many of the policies and procedures should routinely and readily be available on their website. Why do we have to make an access request for it?

[1420]

I think that what this illustrates, and what I want to leave you with in terms of thinking about, is: is the act…? I think we need to now take this act and this legislation to another level. How can the act promote routine disclosure? It's a sort of term that I actually thought was in the act, because a lot of people talk about routine disclosure. Well, it's actually not in the act, and there is no provision in the act that talks about an obligation on public bodies to make information, which the public would have an interest in, readily available to the public on an ongoing basis.

I think that's what I'd like to see you as a committee think about and, indeed, make recommendations to the Legislature generally in terms of an amendment that takes this legislation to a new level that encourages the routine disclosure, the routine transparency, the routine openness that a police department or any public body should portray on an ongoing basis. Ultimately, these public bodies are accountable to the citizens of British Columbia, and that kind of information should be available without the hassles and expense of the access regime and institutions that are within each public body. I think it would be cheaper, quite frankly, if you did it that way. You might even be able to save some money, which is always, I think, a relevant thing to think about.

I don't think the act does it adequately now, and I guess there's an interesting question about whether and how you would put that in terms of legislation. I was talking to my colleague Darrell Evans, who will be speaking to you in a minute. He informs me — and I'm going to take a look, but I'd suggest you do the same — that Ontario has looked at doing this. The Ontario information and privacy commissioner has made recommendations in this vein. I'll be looking at those, and I'd encourage the committee to do it as well. Let's think creatively about how we can get public bodies, generally speaking, thinking about: "Well, let's not wait till we get the access request. Let's get as much information out there as possible."

To be fair, many public bodies do that already. Certainly in this age of electronic information it's much easier to do, of course. I think the technology is there to really facilitate that.

That's my sort of access message for you — the underlying message I have about access. I also want to talk a bit about privacy as a sort of underlying message. I've got a few technical points that I can make after these two overarching points.

On the privacy side, our association…. I consider the work I've done in the past number of years is more on the privacy side, to be honest, than the access side. I have been involved, I think, extensively in both the creation of the new federal PIPEDA act and in our now recently promulgated and in force provincial Personal Information Protection Act — which is an excellent step forward, and I commend this Legislature for taking that step — but there's an anomaly now. If you look at the provisions of the provincial legislation in terms of the public sector when it comes to protecting privacy and in terms of the private sector when it comes to protecting privacy, I would argue — and I think it's a fairly irrefutable argument — that the public sector is under a less strict standard of protecting British Columbians' personal information now than the private sector.

That's doesn't seem right to me. I'll take you to a couple of sections here. If I can just read to you section 26 of the public sector act, the Freedom of Information and Protection of Privacy Act…. Section 26 is the section that prescribes under which circumstances the government of B.C. or public bodies can collect personal information. Section 26 says: "No personal information may be collected by or for a public body unless (a) the collection of that information is expressly authorized by or under an Act, (b) that information is collected for the purposes of law enforcement, or (c) that information relates directly to and is necessary for an operating program or activity of the public body."

[1425]

Well, in our experience when certain controversial issues have come up about collection and whether it's a good idea to collect certain types of personal information from British Columbians, I think it's fair to say that's a fairly wide-open section. The government gets to collect what it wants to collect, regardless of the justification or the reasonableness of that collection, because it has the power to do it in legislation or is pur-

suant to law enforcement or to a particular operating program. That leaves the government considerable breadth and discretion about what it can collect. I'd say it really comes down to that government can collect what it wants to collect. Whether there is a good case in terms of public policy for that collection vis-à-vis the cost in terms of personal privacy….

Let's look at the private sector act now, the Personal Information Protection Act. Section 11: "Subject to this Act, an organization may collect personal information only for purposes that a reasonable person would consider appropriate in the circumstances and that (a) fulfill the purposes that the organization discloses under section 10 (1), or (b) are otherwise permitted under this Act." I think that standard is considerably higher. In other words, it's more protective of personal information and places a real onus on organizations that want to collect personal information to be able to justify their collection.

I don't think that provision is in the public sector act, and I think that from a privacy protection point of view, the public sector legislation is now the weaker sister of the two. That's anomalous, and I don't see the justification for it. I raise this point, and I think this act that you're looking at, the public sector act, needs to be amended to inject a reasonableness test that would hold the government up to some standard of justification that it's reasonable in the circumstances that it collects personal information that can be held to a reasonableness standard.

I made this point four or five years ago when your predecessor committee looked at the legislation. Geoff Plant was on the committee at the time, and he said: "That's interesting, Murray, but…." And in my submission what I had proposed, and I'll propose it again to you, is that we give the information and privacy commissioner the authority to access the reasonableness — as he has now under the private sector act — of a particular collection of personal information.

Geoff said: "Well, that's interesting, Murray. But really, isn't this about accountability at the elected representative level? You know, if it's done in legislation, there's a process for enacting legislation. There can be thorough debate, etc." I guess my answer then and now is that controversies over the collection of personal information don't have terribly long legs and certainly don't become election-type issues. They may have their sort of light of day for a very brief moment but aren't the kinds of things that are going to really animate the public.

There have been some exceptions to that. When the federal government wanted to collect a whole bunch of information under the Human Resources database, there was quite an outcry. But generally speaking, these kinds of things don't have terribly deep or long legs. I still say I think the sections are anomalous. Now there's actually an anomaly in the legislation between the private and public sector, and I think that needs to be remedied by creating a reasonableness test within the legislation.

If I could convince you, persuade you, I think what you should be recommending in the Legislature is that the commissioner have the authority to make determinations about the reasonableness in any circumstances. At a minimum, what he should have is the authority to look at those proposed collections and make recommendations to the Legislature. That would be fairly weaker, because it would simply be a moral suasion type of argument. It would be about the persuasiveness of his argument in terms of whether something is reasonable or unreasonable, which the government wants to do in terms of a collection regime.

Those are my underlying points. We don't have that much time. There's a bit of time for questioning, but I did want to raise a couple of things, more technical, section-related types of points. Number one is that we made this recommendation five years ago, and I don't understand why it wasn't taken up then. I don't see any reason why it shouldn't be. The information and privacy commissioner does not now have the power to comment on current legislation — in other words, legislation that's been passed already. The legislation limits the commissioner's power to comment on proposed legislation.

[1430]

This just seems wrong. I mean, controversies about particular collections under current legislation…. I mean, government often wants to collect personal information under current legislation that they may already have authority to do in broad terms, but when applied in a particular circumstance, a controversy might only arise at that moment. I mean, the commissioner has got to have that authority. We look to the information and privacy commissioner as sort of our guiding moral light behind access and privacy issues here. I think B.C. has been well served for the most part by the commissioners we have had in British Columbia — Mr. Flaherty and Mr. Loukidelis. I think that commissioner must have that authority.

We've also said in the past — and we'll say it again — that we think the law enforcement exception should be amended to ensure that public bodies only release personal information if there is a court order to do so or if exigent circumstances exist where the police make the request, not where the public body wants to release personal information to the police because they have concerns about some criminal conduct. I think that if the police have need for personal information because they've got an ongoing, current investigation, they should be able to get that authorization from a court to do so. It takes the awkwardness out of a public body having to respond to a request from the police, especially where there are working relationships. I give the example of hospitals, where hospitals and the police…. Hospitals need police services from time to time in their emergency wards. They shouldn't be under…. It creates awkward circumstances where the police say: "Well, we don't have a warrant. Maybe we can't get a warrant. Can you just, on the side, release this personal information to us?"

Just a note under the privacy side as well. Again, comparing it to the Personal Information Protection Act, there are provisions in the new private sector legislation for notification about collection, use and disclosure that aren't there in the public sector act. That mirrors my point about the reasonableness test that I think needs to be now in the public sector act. With that said, I'll be happy to answer some questions.

B. Lekstrom (Chair): Well, thank you very much, Murray. As was indicated earlier, it is our job to listen, learn and see if we can find ways, by listening to British Columbians and through this committee, to improve on this act. I want to thank you for taking the time. Having worked with it quite extensively over your involvement, it helps our committee gain an understanding.

I'm going to open up the floor for questions, and I will go to Mr. Bray.

J. Bray: Thanks very much for your presentation, and I look forward to the detailed written…. I come from the bureaucracy, so I lived FOI as a government employee for some time. I found some of your comments interesting, and I'm wondering if I can explore them a bit more.

Your view is that the public sector, the FOI, is now the weaker sister or cousin to PIPA on the aspect of collection. My first question would be: do you see government as one entity? In other words, whether I give something to Pharmacare or to Children and Family Development, it is one repository and therefore government is one entity. Or do you see ministries as individual entities? Not so much under the act, but when you talk about government, government is quite big.

M. Mollard: Yeah. One of the advantages in prior days when technology wasn't so powerful that you could create databases that can store information about an individual's relationship with a variety of public bodies as you can now…. I think technology poses a threat, in a sense, to personal privacy. I do think that in a way citizens' relationship with government in a substantive way is a series of kind of personal relationships with different…. I'm not sure they're intimate relationships, but they're more personalized relationships between the motor vehicle branch or Pharmacare or what have you. So I would say that's my conception. I think to make sense of government writ large, citizens…. You can conceive of and ultimately have this kind of array of relationships.

J. Bray: My second question, then, is…. Your concern is on the collection. Yet certainly from my experience within government, FOI has put up extremely stringent rules with respect to sharing sometimes, from an inside-the-beltway viewpoint, to a ridiculous level.

One of the issues is that if you think of how many times you have to give over the same information to government, it's precisely because although one branch has collected it, it is under such strict guidelines as to whether or not it can share that in fact Pharmacare can't talk to MHR. MHR can't talk to Provincial Revenue.

[1435]

I'm wondering if you have a concern about this — the amount of collection or the rules that now exist under FOI under collection — whether or not you have examples where that collection was unreasonable or it led to unreasonable use of that information as opposed to the fact that PIPA and FOI are written differently, because to some extent the subscribers are different. I'm wondering if you have any examples, then.

M. Mollard: Well, I can talk about examples — one example, in particular. I think your point is more about use and disclosure than it is about collection. My point is about collection. You know, once the door is open, it's sometimes harder to close.

You're right. There are provisions in the legislation that talk about limiting. When you collect information for a particular purpose, public bodies can't disclose it to another public body except in certain exceptions — there are exceptions to that — without a consistent-purpose provision.

There is some protection in there, and I don't want to suggest that it's somehow a wide-open field. It isn't by any means. I think the crafters of this legislation understood that and incorporated that principle — again, subject to those exceptions.

My point is really about the collection in any particular circumstance where the government says: "We need to collect this personal information for this particular purpose." Well, you know what? When you start to examine whether the information sought is actually going to serve and achieve that purpose, there are reasonable debates about whether in fact it will or won't be and whether there is a trade-off that's unreasonable in the sense of the diminishment of personal privacy.

Right now the government gets to do what it wants, and there is no sort of standard that requires the government to justify its collection in any particular circumstance. I mean, in terms of personal privacy, the starting point is always consent, and then there are a variety of exceptions. If you look through the new private sector legislation, you can see how that's formulated.

It's been a long time now, but a battle that we fought and lost, ultimately, was the Pharmacare database in which government wanted to create a database of any individual's drug prescription transaction. We fought and lost the debate that said: "Well, listen. It ultimately should be up to individual British Columbians to consent to that or not." We don't think the government, in the end, provided very good justification for that. In a sense, they got to do what they wanted, because they had authorized it per legislation.

I think our differences…. Your point is a reasonable, well-made and well-taken point about use and

disclosure, but that's not really where my concern is. My concern is more on the collection side.

J. Bray: Okay. My last question, if I could, Mr. Chair, is with respect to the FOI commissioner. First of all, my understanding is that by and large, during the legislative process where legislative counsel is drafting — ministries are doing the policy work — either the ministry's own FOI manager is involved…. In cases where it's a particularly large issue, they do consult with the commissioner's office.

[1440]

I'm going to make a suggestion just to carry your point a bit further about that. Do you not see that there might be a concern with respect to that area of legislation — collection, use of and disclosure of data — that it's legislators who really are hired to make those decisions and that if you actually were to give somebody absolute power over that area, in fact, you have diminished parliament's role with respect to legislation? If you're now giving an appointed individual who can't be removed, short of major issues, to then actually make law as opposed to consult and provide comment on the drafting of legislation.… I'm just wondering if you could comment on that.

M. Mollard: I think that's the point Geoff Plant made, essentially.

I'm sorry. There's just a point I wanted to make, but it slipped my mind for a moment. I think it's the argument that…. Oh, I know what I was going to say. Interestingly, the legislation doesn't require any obligation for government bodies to consult. I think there's been a practice, for the most part, developed such that if a public body wants to collect, use or disclose personal information in particular — circumstances that are going to be sensitive — they're smart to get the input of the commissioner. But actually, there's no legal obligation. That's something we suggested and recommended in the last go-round that isn't in the act now. It may be something to think about now, because in some cases it doesn't happen.

Also, to make the point I made a bit earlier. If legislation is crafted, generally speaking, sometimes you don't see the controversies before they happen. If you only have the authority to comment on proposed legislation, it undermines, I think, the service we want the information commissioner to provide to British Columbians and to the Legislature about commenting on legislation and the wisdom of particular legislation.

As far as who should ultimately have authority in any particular circumstance, I think there is a legitimate argument to make about accountability and where it really ends. I think the legislation is weak, though, in terms of imposing a standard of reasonable…. There's just no wording in the legislation about reasonableness that even the governments have to be held up to on their own accord.

I think there are two questions, really. Should there be a standard of reasonableness as there is now under the private sector act? I would say yes. As well, when you get into controversies about reasonableness in any particular circumstance, who's going to make that decision? I think your question goes to that second question. Even if we don't agree on the second question, I would urge you to consider seriously the reasonableness standard, and I urge you to recommend that there be a reasonableness standard now in the public sector act.

I'm not sure we could get out of this room with an agreement on this. I've seen circumstances where I'm concerned about collection of personal information by the government — where I don't think it's justified in the circumstances. I don't have all the details here. I'll have to look at the file. One of them was in the collection of personal information around welfare eligibility. There was a fairly wide, open-ended "we can ask anybody anything" consent requirement: "If you want welfare, you've got to sign this. Consent to it." It just didn't seem reasonable that it was so wide open. I would have had more faith in the commissioner being careful.

Clearly, the government has certain responsibilities, and it needs to collect personal information. No argument there. You know, I would have had more confidence, I think, in a commissioner having a balance to it, having a balanced approach. From my point of view in terms of…. I'm in the business of trying to protect personal information. I would have liked to have seen the commissioner have authority in that circumstance. I think that if you're not going to go that far, if you feel uncomfortable with it, you can create a scheme in which you make sure the commissioner has a really good say and a public say so that it really holds the elected representatives' feet to the fire, in a sense, where they are going to be ultimately having to justify, according to a legal standard, that their collection is reasonable.

B. Lekstrom (Chair): Thank you. I'll go to Mike next.

[1445]

M. Hunter (Deputy Chair): Murray, thank you very much for your observations. I found that very helpful. I'm not going to dive into the debate on privacy, because we don't have time, but I want to ask you to help me understand a little bit more your point on access.

I think what you were saying was that we need to continue to change the workplace culture in the public sector. Is that a fair assessment of what you were talking about when you talked about routine obligation for openness? If that's the case, I'm interested in how you can explore that a little bit further with us as to how you think we can legislate a culture. I'm not sure that we can, but you've thought about this more than I have, so I'd be interested in that.

Just kind of a secondary question. You did mention electronic access to data and how easy it is to get information these days. Has the emergence of the Inter-

net in particular and, in our case, the B.C. government website and the changes that have been made to it and the depth of information created any change in attitudes from a general public point of view? Are people who talk to you telling you that they find information easier to get when they've got a desktop PC? Just comment on that. I'd be interested.

M. Mollard: Are you asking me about the B.C. government's website in particular?

M. Hunter (Deputy Chair): Yeah. In particular, within that general proposition.

M. Mollard: Yeah. I'm not in a position to really answer that. I don't think I would have seen, you know, or…. I'm not in a position to comment. I mean, I certainly find it helpful on occasion, and I think the technological tools are there to allow a lot more ready and routine access and distribution of public body information in a way that just wasn't there previously. I think everybody in this room would agree that the government should be using those tools as much as possible.

I think your question about how to legislate a culture of openness is an interesting question, and I don't think I have a complete answer to it right now. I think you're going to have to look at the act and look at ways in which you, in a sense, impose an ethic legislatively. Of course, that's going to be imperfect because it's not really the kind of thing you can do in legislation.

Right now the legislation doesn't have anything in there about an obligation that public bodies should endeavour to make information that is central to their mandate routinely available to the public without citizens having to make access requests. There's nothing in there right now, and to that extent I think there's a real hole to find the language. No matter how much wordsmithing you do, you're not going to find some perfect set of language that can create that culture, but I think what you can do is…. This is where the information commissioner's office can be helpful, again, where….

For example, in our VPD request now it's up to us to go back to the police chief and say: "Chief, you know, it'd be a really good thing if you had your policies and procedures on line. Sure, you're going to have to excise a bunch of provisions because of the law enforcement exception, but it would be a good thing. It would promote, I think, an openness and transparency that hasn't been there." The chief might say: "Ah, too expensive. We don't need that. No real public service there, etc." What are you going to do in that kind of circumstance? How do you enforce a provision in the act? I would say that there's room for the information and privacy commissioner's office to sort of mediate those kinds of differences when they pop up. I'll put my mind to that, and I'll try to put something in writing that would…. Again, Darrell tells me there's something from Ontario that might provide some guidance there.

M. Hunter (Deputy Chair): Thank you.

B. Lekstrom (Chair): Joy.

J. MacPhail: I'll pass.

B. Lekstrom (Chair): Okay. Other further questions of Murray regarding…?

Seeing none, maybe, Murray, I could just take a moment of your time. The issue of the system and people utilizing the system for warranted reasons. Do you see in your dealings with this act any abuse of the system or the ability to abuse it — I guess we go back to the reasonableness issue here as well — with no repercussions on that abuse? Is there anything you see in your day-to-day dealings that should be addressed on that side of things?

[1450]

M. Mollard: Well, I think in the ten years of the legislation and the ten years that I've been doing this job, there have been one or two occasions where controversies have brewed such that somebody who's getting into a battle with a particular public agency to try to get access then gets into a battle with the commissioner as well. There may be questions about motivation and reasonableness and what have you.

You know, it can be a great burden to public bodies to fulfil some of the requests that they get. To some extent, I think, that's the price of democracy, but the legislation has been amended now. Some of us weren't that happy with the amendment in terms of frivolous and vexatious requests, but I think there's more than enough authority now, and I wouldn't by any means recommend going any further. I think that where somebody has abused the system, there are provisions in there for the public body to deal with that.

B. Lekstrom (Chair): Are there any other questions from members of the committee? Well, Murray, I would like to thank you for taking the time to come and address our committee. Certainly, as an individual who has dealt with this act extensively, it helps our committee gain an understanding. Again, I will thank you for your time, and with that…. You have a plane to catch, I believe.

M. Mollard: I do, and I appreciate you changing the schedule for me to be able to come.

B. Lekstrom (Chair): All right. Terrific.

M. Mollard: Thank you, and good luck.

B. Lekstrom (Chair): Thank you very much.

We will call our next witnesses joining us this afternoon. We call them witnesses. I guess they're really people to have a good discussion with, people to hear from.

With us this afternoon are Mr. Darrell Evans and Mr. Michael Doherty, who are with the B.C. Freedom of Information and Privacy Association. Gentlemen, I would like to welcome you to the committee hearing this afternoon and thank you, as well, for taking time out of your schedule to come and address what we feel is a very important issue for all British Columbians.

D. Evans: Thank you very much.

M. Doherty: Thank you.

D. Evans: I'd like to thank the committee for inviting our group — which we call FIPA for short, so I'll refer to FIPA throughout my presentation — to make a presentation to you today.

I asked your Clerk to give me an indication of what the committee members were particularly interested in hearing, and she was kind enough to e-mail me a memo. In accordance with that memo and the committee's mandate, we — by your deadline of February 27 — intend to identify the strengths and weaknesses of the Freedom of Information and Protection of Privacy Act, identify areas for potential legislative amendment and improvements, and present our views on emerging access and privacy issues.

We will make several submissions by your deadline, including a detailed prescription for amendments. However, my intentions today are a little more modest than that. I'd just like to introduce my association to you; give our broad view of the act, its current state of health and how it stands in today's political environment; touch on our main concerns concerning the act; and present to you our first submission, which is a paper that advocates changes to section 21 of the act, which is the policy advice exception.

M. Doherty: It's 13.

D. Evans: Okay. Mike corrects me. It's actually section 13. Thanks for catching me on that. That's why I have him here.

This is Michael Doherty. He's a counsel for our group. He's with the Public Interest Advocacy Centre. He has frequently worked with us over the years, and he is the legal adviser who wrote the paper on section 13 for us.

I believe we have 40 minutes. What I'd like to do today is make some general comments for a maximum of 15 minutes, invite any questions you may have and then turn things over for the last 15 minutes or so to Mike, who will present our paper and respond to any questions you might have on that specific topic — unless the committee has other wishes, of course.

First, a few words about our association. FIPA was founded in 1991 to advance the principles of freedom of information and protection of privacy in B.C. We've since extended our concerns across Canada, but our primary focus is still on B.C. We're the only active non-profit society in Canada that's solely devoted to freedom-of-information and privacy issues. I was the first president of FIPA prior to becoming the executive director. Our second president was David Loukidelis, who is the current information and privacy commissioner.

[1455]

Our primary goal in 1991 was to get a freedom-of-information and protection-of-privacy act passed. After that occurred in 1992, we assumed ongoing functions which include public education on freedom-of-information and privacy issues through conferences, seminars, workshops and publications, and assisting the public with their questions and complaints. We continue to get a lot of those, even though there is an information and privacy commissioner. Many of these we've referred to the commissioner; many of these we take under our wing and help with their questions. We conduct legal and policy research, such as the paper we'll present today. We promote continued law reform to improve freedom of information and privacy rights, and lastly we act as a public watchdog group in these areas.

We have been in the trenches for more than 12 years, advocating FOI and privacy rights and carefully monitoring all the ups and downs of the act. We conducted a campaign for open government in 1998 when the act was threatened by the previous government, who was going to really severely cut the budgets for answering FOI requests and then otherwise reduce the scope of request-handling by an enormous amount. We managed to beat most of that back at the time.

We were and we are adamantly non-partisan. Our supporters and partners include a wide variety of organizations and individuals in the legal, business, labour, academic, media and non-profit sectors. Organizations that are FIPA members range from the B.C. Federation of Labour on the left to the Canadian Taxpayers Federation on the right. Now, I hope those organizations will forgive me for stereotyping them in that shallow way. I only do it to make the point that we are very non-partisan.

Our broad view of the act…. I hope you'll allow me to get into philosophical territory here. It comes with our territory, so I hope you'll bear with me. The enactment of freedom-of-information and privacy legislation in B.C. 11 years ago remedied a serious deficiency in our democratic system. I'm talking mainly about the FOI side here. Prior to that time the citizens of B.C. had no right of access to government information, which is kind of a radical thing to think about now. Government is a vast storehouse of public information that our tax money has paid to have collected, created, stored and, hopefully, shared. This information is not only a large piece of public property. It's also a large part of our collective history, our intellectual heritage and our best ultimate opportunity to understand the truth of what's going on in our democracy.

This wealth of information, more than any other public asset, must be freely shared with the public if we wish citizens to be fully informed about public mat-

ters, fully engaged in public debate and able to assess the performance of their government. Conversely, an ill-informed or misinformed — even worse — citizenry is a very dangerous thing indeed, as the many tragedies of human history demonstrate. Indeed, I would say that misinformation is integral to all the great man-made miseries of history. Ignorance breeds most of the ills we create for ourselves.

A good indication of the necessity and value of FOI is the fact that the Liberal Party, while in opposition, was the most frequent user of the act, responsible for approximately 15 percent of requests for general — that is, non-personal — information. This was an entirely legitimate use of the Freedom of Information Act, as it's vital that the official opposition, in order to do its duty, be as well informed as possible about government affairs. Just as legitimate, I hope the committee will recognize, is the use of FOI by the media, the legal profession and advocacy groups. It may be used for partisan or adversarial purposes, but looking at the big picture, it is all healthy for our democracy.

[M. Hunter in the chair.]

As now-Premier Gordon Campbell said in a letter to FIPA in 1998, secrecy feeds distrust and dishonesty; openness builds trust and integrity. I would add that FOI requests may cause pain to politicians from time to time, but in the long term FOI produces better and more responsible government.

[1500]

Now to privacy rights. The other purpose of the act was, of course, to protect the privacy of citizens by preventing the unauthorized collection, use and disclosure of personal information by public bodies and by giving individuals a right of access to their personal information by public bodies and by giving individuals the right of access to their personal information and the right to ask that it be corrected. As you'll see in our future submissions, we consider the act to be a first step in that direction but very inadequate in view of the amount and kinds of information the government collects about citizens and the growing threat this poses to the democratic balance between the public and the state.

[B. Lekstrom in the chair.]

I don't need to tell you that most people are quite worried about the loss of privacy in the current political and technological environment. Of course, 9/11 has really driven that home and put us in a…. Well, we're in code orange or something like that, and that also brings with it the threat and the actuality of a lot of suspension of rights of privacy we've traditionally felt were our birthright.

I think that in the light of that, people have been demanding more privacy protections. The latest example of that is this "do not call" list in the United States, which allows people to sign up to a register and they can't be solicited by telephone for products. The most interesting fact about that to me is that more people signed up for the "do not call" list than voted in the last U.S. election. It tells you a lot — I guess negatively — about what it takes to get people to vote but, positively, about their concern about the fact that they want a private sphere within which government and other powerful bodies can't intrude.

The B.C. government recognized this in 2003 and took a leadership role among the provinces in being the first outside Quebec to pass a personal information protection act for the private sector. This was a momentous thing, and I really sincerely want to commend the Hon. Sandy Santori and his very able officials Chris Norman and Sharon Plater for doing such an excellent job on developing this legislation. While it's not perfect from our point of view, it's a remarkable achievement and a significant advance in privacy rights. However, while the government is meeting the challenge of increased public demand for privacy protection in the private sector, we feel it's lagging in answering that demand regarding its own collection, use and disclosure of personal information.

With special concern for the concerns you raised, Jeff, I'd like to pose the problem for government — the privacy problem that governments face — in terms of three questions. First, how much should a government know about individual citizens? How much personal information should it collect? Now, I realize these are in different silos, but of course the goal that every bureaucrat would love to achieve is to match this information in one big silo so that it has a lot of liberty to do what it feels it needs to do with personal information. There's a constant drive within bureaucracies to match more and more information, as you know, but I'll get to that point shortly.

Let's just take health information as an example. Should government officials have the citizen's full health record with information not only about diseases but also about sexual and family history, mental health, licit and illicit drug use, abortions, perhaps even genetic profiles? That's not a moot question; it's something that government is going to be faced with.

The Supreme Court has stated that the Charter of Rights should enable individuals in a free and democratic society to maintain — and I'm quoting loosely — "a biographical core of personal information from dissemination to the state." This would include information which tends to reveal intimate details of the lifestyle and personal choices of the individual. Yet government unquestionably needs to collect a great deal of personal information in order to do the many jobs we have assigned to it. How do we square that circle? How does government do its job and also protect privacy? That's the question, and I think we have some answers for that.

[1505]

The second question. Granted that government and its legislative policy-making and administrative roles must collect and use a great deal of information about citizens, precisely who within government should be

permitted to view this information? As it stands with the present Freedom of Information and Protection of Privacy Act — I'll call it the FOIPP Act — there's tremendous latitude within the act — contrary to your perceptions, Jeff, I believe — for officials to collect, use and disclose personal information for government programs without individual knowledge and consent.

When was the last time any of you were asked for consent for a government use of personal information or a collection or a disclosure? I have never been asked, and yet I feel there are some things government does with information that I'd certainly like to know were happening.

The government did respond to this again. This is not an unintelligent information sector you have here. They responded to that by mandating the personal information directory, which is another great advance in Canada, which clearly lays out the kind of information collected and the disclosure agreements, etc. It's a very good thing. I'm not just howling at the wind. I think the government really is recognizing these problems.

In our view there should be a box or a unit or something within government within which very, very restricted people are allowed to view personal information. There should be layers of information that are layered by sensitivity. No information should leave that box that's not anonymous. This is the kind of scenario I think government should be working with to square that circle I was talking about.

The third big question for governments is: what kind of limitations should be placed on data matching within government? Now, the danger here is the development, of course, of so-called Big Brother databases and networks. We're getting away from databases now. It's all relational information networks, which link different databases. Of course, the one that comes to my mind — I think Chris Norman cited it to you when he appeared before this committee — was the infamous one within the federal Human Resources Development Canada, HRDC, which linked, I believe, 2,000 separate pieces of information about citizens.

This data linkage was discontinued after a national public outcry — a thing that our group, for instance, had nothing to do with. It was media. It was some groups in Quebec. We were happy to climb on the train, but it was not inspired by any interest group like ourselves at all. This incident to some degree became a landmark that told public officials: "Here's the territory beyond which Canadians may not be comfortable with you going."

I'll give you another example of what I feel to be excessive data linkage which has been proposed.

Mike, how am I doing for time? Am I up to my 15 yet?

M. Doherty: Getting close to the end.

D. Evans: Okay. Another example which is a constant worry for our group is what is called the national Health Infoway, which is currently being developed by the federal government in coordination with the provinces, including B.C., at a cost of half a billion dollars and counting. The stated road map for this enterprise, which is available to the public, plans to create a comprehensive electronic health record for each Canadian, place them on a national network and further match this with information about family life, education, employment, income and just about anything else available that can illuminate the "determinants of health" — what determines how healthy we are.

Alberta recently passed the Health Information Act. They had "Health Information Privacy Act" at a very early stage, and they dropped the privacy part because they realized that what it is, is an information-sharing act. They passed this about a year ago, I believe, and since then they have put people's electronic health records on line for parties whom they select should see them, with no effort to obtain the consent of the individuals concerned. Now, in the age of hacking and leaking and even cases where government records have been sold to the Hell's Angels, I think it truly is something citizens should be concerned about.

Those are our view of the three big questions for government. I'm not saying we have all the solutions. I think we need to be actively working on them, though. We believe there should be strict limitations on data matching within government, and in our view the current privacy part of the FOI act does not meet these challenges adequately. It needs to be reviewed thoroughly and amended to meet higher public expectations of privacy protection.

Are we at 15?

M. Doherty: I think so.

[1510]

D. Evans: Okay. I'm going to leave it. I've got some information on how we feel the act has stood up to the test of time, things that we feel are flaws in the act that should be improved and amendments we're going to propose. But I will leave that for our later submissions, because I want to leave time for any questions you may have and also for Mike's presentation of our first paper.

B. Lekstrom (Chair): Thank you very much, Darrell. Possibly what we'll do, if you would like, is go to Michael, and then we'll open the floor up for questions following that.

M. Doherty: Thank you, Mr. Chair, members of the committee.

My name is Michael Doherty, and for the last 14 years I've provided legal counsel to FIPA on various matters. I was asked to come along today because there is a legal issue which arises with regard to the revision of the act. As Darrell mentioned, FIPA will be giving you submissions on a wider variety of things presently, but because our submissions were already ready on this one point, we thought we might as well at least put

those in front of you. I believe the Clerk of the committee has given you all a copy of the paper I've prepared. I'm not going to go through the paper. I will leave it with you. I'll just speak about it for now.

As legislators, when you send a statute out into the world, I'm sure you hope it will be treated with the care that you've put into crafting it. That doesn't always happen. Sometimes there are surprising results once a piece of legislation gets out into the wider world. Part of the reason for this committee's existence is that when the Freedom of Information and Protection of Privacy Act was first drafted, the drafters realized that sort of thing can happen and made the provision that every few years it would have to come back for review. The weaknesses in a statute may sometimes appear either in its operation or when it comes in front of the courts, and at the moment that is where we say that we are with respect to section 13 of the act.

Section 13(1) says: "The head of a public body may refuse to disclose to an applicant information that would reveal advice or recommendations developed by or for a public body or a minister." We refer to this as the advice or recommendations exception. It is an exception because, of course, normally information is disclosable. That's the default. All exceptions to the act, including section 13, are specific and limited according to section 2 of the act. The section 13 exception is very specifically limited by section 13(2), which says that the head of a public body must not refuse to disclose, under subsection (1), (a) any factual material, (b) a public opinion poll, (c) a statistical survey, (d) an appraisal, (e) an economic forecast — and a lot of other things that I guess I'd characterize as fairly concrete, factual things. So although advice or recommendations may be withheld, these sorts of factual things cannot be withheld under section 13.

We believe that there is good reason to have an exception for advice or recommendations. When government is considering some course of action, some complex policy issue, it will often have recourse to advice or recommendations from trusted advisers — people who will weigh the various facts, actually come up with a recommendation and say: "We recommend that you do this. We advise that you do not do that." Of course, if anyone could find out in advance of a government decision what the government's course of action was likely to be, it could give those individuals or interests an unfair advantage. I can think of all sorts of examples, particularly with regard to government spending or land use decisions. So it does make sense that there is an exception for that sort of advice or recommendation in that situation.

Given that, why do we say that section 13 now needs to be amended? The reason is that the legal meaning of section 13 has now been changed by a case that was formally called College of Physicians of British Columbia and the British Columbia information and privacy commissioner. But it's better known as Dr. Doe, because Dr. Doe is how the doctor at the heart of the case was referred to.

[1515]

The facts of the case are that an employee of Dr. Doe complained to the College of Physicians that he had sexually harassed her and that he had misused a procedure involving hypnosis on her. As part of its investigation of the complaint, the college obtained expert opinions from four experts on hypnosis, asking them the question: was the applicant hypnotized? Now, none of them could definitely say that she had been hypnotized, and on that basis the sexual conduct review committee of the College of Physicians decided not to proceed with the inquiry.

The applicant then sought to obtain copies of those opinions — the ones that the college had based its decision on. One might think that she would have been able to obtain those for a number of reasons. First off, they were opinions about her — that is, was she hypnotized or not? Second, it seems more like factual opinion. That is, although it was experts giving their opinions, they were opinions about a fact. Was she hypnotized, or was she not hypnotized? It's a fact but not one that can be physically proven; therefore, the expert opinions had to be sought.

Third, none of those experts was saying either don't proceed with the investigation or go ahead and proceed with the investigation. None of them was saying find Dr. Doe guilty of misconduct or don't find him guilty of misconduct. They were just giving their opinions on that narrow factual question of whether or not the applicant had been hypnotized.

Finally, as far as reasons why one might have thought the applicant would be able to get those opinions, they weren't opinions about the sort of broad policy issues that governments often deal with when they have to weigh complex decisions, the sort of decisions that we believe section 13 was created to encompass. Instead, it was just about this very narrow issue.

So, as I say, one might have thought that she would be able to obtain those opinions, but the College of Physicians refused to release them to her. When that happened, she sought review by the information and privacy commissioner. The information and privacy commissioner looked at it and looked at all of the exceptions claimed by the college, including section 13, and found that no, the college could not withhold those four opinions. The college had to release those opinions to the applicant. In the paper I've included the entire section from the information and privacy commissioner's decision on section 13, because it's really very clear.

The college, however, wasn't happy with that decision. I should say the basis for the commissioner's decision on section 13 was that advice, or recommendations, means what I think most of us would think it means — that is, advising someone to do something or to not do something, recommending they take some course of action or not take a course of action.

At any rate, the College of Physicians did not accept that, so they sought judicial review of the commissioner's decision in the B.C. Supreme Court. But the

B.C. Supreme Court agreed with the commissioner. The B.C. Supreme Court said that the information from the experts in the records did not fall under section 13(1) because it was not provided for the purpose of advising or recommending a specific course of action or range of actions available to the college. Rather, it was gathered for the primary purpose of investigating the complaint against Dr. Doe.

Again, the College of Physicians was not satisfied with that decision, so it appealed to the British Columbia Court of Appeal. The British Columbia Court of Appeal came to quite a different conclusion. The Court of Appeal found that section 13 would allow those expert opinions to be withheld. It disagreed with the commissioner. It disagreed with the B.C. Supreme Court. Its reasoning was that section 13 recognizes that "secrecy fosters the decision-making process." The court found that recommendations include not only the consideration of specific or alternative courses of action but also "the investigation and gathering of the facts and information necessary to the consideration of specific or alternative courses of action."

[1520]

Now, I assure you I'm not one for court bashing. I think that the Court of Appeal was…. I can see how it arrived at those conclusions on legal grounds, but on policy grounds we say that it was an unfortunate decision. We say that advice or recommendations should mean what most of us think advice or recommendations mean.

On page 8 of my paper I've included some examples of consequences that we think might be of particular interest to you as MLAs, as far as what the practical consequences of this could be for your constituents. Just to mention a couple of them. For example, an injured worker applying for workers compensation might now be unable to obtain copies of opinions concerning the level of post-injury pain they are experiencing. Or assessments of students in the school system could be withheld from those students and their parents. There are any number of opinions which might previously have been producible but now, following from this Court of Appeal decision, could be withheld.

One of the quotes I've also included at page 8, from the Court of Appeal decision, is the following: "If the Legislature did not intend the opinions of experts, obtained to provide background explanations or analysis necessary to the deliberative process of a public body, to be included in the meaning of advice for the purposes of section 13, it could have explicitly excluded them." We say you should accept that implicit invitation and amend section 13 so that those sorts of opinions cannot be withheld, and restore what we say was the original intention of section 13.

I've included a possible draft in this paper that would achieve that result, but I won't go through it because people — even legislators, I think — don't generally enjoy reading draft legislation that much. But I would conclude by just stressing that basic point. The reasons we think that section 13 should exist and why advice or recommendations can legitimately be withheld…. We say that the Court of Appeal decision has just gone beyond that and that now a much, much wider range of material will be able to be withheld. We say that that is an unfortunate result and that the Legislature should amend section 13 to restore the original intention of the section.

B. Lekstrom (Chair): Thank you very much, Michael. I will look to members of the committee, if they have any questions of either Michael or Darrell. I note that Gillian does, as well as Joy. I'll begin with Gillian.

G. Trumper: Thank you for your presentation. Your comments that you made about how far it could go, particularly in the health field, on information is…. You raise a question that is somewhat scary if you look at the long-term ramifications. In fact, to me it sort of goes back and looks at history in the thirties, when we went through a very terrible situation. That raises some concerns with me, which you have raised. I would be really interested in hearing how you see that being addressed.

D. Evans: We think the right of consent regarding the uses of that kind of personal information in particular or any very sensitive kinds of information…. People should be acknowledged to have a right to consent to who gets their health information. In opposition to that theory, the Alberta government has passed specific legislation that carves out a group of, I think, 40 individuals and organizations that can have your health information totally without your consent and even without your knowledge. To me, this is just appalling.

If you ask a Canadian, "Should you have that right?" we think it's traditional. We think the information we impart to our physician, for example, is sacred. How does this, again…? What's the nexus between this and the government's responsibility to administer the health care system? It would be naïve, and it goes against the demands we put on government and bureaucrats to administer the health care system in the most efficient way in allocating health care resources, etc.

So how do we square that circle? You can't ask consent for everything, but you've got to very clearly define what that right of consent should be. Again, I would refer to this. There are about five, six or seven rulings of the Supreme Court that really say that there is a right of privacy vis-à-vis the information we give the state.

[1525]

Up to now, this has gone on completely out of sight of the average Canadian, partly just because it's so hard to get something into that window of knowledge of the average person. There's so much media vying for attention. That's a lot of the reason. On the other hand, the health officials — bureaucrats across the country — really don't want people to be very clear on what's going on. I have no doubt of that.

How do we bring this issue to Canadians so that they know about it, they know what their options are

and they can make an educated choice? If they want to sacrifice their rights to consent to who gets their information, so be it. It's a democracy. But I don't think there's the knowledge.

I think there are solutions besides carte blanche. For instance, the Alberta act gives the minister the right to view a personal health record. It's partly pro forma because that's the way our legislatures work, but I don't think that's proper. Indeed, there are cases where a minister specifically got her hands on a person's personal medical records and was demoted for it. This is in Ontario.

There are cases where a lot of people would love to have people's medical histories, and there are cases where they have leaked out. There are cases where AIDS patients' medical records have been posted on line in error. This happened in the U.S. There are losses of computer hard drives. Networks are leaky. They're hackable.

I think it's a very dangerous area we're going to. We do not have adequate protections, and we're not asserting the privacy rights of Canadians. I think Alberta…. The health sector desperately wants this massive data network, because they feel it's the future of health care. It's how we're going to be able to allocate scarce health reserves. It's how we're going to do the best research. I don't deny those things, and I don't say it's absolutely a bad thing. I say we need the consent of Canadians to do such a thing. Of course, B.C. does subscribe to this vision. I feel that eventually we'll pass health information legislation. What the nature of it will be remains to be seen.

G. Trumper: Thank you.

J. MacPhail: First, to Michael. Thank you for the presentation on this requirement for an amendment. I must say that it will require public knowledge of the reason for the amendment, because as in so many of these cases, it's more the consequences of not doing the amendment that become important to the public rather than just the basis of the case. So thank you for the presentation, but I do hope that your organizations will continue to advocate for the change based on the potential consequences of not acting.

M. Doherty: Yes.

J. MacPhail: It's very interesting that we talk about personal health information. I would also include information about our kids for education in that same sort of category. I hold the same point of view as you do around protection of that information and it only being released with consent.

The jury is still out for me on the issue of how we pay our taxes and proper collection of information in order that we all pay our fair share. It's out. I haven't reached a point…. But I treat that information differently than I do personal health information.

You know, you see commercials now about identity fraud. I'm taken aback by it, because of course the reason why identity fraud is arising is because people have been so free to give their information over the Internet about their own personal financial circumstances, and now it's being stolen. There was a reason they gave that information. It's because they wanted a cheap product on Amazon.com — or what is it called?— or eBay or whatever. Now we're all in a panic about the sharing of financial information at that level. Fair enough.

The flip side of not having enough personal information about how people get their money is a burgeoning underground economy where the government doesn't get its fair share of money. Have either of you explored the sharing of personal financial information? Let me ask this. Do you treat differently the personal information in terms of how we pay our taxes and pay our fair share and personal information that has nothing to do with that? Or do you see it all as the same? [1530]

D. Evans: I don't see information as the same. It's all different. No, we've never focused on tax information as a special area. It's sensitive information. It does merit protection.

Mike, do you have any thoughts?

J. MacPhail: May I say before…? I absolutely agree that it merits protection — the information we do give to government in that area. But what I'm saying is that there are so many areas now where people…. In other words, I think there's huge leakage in government resources because there's no way of collecting information in so many areas in order to compel people to pay their fair share.

M. Doherty: Is your question whether personal information about people's income, about how they make it…? Is that the sort of personal information that one feels strongly enough about that it should be given some privacy protection, like health information and…?

J. MacPhail: Yes. Do you treat them separately or the same?

M. Doherty: I don't think Darrell and I have ever spoken about this, but I can tell you my view. It's one of those areas that I think most people feel quite strongly about in our culture. I mean, imagine if you're at a party and you meet somebody, and they say: "How much do you make?" or "What did you pay for that?" For most of us, I think our back goes up a bit. Rightly or wrongly, we're kind of sensitive about money.

With the exception of civil servants such as yourselves, whose earnings we regularly get to read about in the newspaper — I guess for policy reasons — for most people I think that the information about their income at least should be treated as something that they'd rather not let get out into the public.

D. Evans: There are kinds of information that we have decided, as a society through our legislatures, are

public information — you'll find that defined, for instance, in the new PIPA act in B.C. — which are public for very good reasons. They're carved out, and I think they're even in a schedule as kinds that are freely available.

So the option is there for any society, measuring the public interest, to declare that certain kinds of information are available. Is it Switzerland or Sweden that you can go in and get anyone's tax returns? They're on file, and you can view them. I don't know if that has changed over the years, but that used to be the example of something that in one culture was considered absolutely…. Our culture considered it absolutely sensitive, and in another it was said, "Hey, everyone should have a right to see that" — for that very reason you laid out. These are decisions that a society makes.

J. MacPhail: Well, actually…. Let me just, if I could, pursue this very quickly. I believe in the integrity of the privacy of people — how much they earn, what they pay in the way of taxes, etc. I'm talking about people who don't pay taxes and yet earn a lot of money. So it's the opposite side of that.

Let me just give you an example. In terms of identity fraud in the United States, this has gone much further than it has in Canada. Banks will now actually call individual account holders if there's a large sum of money taken out of their account and say: "Hey, bud, there's kind of an unusual pattern here. Did you authorize this?" All they want to know is yes or no: did you authorize it? It's to deal with the identity fraud issue.

But by the same token, I guess it would be…. This may be a stereotype, but let's say a young kid goes in and buys a Mercedes Benz and has no discernable way of paying for that other than cash. Is it legitimate to ask about that or not? Like, does the car dealer have any obligation? Maybe there are laws around that. I don't know whether they do or not.

I just think it's an interesting aspect of the protection of privacy, which I espouse 100 percent. But how do you match that with source of revenue and paying your fair share of taxes? That's all.

M. Doherty: They are often not easy issues. I know this is a bit of a digression, but with regard to money laundering, which is one of the areas that has given rise to exactly the sort of situation you mention — that is, if somebody walks in with a briefcase full of cash and wants to buy a Mercedes…. As a lawyer I've often read about the Canadian Bar Association and the Law Society's discussions with the federal government about what are the appropriate obligations to impose upon lawyers with regard to that sort of situation, you know, balanced off against their solicitor-client privilege. In just about all these areas, there's a delicate balancing to be arrived at. When the rubber hits the road, sometimes then specific problems can arise, like this section 13 case and some other examples I can think of. As everyone knows, the solicitor-client privilege has always been strongly protected, and the courts have upheld it very strongly as well.

[1535]

In my riding of North Vancouver there have been a couple of cases where the municipality is believed to have spent such great amounts on legal counsel fees, which far outweigh the actual value of the issues that were being dealt with, that people would like to call them to account: "How much did you spend on lawyers about this lacrosse box or this old ferry that was only worth $50,000? Did you actually spend $300,000 on a $50,000 matter?" But you can't find that out, because the courts have upheld that privilege. So they're not always easy issues.

D. Evans: We'll be having something to say about that, by the way, in our recommendations.

B. Lekstrom (Chair): Thank you, Joy. I'll go to Mike next.

M. Hunter (Deputy Chair): The member for Vancouver-Hastings has started to explore some of the things I wanted to talk about. Maybe it's premature, but as somebody whose personal details are out there because I'm an elected official, I sometimes have a little…. It's intriguing that we protect people's privacy — and like you, Joy, I espouse the principle 100 percent — but come March or whatever day it is when the conflict-of-interest commissioner does his thing, everybody can read about my personal life history. You know, there are some difficulties intellectually for some of us.

J. MacPhail: And it's boring. [Laughter.]

M. Hunter (Deputy Chair): You've got that right.

You and the previous witness talked about the balancing of interests. Let me use the public health example as one where what you've said has not really helped me find this line yet. Maybe you'll help me in the coming weeks. You talked passionately, Darrell, about the need to protect private health records and private health information. I would submit to you that in the last 12 months, my appetite for that opinion is reduced substantially, because we've had a thing called SARS.

It seems to me that's an example, like the money-laundering example, which is a private sector issue, mostly…. We now have a public health issue where whether I sneeze when I get off an airplane affects you, not just me. So is that the case? And if it is a case where the line is crossed, where the public interest overtakes that of the person, how do we define that? I mean, that's where I'm looking for your advice. Does the act do it now? If not, how do we fix it? I'm 100 percent espousing the cause of privacy, but my responsibility goes to protecting public as well as private or personal interests.

D. Evans: That's a good question. It's always what is the public interest. That's one of the best things about

B.C.'s FOI Act. At the heart of it is something called the public interest override, which is section 25. It allows any other provision in the act to be overridden when it's clearly in the public interest to release personal information, and that's a demonstration of how we think the law should be.

In the SARS case, there's obviously sufficient public interest in controlling a virulent disease that, yeah, the public's right to know — or at least certain officials' right to know — should be pre-eminent. Whether a pharmacist in a small town should be able to access your entire prescription history because you're on an AIDS drug is another question — without consent, by the way, which is the way it happens on PharmaNet. On whether that pharmacist should be able to view all your prescription history, do they need that? They're dispensing a prescription to you. That's one of the real problems we have with PharmaNet.

[1540]

In other words, where it's truly in the public interest. Now, of course, how we define the public interest is different for everyone, and there's a whole spectrum of that. But I think that in these really important cases, we agree on that. There is a special epidemiological database written into the legislation in Canada so that they can do that. Certainly, you override the privacy principle in that case.

M. Hunter (Deputy Chair): The current section 25 override — is that too broad? Should we be subjecting these things to a test of reasonableness? Or do we just say, "Well, there's the public interest," and allow the public interest to define it on an ad hoc basis?

D. Evans: Unfortunately, section 25 was a great act of idealism but very impractical in its rollout. The only case I know where it has really been enacted by a public official…. It's an onus on the head of a public body to disclose information without delay to the public or to people affected when it's clearly in the public interest. That's shorthand. It's never happened, except in the cases of chiefs of police releasing the names of pedophiles or sexual abusers released from prison.

I think there are probably many incidences where a public official should have looked at this and said, "You know, I know that the people around me wouldn't want me to release this. I'm not even sure that the government would want me to release it, but this is clearly in the public interest to release" — even an environmental hazard or something like that.

That's what our hope was — that the whole act would have the spirit that the public interest is the most important thing behind this act. If it violated a privacy law, well, sorry, but it's a much greater public good to release this personal information — or, on the other hand, that a piece of general information should be released in spite of it might harm a business interest significantly. Nevertheless, there's a toxic waste dump we weren't told about, and it's an imminent danger to the people in a certain town. That's our idea of the balance and where it should be.

M. Hunter (Deputy Chair): Thank you.

B. Lekstrom (Chair): All right. I'll go to Harold next.

H. Long: I just want to go back on one other thing from the member for Vancouver-Hastings, when she mentioned about the taxes and how you find out who's not paying taxes and so on. I guess it's a question more than…. Wouldn't this come under Revenue Canada and their ability to actually have an audit system where they would have the ability to audit people for their source of income? And if they could not definitely tell you their source of income, then there would be a reaction at that level?

D. Evans: Yeah.

H. Long: And not necessarily if something comes under freedom of information?

D. Evans: Sure. The federal Personal Information Protection and Electronic Documents Act, which was one of the instigators for our act being passed, names investigative bodies. We all want there to be cases, in cases of fraud or abuse, where you can override and you have the licence to investigate and you don't need consent to get the personal information people to do that. Yeah, we create special bodies — in this case investigative bodies — to do those things.

H. Long: And then it could come under a reclaiming of the money for criminal reasons or whatever, which has happened in the past.

D. Evans: Sure.

H. Long: Going to another thing. People who use the government system for payment…. I understand a lot of it is very private, but the government is paying money out, and it could be people on social services or pensions or any other government money paid out. Is this a protection under the protection act, whereas we as MLAs have to put our disclosures forward, tell them where our income comes from, what we do, how we do it, and so we've got our soul lying on the table? Do the people within government that get government doles of different types, pensions and so on…. Is that public knowledge as well?

D. Evans: No. That would certainly be the personal information of that individual. When you look at the public interest, a politician who's in a decision-making, policy-making, legislation-making position certainly is subject to a much higher level and a much higher level of scrutiny than a person who gets a welfare benefit. If the person is getting a couple of million dollars in wel-

fare benefit, then I'm sure we could all agree that there's something wrong.

[1545]

M. Doherty: You've certainly put your finger on an area that has been contentious, particularly with regard to data matching. Because government is giving money out to people in these situations, of course it does have a responsibility to try to cut down on any fraud. One of the ways it has sometimes sought to do that is by exchanging information with other jurisdictions or other private bodies to see if there's anything that doesn't add up. How that can be done while still safeguarding individuals' privacy — and I won't take you through the history of it — has been difficult.

For example, several years ago I remember the ministry was requiring anybody who applied for social assistance to consent to their information being disclosed — and, unfortunately, not just disclosed to other governments. It's understandable that the government of British Columbia might want to check with the government of Alberta, for example, to make sure that benefits weren't being paid in both provinces. But they were also supposed to consent to it's being disclosed to "any agencies," which was not defined. There didn't seem to be much of a limit on it. It has been troublesome.

D. Evans: That included any government of the United States, incidentally, at any level of government.

H. Long: Then why would doctors, either private doctors who bill under the private system to the government…? I can understand, maybe, a corporation billing under a corporation name, but if a private doctor was billing under his own name without going through a corporation, why would his source of income — because it may be higher — be public information?

M. Doherty: You know, it's a good question. I don't know the answer.

D. Evans: Is there public information on that?

A Voice: It's in the blue book.

M. Doherty: Oh yeah. I can tell you, I've…. It's available on line in fact.

H. Long: I know. I just wondered what the difference between them is. Is it how many dollars are spent? Or is it…?

M. Doherty: I can tell you, I….

H. Long: It's all government money spent at different levels?

M. Doherty: Yeah. I went on line to see what my doctor was earning, and I was shocked at how little she makes. She's a wonderful doctor.

H. Long: So you've sent her more money. [Laughter.]

M. Doherty: Sort of. I try to go in for elective procedures now just to bolster her income.

H. Long: So you have no answer to that particular question.

M. Doherty: I just don't know the actual answer, no.

H. Long: Thank you.

B. Lekstrom (Chair): All right. Our next question comes from Jeff.

J. Bray: I know you've got other submissions coming, but something you were talking about sort of sparked me to ask this on the issue of the MHR consent. I actually worked for MHR when that was going on as well as the data matching that was being done in order for the B.C. family bonus to be paid. We got the entire child tax benefit file for all British Columbians, because that's the only way they could give us the data extract, and we loaded up the caseload.

Let me ask you, first of all, a sort of academic question. Do you see a difference between the possession of information, where I as a bureaucrat or an official physically go through and look at Jane Doe or John Doe or Sheila Orr or Jeff Bray — where I physically have the opportunity to read that, if I wanted to; I mean, I may not, but I may physically do that — versus the type of data extracts that occur in cyberspace? Although there's a CD, I can't really realistically go in and fish around for stuff, and the matching that occurs happens up in cyberspace. It's only the defined searches that pop out answers — dual payments or these types of things. Do you see a difference from a privacy perspective between those two processes, or do you consider possession of the information — whether you can physically look at it or not — the same thing?

M. Doherty: Maybe I could take the first stab at it. In my view, the actual issues are exactly the same, but the scope of the mischief that can occur if a problem arises is much greater in the case of the electronic data. I mean, it's like everybody knowing that smoking is bad for you but that smoking in a dynamite shed is very, very bad for you. That's the analogy. If somebody wants to misuse your personal information, if it requires actually going into a filing cabinet and looking at a piece of paper, that's not easy. Transcribing it if they want to use it for, say, identity theft or some other improper purpose…. There is some work involved in that.

[1550]

When you start dealing with electronic records, I think we all know it's just astonishing how easy it is to slice and dice those records, sell them, use them for a

wide variety of purposes. Probably everyone in this room is much more alive to these issues than members of the public. Barring the changes that came about on January 1, I think people didn't know that when they got their frequent-shopper points at the supermarket, the supermarket wasn't just being nice — that the information was actually getting sold and that it actually had real value.

D. Evans: I think that's one of the ways that a privacy problem…. It's a stab at handling a privacy problem, and perhaps it has its uses — to do the match and not view the record. There's also the question of who can view the record. As I say, we're increasingly going in the direction of reducing the number of people who can view information. You're right. If you can view parts of a file without getting into our file, that eliminates a lot of the problem.

I think the worst problem is regarding…. Now, we're talking about the balance of power between citizens and the state. Knowledge is power. If I know more about you than you probably remember, it can give me a tremendous amount of power over you, and I then may be tempted to use that to manipulate your behaviour. Okay. Download for me everyone who smokes and eats junk food as well, and who's also on welfare. When government is given problems to solve and we see it's in the public interest that a certain behaviour of the public be changed, what road are we going to take? If we have access to this immense storehouse of public information, I think the temptation is very much there to use it.

You can stigmatize groups of the public, as we've seen now. People of Arabic origin have been stigmatized, and now data is collected on them. I think one thing that 9/11 has shown us is we're not that far from losing civil liberties at any given point in time. That was a very destructive incident, but it sure moved us a huge step toward sacrificing civil liberties. If it happened again, I dread how much further we'd go. Civilization is a very precarious thing.

I think the comfort level with people with data-matching on a huge scale is the worst problem. They don't want government to have a massive file about each individual, which a bureaucrat or a government official can haul onto his or her desk and say: "Let's look at this guy or this woman." That's, I think, the worst. When we say a Big Brother file, that's what we're talking about. Keeping it in different silos, eliminating access to it, having incredible security, insisting on anonymized information wherever it's not absolutely necessary to use personal information — all these things are protections, and judicious use of them handles most of the problem.

B. Lekstrom (Chair): All right. I do have one further person wishing to ask a question. I'll go to Ken.

K. Johnston: I have a couple of questions on the section 13 proposal of policy amendment. I guess my first question on section 13(1) is: has this been used as a roadblock? Is it a common occurrence for a public body — whether it be a school board or whatever — to use this particular section as a roadblock to disclosure? Is it a common thread? Is that why you're looking for…?

M. Doherty: Darrell is prompting me on this one and saying: "It is now." Over the years I've found that we often have to rely — not just with regard to section 13 but various sections of the act — on anecdotal information from throughout British Columbia about what's actually going on with the act.

Darrell, I think you might know more about this than I do.

D. Evans: Yeah, what exceptions are being used. This is really coming to the fore now. It's not only expert opinion. The way the court phrased its decision, it's background documents and…. A lot of those things that are on the list you're not supposed to include seem to be captured by the language of the court. Another thing the courts have totally missed the point of is the idea of severing. When you apply solicitor-client privilege to a document, they don't recognize that the act requires severing. Isolate those parts that are really advice or legal solicitor-client as seen in common law, and the rest you can release. They missed that point as well. That's resulted in other damaging consequences that weren't intended when the act was first seen.

[1555]

Another thing, for instance, is that a lawyer can sit in…. The last committee that reviewed this act saw some of these problems, by the way. It's a very interesting read, including solicitor-client. Also, when a lawyer sits in on a meeting, the courts have tended to say, "Well, you can withhold the entire record of that meeting," even though they only participated in one topic or one part of that meeting. This has been entirely unexpected, and I don't think the Legislature really wrote the act to…. We're asking now that some of these things be revisited to see if the original intent has wandered off the rails.

K. Johnston: Just in terms of the intent, when you talk about revealing advice and recommendations, how far do you expect us to go? I'll just pick a phony ICBC file. You've got traffic adjusters, as you said on the page before. You've got RCMP, for example, maybe giving an opinion. You've got witnesses giving an opinion. You've got all kinds of people giving an opinion on one particular case. Two things: first of all, who's the expert in the piece? Second of all, is the witness, the citizen on the street…? Would it drill down the information to that particular level of opinion?

To me personally, just coming and looking at this from the outside, I see nothing but more requests, more work — maybe not frivolous — and more things that would clog up the system. If I'm a witness, maybe I don't want…. Do you know what I mean? This needs

to be clarified. You can't just say the whole file is open. That would be my concern on this.

M. Doherty: I look at it as being sort of analogous to the issues that have arisen in the legal system with regard to evidence where opinion is generally not allowed in court proceedings. Facts are. Experts' opinions are a different category, and as you say, it's not always clear. For example, the courts have allowed ordinary witnesses to give opinions about things like how fast the car was travelling — because most of us, when we look at a car go by, have some notion — or about some other things, like what temperature you think it was. They're saying that where it is difficult to separate opinion from fact, then maybe we'll treat it as fact; whereas in this one the Court of Appeal has gone the other way and said let's treat opinion on a factual issue as not being fact.

I should say, of course, although we're concentrating on section 13 here, that the act does contain a lot of other exceptions as well. The College of Physicians tried to rely on most of them in this case to keep these opinions backed. Solicitor-client privilege is one. There is a variety of others. There are lots of safeguards in the statute that are intended to prevent inappropriate information from being released. You mentioned the police. Of course, police investigations — there's another area where it's often legitimate to withhold information.

D. Evans: Information given by informants is protected, for one thing. If you phone a 911 line anonymously or even if they knew your identity, they would not be able to give that out. By the way, that's the cause of a lot of complaints to our organization. People want to know who complained about their dog and got the cops there. I have to say: "Well, you know, you might grab a gun and want to shoot that person, so I hope you'll understand that there's a reason this information is protected." With child abuse, etc., there is a very good reason for protecting that kind of information. On the other hand, you can see how a person who may be unfairly accused of something would love to know who…. They are tough balances and things we all wrestle with. That's why our organization is the freedom of information and *privacy* association. We are constantly in that area where we are trying to balance these things. That's what makes it fun, I guess, too.

B. Lekstrom (Chair): Thank you. I see no further questions from members of the committee on this. Darrell and Michael, I would like to thank you very much for coming before our committee this afternoon and giving us your views of the act and some ideas on how it can be improved. As was indicated, I'm sure we're going to see further submissions from yourselves. Again, I thank you. As legislators and elected people, we learn a great deal from the people who work with this legislation on a day-to-day basis. Thank you for taking time out of your busy schedules.

D. Evans: Thanks for inviting us.

M. Doherty: Thank you, Mr. Chair. Thank you, members of the committee.

[1600]

B. Lekstrom (Chair): Members of the committee, that concludes items 1 and 2 on our agenda. I will look to members of the committee, if there is any other business to be brought before the committee here this afternoon.

Seeing none, a motion to adjourn. We do meet….

J. Bray: I just noticed this. Tomorrow, Mr. Chair, we have people presenting at 10:05, one presentation, and then we don't have another presentation until 1:05 and then not another presentation until 2 o'clock. I'm wondering if it might not be prudent to see whether or not we could try to put those closer together. It would seem a bit odd to have ten people here for 15 minutes and then….

B. Lekstrom (Chair): I believe that was looked into, and it wasn't able to be accommodated. The witnesses had other commitments, I believe.

K. Ryan-Lloyd: That's my understanding.

J. Bray: So we actually only have two tomorrow.

B. Lekstrom (Chair): Yes, we do. But as a result of today's meeting and the committee having to come together for this meeting, it was felt that we will keep that meeting going forward. There are no travel accommodation plans or price tag to that, so I would like to accommodate the people who are here as a result of the committee being here as well. If there are no further presenters following that, we will have to make a decision as the committee at that time.

A motion to adjourn would be in order.

The committee adjourned at 4:01 p.m.