



# **STANDING COMMITTEE ON HOUSE SERVICES**

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## STANDING COMMITTEE ON HOUSE SERVICES

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Mr. Delbert Kirsch  
Batoche

Mr. Len Taylor  
The Battlefords

Mr. Randy Weekes  
Biggar

[The committee met at 19:00.]

**The Deputy Chair:** — Thank you very much, committee members. I would like to call the committee to order.

It now being past the hour of 7 p.m., I would like to advise the committee that pursuant to rule 138(5) the supplementary estimates for the following agencies were deemed referred to the committee on November 19, 2009: vote 34, the Chief Electoral Officer; and vote 21, the Legislative Assembly.

I would also like to table with the committee the following documents: the Children's Advocate office annual report for 2007 and the Ombudsman's annual report for 2008.

So these are tabled and the members will receive them, and the first item of business is the review of the 2007 Children's Advocate report. Mr. Speaker, if you would introduce the officials you have with you and we'll then proceed with a review of the report.

### Children's Advocate Annual Report

**The Speaker:** — Thank you, Mr. Chairman, and to the members. It's my pleasure to have with me here this evening the child advocate, Mr. Marvin Bernstein, and John Brand, director of advocacy. They've joined us and I'm glad they're here. I think they have more knowledge of the office than I would have to answer the members' questions.

So, Mr. Chairman, I turn it over to you, and we can move forward from there. Or, Mr. Bernstein, whichever you would prefer to speak first.

**The Deputy Chair:** — Thank you very much. Mr. Bernstein, do you have any opening remarks you'd like to make?

**Mr. Bernstein:** — Yes, I have some opening remarks, and then I'd be pleased to respond to questions. Good evening. It's a privilege to be here this evening. I'm pleased to be here with John Brand who is our director of advocacy. John has been working with the office almost since its inception when it was created about 15 years ago.

I'd also like to express my gratitude to all of the staff who work at the Children's Advocate office who've made such a strong contribution on behalf of the children and youth of this province and at the same time convey my sincere appreciation to all the staff at the Legislative Assembly who provide ongoing support to the work of our office.

As you may know, I find myself in a rather quirky position of having to limit my comments to the 2007 annual report, and this is through a rather unique set of circumstances. Even though we will be tabling our 2008 annual report in roughly 36 hours, what has happened is that our schedule for tabling our annual report has been pushed back by a combination of factors, including the tabling of our first foster home overcrowding report, our recent foster home overcrowding progress report, National Child Day preparations, some illnesses, and there was also a period of an election freeze that prevented tabling of public reports.

Now to address the work in our office, we have a very broad legislative mandate as defined in *The Ombudsman and Children's Advocate Act*, which was enacted in 1994 and is the statute that has served as our governing legislation for the past 15 years. And under this legislation, we work to ensure that the interests and well-being of children are respected and valued, both in the community and in government practice, policy, and legislation.

Now on the issue of the broadness of the mandate, it's probably instructive to realize that there's only three other children's advocate offices in the country that do child death investigations. Many of the children's advocate offices only engage in advocacy and don't have jurisdiction to conduct investigations. And then there are some offices that don't have jurisdiction over all child-serving ministries and agencies in the way that ours does. There are some offices that are limited in jurisdiction to child welfare matters for example.

So the annual report profiles work done in all of our office's five priority areas. And just to go through those briefly, they relate to individual, group, and systemic advocacy. And this involves advocating for the interests, rights, and well-being of children and young persons in both a case specific and systemic manner by using negotiation and other appropriate dispute resolution processes in order to ensure that their voices are being heard before decisions are being made about young people.

The second area or operational function is individual, group, and systemic investigations. And the three objectives of investigations are, firstly, to prevent harm to children through advancing recommendations that impact upon provincial government policy, programming, practice, and legislation; secondly, to improve the quality of services provided by child serving systems of provincial government ministries or agencies; and thirdly, to increase public accountability.

Now since coming to the office, we've moved into a specialized model, and so we've also expanded our menu of investigations. We have an advocacy unit. We have an investigations unit. And within that menu of investigations we do child death investigations, critical injury investigations, program and service investigations, and fairness investigations.

There's, within our legislation, a fifth category of investigation that both Mr. Fenwick and I have referred to over the past number of years, which hasn't been used, and that is a non-partisan referral to our office by a committee of the Legislative Assembly or the Lieutenant Governor in Council.

The third operational function is public education and communications. And this involves principally educating and informing the public, media, and key community groups and stakeholders on the role and mandate of our office and the rights and entitlements of children and youth.

The fourth area that we talk about is the importance of youth voice. The perspective of young people is particularly critical in the area of promoting systemic change. With their assistance, we can identify patterns or themes where government services have not been meeting the needs of children and youth. And

I'm using this information to advocate for and recommend important systemic change to address these service gaps and promote the interests, rights and well-being of a broader group of young persons.

So what we really try and do is approach these issues on a systemic basis and use the specific cases to ground our perspective and hopefully reduce the number of individual problems that are presenting themselves to the office. You can see from our 2007 annual report that we've set out a description of our stated goals and objectives — won't go through them — a listing of both our office's operational principles, and the children and youth first guiding principles which were publicly released for the first time upon the tabling of our 2006 annual report on May 15, 2007. These principles are set out on page 18, are based on particular provisions of the United Nations Convention on the Rights of the Child, and we're particularly pleased about the fact that these principles have now been adopted by the Government of Saskatchewan.

You have, with the annual report for 2007, a media release, and at that point there were a number of different action steps that are canvassed in that media release, some of which, and again I won't enumerate them, but they deal with a children and youth first action plan and what the four components should be. And then also we reiterate some of the action steps that resulted from the Yellow Quill sibling deaths. And there were a number that were related specifically to First Nations considerations, and those are set out in the media release.

As you can see from page 22 of our 2007 annual report, about half of our individual advocacy calls come from parents at 47 per cent. Twenty-four per cent come from a variety of citizens such as professionals and other community advocates for children, 16 per cent from young people themselves, and 10 per cent from extended families.

The breakdown of calls by ministries appears on page 23 and indicates that 51 per cent of the calls received by our office concern the Ministry of Social Services, with First Nations child and family services agencies representing a further 6 per cent of our calls. So roughly 57 per cent of our calls relate to child welfare matters. The Ministry of Corrections, Public Safety and Policing represents the next largest group at 10 per cent, followed by the Ministry of Justice and the Attorney General at 5 per cent.

Over the history of our office we've averaged approximately 1,000 calls per year. During 2007 the total number of requests for service was 1,502 which represented almost an 11 per cent increase in caller volume over the previous year. We also conduct about 100 public education presentations around the province each year.

There are a number of advocacy themes and emerging issues that are contained in the annual report. Again I won't read them out, but they appear at pages 24 and 25. These have remained fairly consistent over the past series of years, and you can take a look at those for yourself. We've also listed some of the systemic advocacy issues that emerged, and those are set out in the annual report as well.

One of the features of this annual report, which is set out at

pages 48 to 72, is a progress report on recommendations that have been made to ministries and agencies of the provincial government. And one of the key features of our office is formally tracking recommendations, and we began this function with greater attention at the beginning of my first term. And for the calendar years of 2005 to 2007, 82 recommendations had been tracked and reported on. Ten of those 82 recommendations were closed in our office's 2005 annual report. In this report, the 2007 report, we reported on the remaining 72 recommendations which had been tracked for two calendar years, being 2006 and 2007.

I should just indicate that we report by calendar year, rather than by fiscal year.

In our 2007 annual report, we talked about the rate of compliance with our office's recommendations, which amounted to 62 per cent of the total recommendations — tracked from 2005 to 2007 — resulting in our coding that adequate action had been taken. And we also talk about the importance of not only looking at the number of recommendations that had been complied with, but the quality and the kind of recommendations of which had been complied with.

And the office has a budget which was approved by the Board of Internal Economy at \$1.531 million, and the overall percentage increase of both budgetary and statutory increases was 5.9 per cent. The past two years we have come in with a status quo programming budget. And we have a small office, relatively speaking. We have a very broad mandate, a lot of different choices. We'd like to be able to cover various aspects of the work across the entire province even more rigorously than we do, but we certainly do the best we can within the priorities that we set. And I think I'll stop there in terms of my opening remarks.

**The Deputy Chair:** — Thank you very much, Mr. Bernstein. I'll now open the floor for questions. I recognize the member from The Battlefords.

**Mr. Taylor:** — Thank you very much. And welcome, a pleasure to see you again. Mr. Speaker, a pleasure to see you again.

Your opening comments were quite broad and general but provided a significant amount of detail. I'm just wondering if you could clarify for us in the committee here tonight exactly what part of your remarks are subject to the review. I say that simply because in our other committees, in terms of reviewing the estimates and the matters in front of us, the Chairs have been heartless at keeping us on the subject in front of us. And I don't want to put any stress on the Chair of this committee tonight, so I'm just wondering if you could clarify exactly what it is that you see us reviewing, very simply, and then I have a number of other questions that could come from there.

[19:15]

**The Deputy Chair:** — Thank you very much. I'd like to remind the members that what we are reviewing here is the annual report of the Children's Advocate office for 2007, so any questions may be asked of the Children's Advocate. I'm sure he

would also entertain questions that may be outside the actual reporting year of interest to members of the Assembly in the sense that this is our opportunity to talk with him about the operations of his office and what challenges he may have as well. I recognize Mr. Taylor.

**Mr. Taylor:** — All right, thank you very much. I appreciate that clarification. The press release that is in front of us with the report summarizes the annual report, contains 72 recommendations, recommendations to the provincial government concerning protection, health, best interests, and participation rights of children and youth in receipt of services from the government. I'm just wondering if you can tell me at this point — without going through each one of them but just generally — you talked in your opening remarks about monitoring, exactly where are we now since June, to your knowledge, in terms of response from government to the recommendations.

**Mr. Bernstein:** — Well we tracked the recommendations in terms of the calendar years of 2006 and 2007.

To put this into some larger context, when we tabled our special report on foster home overcrowding, we advanced 45 recommendations, and that was in February of 2009. And then recently on November 12th, we tabled a foster home overcrowding progress report where we commented upon the progress of the Ministry of Social Services principally in terms of complying with those recommendations. So those would represent another 45 and there will be — without getting into specifics because the 2008 report is embargo — there will be another series of recommendations that are identified in that report.

I think we already commented publicly on the fact that there were a number of recommendations that were not accepted by the Ministry of Social Services or were deferred partially in response to the call for the child welfare review. So there were a number of proposed legislative amendments for example, and some of the recommendations have been reaffirmed in different contexts.

So I think that it's kind of a mixed bag. There has been some good work and some uptake by the provincial government, by the Ministry of Social Services in terms of responding to a number of concerns. And we had been advancing the importance of the Children and Youth First Principles. They were adopted by the provincial government in their action plan in response to our foster home overcrowding report.

You will see from the media release that accompanies this annual report that we also had made some recommendations around Jordan's Principle that resulted from some of the concerns that arose in respect of Yellow Quill. There has been a tripartite agreement entered into between the provincial government and the federal government, FSIN [Federation of Saskatchewan Indian Nations], and incorporating a child-first principle putting that ahead of jurisdictional conflicts. That's a significant movement. At the time of the Yellow Quill deaths, one of the recommendations was that there'd be a broad, independent, systemic review of those circumstances that may have contributed to those deaths.

Recently we've had the provincial government announce that it is convening a broad-base comprehensive child welfare review. So in terms of the substance of many of the recommendations and the underlying concerns, I think that there's been some significant movement and some progress and a good response by the provincial government in terms of looking more closely at the compliance rate of individual recommendations and why some of them, why some of them may have been deferred.

We've indicated that we have some concern, if there is going to be a significant delay, we fully support the concept of a child welfare review. The question is, how long is that review going to take? And is there going to be some opportunity to set priorities so that some of those issues that perhaps could be addressed more quickly could be identified and examined by the independent panel ahead of perhaps other issues that don't have the same level of priority?

So we have done, I think, a good job in terms of recommendation tracking, and a significant component of this very large report is in fact that progress report.

**The Deputy Chair:** — Thank you very much. I recognize Mr. Taylor.

**Mr. Taylor:** — Thank you for that comprehensive answer. I was looking for an updated status report and you've provided that very well. I do think that the concept of making children and youth a priority in Saskatchewan is something we can't allow ourselves . . . can't take our eye off the ball. And I know that you will continue to press that.

That having been said, I just want to ask a couple questions one at a time here, sort of dealing with mechanics in a sense. And I'll just set this up for a second.

I've been meeting with a number of teachers within the elementary school system, some principals. I've met now with public school and Catholic school boards. One of the messages that I'm getting from those sources, teachers, administrators, and board members is within the school system they — and this is primarily in The Battlefords area, but I think it's around the province because that seems to be the response they're giving me — they're identifying within the school system, the elementary school system, children at risk. They have recognized . . . well the way that they would recognize a child at risk. They've made calls in the past to Social Services without a lot of response. But over the last little while, they've been getting some response from Social Services and have explained that they feel that when they bring the issue of a child at risk to the attention of social workers, particularly when the family is in the care of Social Services or under the umbrella of Social Services, that they're being heard.

The trouble is, is that they see the children continuing at risk, and they don't know what to do next. They don't know. They think they're being heard, but because of privacy issues and other things like that, they have no idea what's being done with a family, and the children seem to be continuing at risk. One of their concerns is they see families often being shuffled to hotels because around the province, smaller cities, housing is a significant problem. And in The Battlefords it's a huge problem.

So you've now got elementary school children living out of hotel rooms for a week or two at a time, bouncing off to relatives for a couple of weeks, and perhaps back into a hotel room. No place to cook food. No place to store food. And the teachers are expressing concern, but don't see anything happening.

What can a teacher or a principal or a board staff person do to ensure that that child at risk is actually seen as a priority by the province of Saskatchewan?

**Mr. Bernstein:** — Well that teacher or educator can contact our office and ask us to follow up to ensure that appropriate steps have been taken and to have us engage in some conversations with the family members and the social worker who may have been assigned the particular case to determine whether or not the level of support or the level of intervention has addressed the particular concerns.

We hear about this from teachers because they raise issues. In some cases, they may be discharging a reporting duty under child protection legislation, but then don't know what is the end result of that report to the authorities. And if they have some reasonable confidence that the corrective action has been taken, then that may be sufficient for their purposes.

If however they see that a child comes back into the classroom and still seems to be exhibiting behavioural issues or perhaps may be showing some marks on their body, and have some concerns about whether or not government services have been addressing the risk considerations, they can contact our office, and we can have some discussions, as I say, with Social Services, with the family members and do some follow-up. And we can indicate that we have followed through.

We also need to respect privacy considerations, so we may not be able to report back specifically in terms of what's happening. But we may be able to ease the teacher's mind by saying that we followed through and we are satisfied that the actions that are taken at present are reasonable and are providing sufficient support for the child and family.

**The Deputy Chair:** — Thank you very much. Mr. Taylor.

**Mr. Taylor:** — Thank you. Not wanting to prolong things too much because your report is quite comprehensive here, but school boards have on a couple of occasions now most recently indicated that they thought that the creation of a child or youth secretariat within government might be appropriate. I do not believe that has been one of your recommendations, but I'm wondering if you've had a look at that idea. And while I'm suggesting . . . While I'm requesting a response on the idea of a child or youth secretariat, I understand that there is one currently in place in Manitoba. And I'm wondering if you've had a chance to take a look at the Manitoba model, and what is your opinion.

**Mr. Bernstein:** — Well no I haven't specifically in terms of that context in Manitoba. In terms of the concept of having a child and youth secretariat, the idea of participation by children and youth in terms of providing input into the provision of services by agencies or ministries of the provincial government, I think we would like to see more of that.

Part of what we hear in our work is that children sometimes feel as though they aren't being properly consulted. Part of the message that we try and provide within our office is that children and youth are really the experts when it comes to the impacts that they're experiencing from various government services. And it's very easy for us as adults to kind of slip into the trap of making judgments about what we think is preferable for them. And I think that we produce better citizens, I think that we foster self-esteem, when we give young people a chance to participate more fully.

So to the extent that we can draw upon that kind of concept, in this province there is a Saskatchewan Youth in Care and Custody Network which consists of current and former youth in care and youth in custody. And we certainly use that as a reference group to inform our thinking before we advance recommendations concerning policy or practice or programming to the provincial government. And giving them a sense of democracy — how it works, civics — I think that really is an excellent concept. Certainly it's one that we would support. Anything that fosters greater youth voice and greater youth participation in decisions that impact upon them is something that we would support within our office.

**The Deputy Chair:** — Thank you very much. Mr. Taylor.

[19:30]

**Mr. Taylor:** — Thank you, Mr. Chair. One last question, the toughest of all my questions. We're not doing financial estimates tonight, we're reviewing your report, but more on the financial estimates. And as I said, the toughest question: have you got enough money to do the work you need to do?

**Mr. Bernstein:** — I would say that it's challenging. It's very challenging because there is more that we would like to do. We would like to be more involved in northern communities and engaging more significantly with First Nations and Métis communities. And we try and do some of that. We'd like to give some heightened emphasis to some of the special impacts upon First Nations and Métis children in this province and establish I think a stronger commitment in that direction.

There has been, from time to time, the suggestion that maybe Mr. Fenwick and I and perhaps the Human Rights Commission could perhaps set up a suboffice somewhere in the North to service some of those northern communities. We also would like to see stronger commitment in terms of access to justice and providing legal representation for children and youth who are involved in child welfare proceedings. There is a pro bono program that's operating in this province. It isn't funded, it isn't structured, and we within our office are facilitating that. We have no budget line for that. We've taken on that additional responsibility and that presents some challenges.

Another area is the various group homes and residential facilities that are cropping up, to some degree in response to the foster home overcrowding issue. We would like to be able to have a more consistent presence, perhaps in terms of going into those facilities and ensuring that there are proper quality assurance considerations in place to make sure that we can provide stronger advocacy for young people who are moving into different facilities and monitor more closely what's

happening in some of those facilities.

And the investigations aspects, every time we convene a systemic investigation such as the foster home overcrowding investigation, it puts a significant burden on our office. We often have to borrow resources from our advocacy unit to support the systemic investigation. And the regular staple of work has to continue on a daily basis.

We want to be responsive. I often say we're not just an ombudsman's office, we're an advocate's office. So we have to be responsive to the urgency of the requests of children and youth. Their needs are often very immediate.

The philosophy of the office is not just to talk to these children and youth over the phone but to be out in facilities to talk to them, to visit with them, to develop a rapport with them. So it takes a very heavy investment of resources. We certainly, I think, as other independent offices, could benefit from additional staff and resources.

**The Deputy Chair:** — Thank you very much. I recognize Mr. Iwanchuk. Mr. Vermette, pardon me.

**Mr. Vermette:** — Thank you, Mr. Chair, and to the committee and to the members that are here answering some of the questions.

It's interesting you talk about the North because I know I have personally called your office, and then used the service to recommend . . . A situation came up. And I have to be honest with you, I'm not sure at the end of the day what happened, because obviously privacy takes over. And I was glad I could steer the individual to your office.

And the North, we're trying to . . . And I guess being that I'm a member in this legislature that also is from the North, we have different issues, being an Aboriginal person. We have issues back home. We know that. But sometimes we feel like when those issues come up and you try to bring them . . . Even as a staff and being involved in the education, it was hard. What do you do with services? Like, it's bad enough we see them all over the province when they're, I guess if I want to say it, individuals that are suffering. We don't know why they're suffering, but they are.

What agency — and I'm not trying to say that somebody should be at blame — but how do we help that child? How do we help that individual? And that's very important to me, that we make sure that an office like yourself is supposed to go and help.

So I guess an issue. Somebody brings a concern to you. In your opinion, how long should you have to respond to a child or somebody bringing a concern to you; should your office? Now if you're limited to resources — and I'm not going to get into that right now — but if I say that, how long would it take for somebody to respond to a need of a child in the North?

**Mr. Bernstein:** — I'm going to defer to Mr. Brand on that, who is our director of advocacy in terms of response times and meeting the needs of the northern part of the province.

**Mr. Brand:** — We would try to respond, if a child and youth

calls, we would try to respond within the 24-hour business day by phone initially, and then set up an opportunity as quickly as we can to access that young person wherever they're located in the North. At times, sometimes, that's difficult because there's other services that we need to bring to the table to help assist in the resolve of that young person or that child's issue. And sometimes that takes a lengthy period of time, but we try to contact that young person, you know, within 24 hours of receiving the first call.

In our office, when a call does come in, we have a person that's called an early resolution advocate that fields all the calls first that come into the office. And if the complexity of the call is such that it's not being able to be resolved on that first, you know, within that first call or a few calls after that, it's moved then to an advocate who's responsible for a certain region within the province.

Right at the present time we have three advocates that look after the province. And if there's a complexity that requires that call or that issue of that young person to go to an advocate for further involvement, then it would be assigned to one of those three.

So in the northern part of the province we have two advocates — one for the Northeast and one for the Northwest.

**The Deputy Chair:** — Thank you very much. Mr. Vermette.

**Mr. Vermette:** — I guess I look at the problems that would arise, and let's say they do. And I want to go back into this because we're going to have different issues. As far as the public knowing about your office and the role that your office can do, and the role that some of us have been fortunate to find out . . . And it was by accident, I'll be honest with you, that I found out there is such a process. And that was before I was, you know, was elected.

So you learn different things. And I mean sometimes a situation has to arise, and you're pulling your hair out because you don't know where to go. And you don't know what help to get. And then all of a sudden, whether you're a parent, and I have to say I used it as a parent versus a community member . . . Because you don't know what to do, and you don't know where to go, but you feel you're at the end of your rope with everything. And you feel like you're left out there, abandoned.

Now all of a sudden, you get hope of an office or somebody that's willing to at least look at your case. How do you think — and I'm not going to talk so much about the rest of the province; I'm going to focus on the North — how well do you think the message in the North is getting out to, whether it's young people, families that this office, you know, exists? And what's the role of the office? And I guess, how do you communicate that to the rest of the province? And I'm just curious to see what . . .

**Mr. Bernstein:** — Well we engage in public education. That is a shall; that's a mandatory operational function within the office. As I mentioned, we conduct about 100 presentations per year. And the advocates, we have one advocate that shares the centre region and covers the Northwest, another advocate who also shares the centre region and tends to the Northeast. They

will go out, they will visit specific facilities, try and meet with young people. And they will engage in presentations, and they will talk about the role and the mandate of the office, try and do some outreach.

And then Mr. Fenwick and I and the Human Rights Commission, we have gone out to different parts of northern communities and tried to explain that there is a menu of services that the various offices can provide. And we've also had staff with us to take intake referrals when we've been up in those communities. And we've also convened town halls so that when we go up into northern communities, we just don't want to be talking heads to talk about what we're doing.

We're trying to understand the needs and the environment and the demographics of those northern communities so that we can respond to some of their pressures and some of their needs because we've met with some very resilient people in those communities, some strong civic leaders who've identified approaches and strategies. We've been up there talking about some of the linkages between sexual victimization and then the high incidence of suicide in some of those northern communities.

And some of the leadership have taken approaches and said, you know, we want to be involved in solving some of our own problems, but we're interested in knowing how your office can support us and making some of these concerns known and advocating for us in a vigorous way but in a respectful way to the provincial government.

About half of our staff is Aboriginal within our office. And we've made a point of ensuring that, not only on the advocacy side but on the investigations side, that we have Aboriginal staff because we want to be responsive to our client base which is a very significant Aboriginal demographic within the province.

And we talk about the fact that within our office it can't just be one or two people making a commitment to Aboriginal children and youth; it is a collective responsibility. It's an obligation on the part of the entire office. And we talk about effective relationships and we've worked closely with FSIN in terms of sharing information and identifying potential approaches in terms of meeting the needs of Aboriginal children and youth.

**The Deputy Chair:** — Thank you very much. Mr. Vermette.

**Mr. Vermette:** — I guess I'm going to finish up, and I think this will be my last question to you. But it might be kind of long, but anyway here's where I want to go with it.

We know that they're a large population and Aboriginal. And I mean, you want to talk about at risk and you want to talk about society where some are doing really well and are very proud of their accomplishments, their education, and where they're moving on as Aboriginal people. But we know we have a lot of issues, and we don't always . . . And I'm glad to hear that you had mentioned that some of the people coming forward want to also be part of the solution to some of the problems in the North. And I think that that's important that people understand. We as northern people don't just want to — and Aboriginal — say here's our problems; you fix them. We want to be involved in that process.

But having said that, in the North, and I want to put this . . . I don't know if you know for sure how you track the numbers and are you getting out to as many communities and are people aware of how to get a hold of you. Is there a way you could recommend? Is there anything that we could ask the government or some type of . . . find funding, and I guess I look at that, to accommodate the North.

And we know that there's a high number of, I guess, community members — Aboriginal, First Nations, Métis — that maybe don't know about the service, and that we're missing. There's an opportunity for them to maybe have your office deal with them and assist them that you know, yes, there's some painful roads, but there is some assistance. And I guess I open that up to, is there any way . . . What would be your suggestion, ways that we could meet the North and I guess the First Nations and Métis community members? Is there recommendations or something that you could suggest?

I'm just trying to, I guess, I'm reaching too when I say that. That yes, make it very clear to you. We want to be a part of the solution, not just throw out our issues. We want to make sure that we are a part of solving them together in a positive way.

[19:45]

**Mr. Bernstein:** — Well certainly we have a website, and it would be important to identify the website address. We have a toll-free phone number for young people and community. We've gone on some of the radio stations and talked about the work of our office. We've had one of our First Nations advocates go on and speak in Cree to local community.

We would like to see some perhaps different protocol between ourselves and the Ministry of Social Services, where there is a stronger commitment to identify for young people coming into care the existence of our office. The legislation that we currently have in place just provides some protection for young people, in terms of not having their mail interfered with or their communications to the office.

But there are a number of people when we go out, and we did the foster home overcrowding investigation, a very significant percentage of that in-care population didn't realize that our office existed and didn't appreciate what their rights were. So I think that there probably is some room for some more intensive spadework and efforts to inform young people — through brochures, through information, through posters — of the existence of our office. It's easier for us to reach some of those people in residential facilities because the advocates will go out around the province and they will talk about the work that's being done, the existence of the office.

It's very difficult to connect with young people in foster homes in terms of getting the information out. We try and work collaboratively through the Saskatchewan Foster Families Association in terms of imparting that information. But I think that in terms of the websites . . . And we try and communicate in ways that are youth-friendly for young people, to the extent that we can find a mechanism to get into those communities more frequently and talk about the work of the office and how we can provide some support. Because what we often see in some of those communities is a lot of despair — young people



who've given up.

We see a disparity in resources and facilities for young people in the northern part of the province. They shouldn't have to come down to the south. They shouldn't have to come down into the centre of the province. They should be able to stay within their home communities and be better resourced and better served. And we'd like to be tackling some of those systemic issues that arise in the North and to try and find some opportunities so that we can encourage them and support them in some of the more hopeful endeavours that they want for themselves.

**The Deputy Chair:** — Thank you very much. I recognize Mr. Belanger.

**Mr. Belanger:** — Thank you. Just at the outset, you mentioned the fact that one of the reports is embargoed, and you also have the review that's happening. What are some of the dates in which the embargo's lifted from your most recent reports? Like, when is that going to be released?

And the obvious, the other question is that, in relation to the timing of the review that's currently under way, like you mentioned that you're not certain when it's going to wrap up and how the recommendations are going to unfold, what actions are going to be attached to that, how you evaluate all the recommendations.

It could be a fairly complex process, and it can actually string this process along to take anywhere from 12 to 24 months, if one wants to be very challenging in terms of releasing the information in a timely fashion — or the action plan. So if you can give me the dates in which you would think would be appropriate in terms of identifying this latest report and what is adequate time to actually do the review. Because there's your theory and your version, and there's also the government's version.

**Mr. Bernstein:** — Well to start off with the embargoed copy of the annual report, the annual report will be tabled in the legislature on Thursday morning of this week. So the last sitting day of the legislature. We will have a press conference at 9 o'clock that morning, but the annual report will be embargoed until about 10:30 when Mr. Speaker will be tabling that report in the legislature. So it's imminent. And that will be the 2008 annual report from the Children's Advocate office.

As to the issue of the child welfare review, at this point the general sense that I have is that the Chair who has been appointed is already informing himself as to the context of the review. I've received a communication that indicates that stakeholder meetings and consultations are going to take place I believe between April and June. And the connection I think is going to be with various stakeholder groups, groups that are defined as having some relevant information or submissions. And there will be other panel members joining the Chair.

I haven't seen terms of reference. I've met with the Chair at this point. And I think that from my standpoint there are a number of recommendations that we've advanced that . . . And we have done a fair bit of research. We've done some of that homework. And we're hoping that some of that foundational information

will be of assistance to the independent panel in terms of addressing some of the information and some of the issues more quickly.

Part of what we would like to see perhaps is an interim report come out of the independent panel. So what I had said earlier was that what we would be encouraging is some priority setting, so that there may be some issues that require more consultation, more research, and may take a longer period of time. There are others where some of the answers may be more self-evident and some of that research and best practice analysis may have been identified and we have advanced recommendations.

And the concern that we have is that children have a different sense of time than adults do. So we sometimes sit back and say six months or twelve months is not a significantly long period of time. In the life of a young child, that is very significant when they feel as though they're drifting, and they don't have a sense of permanence and they don't know when they're going to be discharged from care.

And then some of these young people that we've talked about who are remaining in overcrowded foster homes continue to be at different kinds of risk.

And so if there are some solutions and we can start to address them more quickly, then rather than having everything fall into the same ragbag, where the independent panel takes the full measure of time to consider some of these issues, I think our point is that some of these things should be fast tracked. And some of these things that are more self-evident could be identified and there could be a priority A list and a priority B list. And rather than waiting 18 months to complete a full report, could there be an interim report after 8 months or after 12 months to keep the process moving? I think that's what we're envisioning.

There was an expert panel in Ontario that examined . . . Now this was purely a legislative review, but I spoke to the Chair of that independent panel. There were about seven people on the panel. She told me, from start to finish, they completed that review in six months. And she indicated that there will be drift, and you lose a lot of people and you lose the momentum if you start extending into 12 months or 18 months.

So again, without applying undue pressure on the panel and doing the work that they need to do, we need to remember what the panel's work is all about, and it's promoting the interests of children and youth. So how can we just be creating an environment where they can move through their work expeditiously so children don't continue to drift, and that there's some clear resolution within a timely fashion. I think that's part of our concern.

**The Deputy Chair:** — Mr. Belanger.

**Mr. Belanger:** — Yes. My final comment is I just find it highly unusual to have a Children's Advocate report embargoed till the last day of the session because we obviously are going to be paying attention to this particular file. And you being an independent officer, I just make the benign comment that it does seem a bit awkward from our perspective.

We take a lot of interest in the system, so to speak. We know we don't have a perfect system in Saskatchewan. It's going to take some very innovative, structural changes to how we deliver social services throughout the province. One of the things I think is very important, I look at the scenario, is that we see the children in care climbing on a regular basis. What are we doing wrong? What are we doing wrong?

I don't hold a lot of hope for the review that's under way now. There are some severe structural problems when you keep doing the same thing over and over and over again, and yet you have the same result, same practices, and no distinct difference.

Now we see the alarming trends: everything from foster families quitting and the replacements not being found; we see challenges with children and youth in care in our own facilities; and the most tragic event of all, from our perspective as my colleague alluded to earlier, was the whole notion of youth suicide in northern Saskatchewan.

When it comes down to the situation that we are dealing with, you as an independent officer and us as legislators and people that are looking at this problem, we have a tremendous amount of work ahead of us in a very short period of time. And yet I don't, quite frankly, hold a lot of hope that we're going to find that solution. It is complex. It is interwoven in terms of all the different players involved. And while I applaud the efforts on the Jordan's Principle, there are still a lot of things that we don't connect with the federal government on and First Nations government and Métis governments when it comes to finding the solution.

So I think the whole notion of the review, I'll be very interested to hear what you have to say. Because if the review is just simply window dressing, simply time management and issue management, then it's a great insult to what we're trying to do in Saskatchewan. There are some serious structural flaws in how we deliver services now.

So the question I have in relation to northern Saskatchewan itself, the whole notion of youth suicide — the rates are alarming in northern Saskatchewan. My colleague and I have gone to a number of funerals of young people that said, that's it; I'm done. And families are under extreme stress. And given the socio-economic conditions, the lack of programming, the heavy concentration of youth in northern Saskatchewan, the challenges of drug abuse, the family breakdown to overcrowding in housing — those are just a few of the things that are being rattled off the top of our head. But there are some alarming trends.

Now based on your independence in terms of the officer of the Assembly here today, I'd be very interested to hear you say that you're going to undertake an effort from your office to look at, study, and to, within a tight time frame, come up with solutions to deal with the youth suicide. Because you and I know when young people are starting to take their lives — youth of our province — then there's some serious problems out there. And northern Saskatchewan on a per capita basis has alarming trends. And I know it's not proper to mention the Lieutenant Governor in this Assembly, but he also mentions it in some of the speeches that he goes . . . or he says.

Now people are yelling from the top of the mountain saying, come on, we need to deal with this issue. What do you think of that particular challenge that I lay at your feet today — that if we can't get that leadership in that distinct direction on how we deal with youth suicide in northern Saskatchewan, would your office undertake to do your own independent analysis of what the issues are?

[20:00]

**The Deputy Chair:** — Thank you very much. I recognize the Speaker.

**The Speaker:** — Thank you, Mr. Chair. Just a quick comment in response to the minister . . . or the member's first question. The Speaker's office is in consultation with the independent officers on an ongoing basis and in endeavouring to put the House Services Committee together, as we were informed, and then Mr. Bernstein did bring forward his annual report for 2007 and indicated there would be a delay. And our office did communicate and ask if it was possible to have the 2008 report in time for tonight's meeting. And as Mr. Bernstein indicated earlier, there were some complications he ran into.

So I think the endeavour was made to try and have it. Unfortunately it's coming out on Thursday. But the effort was made to try and have the report ready and there were just some specific circumstances. So the communication was there and Mr. Bernstein certainly did communicate back as well that if he was able to, he would have had it ready for us. And so regretfully the '08 wasn't quite ready for tonight, but the efforts were made certainly by the independent officer as well.

**Mr. Bernstein:** — Thank you, Mr. Speaker. As to the child welfare review, the sense that I have is that that is a worthwhile and productive endeavour. One of the frustrations and one of the difficulties that I've experienced as an independent officer is having the two systems interact and speak openly and honestly as to what is happening within the non-Aboriginal child welfare system where children are in direct care of the Ministry of Social Services, and the on-reserve system where children will come into care of 18 First Nations child and family service agencies and having the delegated care system.

And sometimes neither system is entirely transparent in terms of identifying what is happening within those services. And what we would like to see is an honest and open identification and discussion as to what are the strengths of each system and what are the limitations of each system.

And then, as you had indicated, what are some of the structural or systemic factors that are contributing to some of the limitations of each of those systems? And how can we make sure that all children are being well served so that there is a level of cultural competency that is being provided to Aboriginal children, but how do we ensure that the quality of services doesn't drop off so that they're not shortchanged? And we need to avoid some of the funding disparities that we see between on- and off-reserve care.

So one of the hopes that I would like to see come out of this child welfare review is an investment by both Aboriginal and non-Aboriginal leadership and communities and an honest and

transparent discussion as to how can we do better by all of our children within both of those systems within this province. Because sometimes what you find in each system is a pointing of a finger at the other system and identifying some of the problems, as opposed to acknowledging in a balanced way some of the limitations perhaps of their own system. And how can we do this in a way that's fair and equitable for all children and youth within the province?

I accept that the child welfare review is an important endeavour. I have no reason to question the focus or the good faith or the commitment of the people who will be involved in that process.

The one thing that I would like to see is some clear commitment in terms of youth participation so that young people have a chance to speak to changes that they would recommend and propose. As I said before, sometimes we make judgments about the quality of services and how we can improve things. They are the consumers. They are often the recipients of the services. Same things in terms of families and parents. How are they experiencing the impacts of the systems?

And I think it isn't just stakeholders. It's individual, it's marginalized children and families in different parts of the province. I think it's important to respect the duty to consult and be out in different communities and not to sit — and I'm not suggesting this would happen — but not to just sit in Regina and Saskatoon and expect people who are experiencing impacts of systems to come down to where the committee is sitting, but to be a truly responsive committee or panel in terms of going out to different parts of the province and hearing from a cross-section of populations and recipients of those services as to how it's impacting.

We would like to see the Children and Youth First Principles provide a supporting framework to the work of the independent panel. The provincial government has adopted and committed to implement those principles for purposes of developing child-serving policy and legislation. And this is exactly the thing that this panel is going to be proposing — recommendations to policy and legislation. So I think that filter is there.

I think in terms of looking at some of the structural factors that you've identified, I would think that that is something that the independent panel would have to consider in terms of, how do we deal with this compression of children in care? What can we be doing differently at the front end to prevent children from coming into care in the first place? What kind of supports and services are missing?

Sometimes there are families who are in need. There may be a sense of a family being in crisis, not because they're bad parents but because of housing pressures. There may be poverty issues impacting upon these families. I just looked at the child poverty report that came out on November 24th, and Saskatchewan is the third worst province in this country in terms of child poverty behind British Columbia and Manitoba.

So what can we be doing to improve the quality of life for children and youth across the province? Finding alternative care if children have to leave biological families — can we have kinship care? Can we have extended family that can provide for

those needs? Those kinds of things.

In terms of the suicide issue that you raised, that's an area that disturbs our office a great deal — to see young people reach a level of despair and hopelessness that they think that there is nothing worth living for. And we would like to look at some of those structural considerations and some of those factors that are contributing to their particular circumstances. And if we can work collaboratively, if we can identify community leaders who are prepared for the office to examine that issue, find a subgroup who wants us to come into their communities to examine those issues and work with them to try and find some solutions, we're certainly willing to do that.

Certainly our experience in terms of northern communities is . . . We can't just put out a call and say, we want to come up, just as you've said, and solve your problem. We cannot provide the blueprint.

But we have seen a lot of really good work and strategies developed, and if we can play a part in that and examine the situation and provide some advocacy and build in additional resources for some of those young people so they aren't as despairing, they see a way out — perhaps support them in terms of education, recreation, things that give them a sense of hope — and if you can identify some community leadership and some areas that we could be engaged in and provide some facilitation, we'd be happy to go up to those communities, have some meetings, identify some terms of reference, and see what we can do.

**The Deputy Chair:** — Thank you very much. Mr. Belanger.

**Mr. Belanger:** — Just in closing, I certainly accept the reasoning behind the delay in the report and that obviously we'll need a lot more time to discuss this matter. And the final point I'll make is that we take a keen, keen interest in this particular file. And you'll notice that there's a bit of desperation on our part when as provincial and elected people we look to you, presenting a frustration that is shared by many parties. And many times that particular advice we get from you is sound, but there's so many complex issues.

And I would say, for one, I think we should just collapse the whole system and start fresh and brand new, and we design a better, more responsive system because there are kids out there whose lives right now are pretty much determined. And it shouldn't be that way. It's a negative determination; it should not be that way. So again I lay my final comment with a challenge to engage you to try and solve the solution with youth suicide in the North and to seek adequate resources to assist you in that regard. Thank you very much.

**The Deputy Chair:** — Thank you very much. I'll recognize Mr. Vermette for one closing comment.

**Mr. Vermette:** — Again I just want to say thank you. It looks like you're giving a commitment. And I'm pleased that if the leadership . . . And if we can find people that are willing to come forward and meet with you and have some serious discussions and discussions that need to be addressed, and I guess topics that have to be discussed, I appreciate that and I truly take that to heart and thank you for that. And hopefully

people will be coming forward because I'll be sending the message out that it's time to work with you, and let's work and find solutions for our communities. Thank you.

**The Deputy Chair:** — Thank you very much. Committee members, seeing no further questions, I will move . . . I see that we will have concluded consideration then of the 2007 annual report of the Children's Advocate office. I'd like to thank the Children's Advocate, Mr. Speaker, and your staff as well for coming this evening. And thank you very much for consideration of your annual report.

The next item of business will be consideration of Ombudsman Saskatchewan's report, 2008 annual report.

### Ombudsman Annual Report

**The Deputy Chair:** — Thank you very much, committee members. I would like to now open the floor for the Speaker to introduce the Ombudsman and any opening remarks that the Ombudsman would have for the committee.

**The Speaker:** — Thank you, Mr. Chairman and members. We're pleased to have with us tonight the Provincial Ombudsman, Kevin Fenwick, who has been able to join us to give us a bit of an overview about his annual report and field any questions that members may have this evening. So at this time I'll turn the floor over to Mr. Fenwick.

**Mr. Fenwick:** — Thank you, Mr. Speaker. Mr. Chair, hon. members, I'm very pleased to be here. I'm very grateful for the opportunity to speak to this group, particularly this year, which is the 200th anniversary of the parliamentarization, if that's a word, of the institution of the ombudsman. It was in 1809 that the parliament of Sweden passed a law that created the constitutional ombudsman, or parliamentary ombudsman office. And we've been celebrating this year around the world, the creation of that office and that anniversary.

I'm much more interested in hearing what questions you have than listening to myself, so I will try to be very brief with respect to some opening comments. And for those members of this committee who are also members of the Board of Internal Economy, I apologize in advance if some of this is a bit repetitious, because I know you may have heard some of this. But if I can, I'd like to address two or three points about who we are and what we do in our office for those members who may not be as familiar as members of the Board of Internal Economy are.

It used to be said that the ombudsman's job was to entertain complaints from the public about government services. We're trying to shift that rather negative focus to something that's a bit more positive. And so when I'm asked now what it is that we do, I'm more likely to say we promote and protect fairness in the provision of government services.

[20:15]

And although that's a slight change in wording, it's an important change because it emphasizes that what we are about is much more proactive than just reactive. And certainly we still entertain complaints from members of the public about all

provincial government boards, commissions, and agencies. But in addition to that we have an increasing role to be proactive and to go out and find ways to, as we often talk about it, raise the bar in the provision of government services.

It's my belief that society's expectations of government have changed in the last 30 or 40 years. I think that 30 or 40 years ago, if you asked someone on the street what were their expectations of government, the answer you would receive might have been fairly straightforward. We expect government to make good decisions.

I think you find today that the answer is a bit more complex. If you ask the same question of the person on the street today, what do you expect of your government? I think the answer, with a bit of probing perhaps, is in three parts. The person will say that we expect that government should make good decisions. But they will also say that they will expect to be included in an open and transparent process in the decision-making process for decisions that affect them. And thirdly, I think they will say that we also expect that we will be treated with respect by our government institutions. And so the work that we do at our office involves what we talk about as the fairness triangle: what government decides, how government makes those decisions, and how people are treated while those decisions are being made. And we're about all three of those things.

We have jurisdiction over all provincial government bodies, or almost all provincial government bodies. That includes departments, ministries, boards, commissions, and agencies — provided that they do the work of government — and that their boards, if there is one, are appointed by the provincial government. We have jurisdiction, for example, over the health authorities, the health regions, because those boards are appointed by the provincial government. We do not however have jurisdiction over education, or at least not over school boards, because those boards are elected. We do have jurisdiction over the Ministry of Learning, but not over the school boards themselves.

What we do is important. How we do it is also important. What we like to do is to offer a spectrum of services to people who come before us. We believe that one size does not fit all and that someone who walks in our door deserves to have their complaint assessed — not just with respect to what it is, but how they should be treated.

Sometimes what we do is coaching so that people can work better with the government agency to solve their own problems. Sometimes we facilitate discussions. Occasionally we will advocate in some small way — although that is not our primary role to do advocacy — and we will certainly investigate and we will certainly mediate where circumstances warrant as well.

A lot of the work we do up front actually is not unlike the work that your constituency assistants do in their offices in responding to government. The difference in our office is that if that early intervention, such as your constituency assistants do, does not resolve the issue, then we have the power and significant powers to investigate as well.

One of the somewhat ironic things about people who come to us

with complaints is that almost all of the time they have an ongoing relationship with the very agency that they are complaining about. So we believe that it's not just our role to solve the problem for people, but to leave them with a better problem-solving process so that the next time there's an issue arises, our hope is that they can work with that same government agency to resolve the difficulty rather than having to come to us to solve it for them.

I would quite frankly rather see the agency get credit for solving the issue than us get credit for solving for them. It becomes a bit of a self-defeating prophesy for us because we're . . . We have to park our institutional ego sometimes. But I think in the long run it's certainly better if the agency and the individuals can solve the problem on their own.

We're proactive in a number of ways. We provide to government what we call fair practice workshops. We have a two-day workshop called the Fine Art of Fairness that talks to government service providers about what fairness is and why they should care and how they can do a better job of delivering it.

We offer to government agencies now the benefit of what we call our fairness lens. We say to government agencies, come to us before you roll a program out and let us comment on it from a fairness perspective rather than waiting necessarily until the complaints come to our office.

And we do systemic reviews. In addition to the complaints from individuals, we do a number of reviews every year about broader systemic issues that impact a large number of individuals and we think we'll have a broader, positive impact to help a lot of people rather than just one.

At the present time we're looking at expanding our role in health. Have done some already and are hopeful that we can do more in the future.

A big part of our focus these days is what we talk about as keeping . . . putting, rather, people before policy. So many of the complaints that come to us involve people who are falling through the cracks, who are not the beneficiaries of government programs or policies but rather are caught because the specific policies don't quite meet their circumstances. And so a lot of what we're trying to do is to convince front-line government workers that there are times when they should properly exercise discretion rather than apply the policies too strictly.

I'll perhaps stop there and invite whatever questions. There's two or three other things I wouldn't mind saying, but my guess is that they'll probably come out in response to the questions at some point anyway. So thank you for those, for the time for the opening remarks, and I'd be happy to answer any questions that you might have.

**The Deputy Chair:** — Thank you very much. I'll recognize Mr. Iwanchuk.

**Mr. Iwanchuk:** — Thank you to the Speaker's office and Mr. Fenwick for appearing here and presenting us with your report.

I was interested in the parts where you speak of complaints

received and particularly just understanding, you know, I guess the initial support, and I've been trying to read that while still trying to listen to you speak. But I was interested in the Workers' Compensation Board where the complaints have gone up over 2007 to 130, and I was wondering if you could expand on that. Not so much because the initial support, but maybe in there is the answer that . . . what I'm looking for is the type of complaints that you have been receiving.

**Mr. Fenwick:** — A comment first of all with respect to the numbers. Workers' Compensation Board complaint numbers have actually been down significantly for about the last six years in a row. This is the first year, certainly since I've been in the job, more importantly the first year since the Workers' Compensation Board created a fair practices office within that office that the numbers have gone up.

I am a tremendous supporter of fair practices offices within government institutions. The individual who manages the fair practices office at Workers' Compensation is a former deputy ombudsman and has done a wonderful job of intervening in a number of situations, but also in providing them with some systemic advice on how to improve situations as well. So yes, the numbers were up last year, but they're still down about 50 per cent, quite frankly, from what they were five or six years ago.

Workers' Compensation complaints are . . . They vary. And they're difficult ones for our office for a couple of reasons. Workers' Compensation Board is one of those agencies that has a number of levels of appeal within the institution. The Ministry of Social Services is another one and the Crop Insurance is another one. The more levels of appeal that there are within the agency, the more likely it is that by the time it gets to us, both sides will be fairly fixed in their positions because they've been through the issues several times before.

Generally speaking, the issues that come to us with respect to Workers' Comp are about what is covered and how much it's covered for. Frequently those issues involve people who have been before the board, and they believe that this is a work-related injury, and the board and the various appeal levels before it actually gets to the board say that it is not. *The Workers' Compensation Act* provides that the benefit of the doubt needs to go in favour of the worker. So if it's not clear whether the cause of this particular illness or injury is work related, the benefit of the doubt is supposed to go in favour of the worker. Generally it does.

There are a couple of areas, and they are difficult areas to assess, where we're not always convinced that that benefit of the doubt has been exercised. And they generally deal with issues of psychological stress, workplace harassment and those kinds of things, and situations where there might be chronic pain or chronic pain syndromes — the kinds of things where you can't look at an X-ray and see the injury. We recognize those are difficult issues for the board. They're difficult issues for us as well.

But we do see a number of those kinds of issues that come to us. We see issues that come to us where the board has determined that an individual is fit enough either to go back to work or to go back to reduced duties, and the individual doesn't

think that they are. So was the injury work related, one issue. And secondly, how bad is it, are the ones we typically see.

**The Deputy Chair:** — Thank you very much. Mr. Iwanchuk.

**Mr. Iwanchuk:** — One quick question. You mentioned that there's a fair practices office within there. What exactly is the work that they would do in . . .

**Mr. Fenwick:** — Well although we're glad that they don't actually use the word "ombudsman," they are kind of like an internal ombudsman. So what that office does is it will take referrals actually from some of the front-line workers, take referrals from the worker's advocate's office, if someone has a complaint and don't think that they've been treated fairly.

So they will be able to do an assessment, and in many cases convince the caseworker that this particular file needs a second look. In addition, they will look for patterns of complaints or patterns of issues within the Workers' Compensation system and they have, that office has a direct link to the board and will at times recommend changes in practice and procedure as well.

**The Deputy Chair:** — Thank you very much. I recognize Mr. Taylor.

**Mr. Taylor:** — Thank you very much, Mr. Chair. So little time, so many questions. I've got two questions. They're related but they aren't related. In the interests of time, I'll put them both out. Hopefully you can remember from point A through point B. They're both health related.

You had indicated a desire to expand the role of the Ombudsman's office into health. There has been talk about a separate ombudsman's office or a health ombudsman's office. It has been suggested that the Ombudsman of the province could actually do that job.

My question there, number one is, are you currently in discussions with the Minister of Health with that in mind? Or is your expansion of your role in health unrelated to the creation of a new office?

My second question has to do with the one case in the 2008 annual report called, who should pay? And it has to do with out-of-country medical expenses. The investigation found the policy to be sound, but indicated that perhaps there was an overly strict adherence resulting in perhaps unfairness.

I'm just wondering if that recommendation was communicated in writing to the Minister of Health, if that letter of recommendation is a public document, and at the same time just wondering what you had in mind dealing with the subjectiveness of the decision in that case. Given that the policy was sound, how big a door are we opening when we talk about overly strict? It's either policy or it isn't policy, and I'm just wondering what your thoughts were on that.

**Mr. Fenwick:** — If I might answer the second question first because that particular issue is indicative of many of the files that we deal with in our office. It is necessary that government institutions have policies and that those policies as a general rule be followed. It's necessary, because we live in a complex

society and that citizens need to know that there will be consistency in decision making by government institutions, that decisions aren't made arbitrarily.

However, sometimes I think we bow too much at the altar of consistency and policy and that it is so difficult to create policies that fit everyone and every situation that there are times when there needs to be some discretion with respect to those policies.

I'll use the health example on the particular case file that's referred to in the annual report, and I'll summarize a little bit what the policy of the Ministry of Health is with respect to out-of-country coverage. Generally speaking, if a person is going to receive reimbursement for the costs of out-of-country health care, there are three conditions. The particular treatment for which compensation is being sought needs to be medically necessary — generally that means that there has to be a referral from a specialist; it needs to be unavailable in Canada; and there has to be prior approval.

[20:30]

I think that policy is sound. I don't think that we can argue that as a general rule any of those three principles are improper. I think in fact that they're quite good.

However I think that there needs to be some discretion. When we say that the particular procedure needs to be unavailable in Canada in order to get the out-of-country coverage, I think we should read that to mean unavailable in Canada within a reasonable time. If it's available in Canada six months from now but you're told that within three months it will be inoperable unless it's treated, the fact that it's available in Canada at a time when it will no longer help you isn't particularly helpful. So I think there needs to be some discretion there with respect to when it's available.

With respect to the prior approval as well, although I think generally speaking that's a good rule, I believe that there needs to be discretion such that if there is a reasonable explanation as to why the prior approval wasn't sought, and if it had been sought it would have been granted, then I think the benefit of the doubt should be given to the person who's seeking that reimbursement.

And so that's an example of where there should be some discretion rather than too strict adherence to the rules. In this particular case, we made that recommendation and the recommendation was accepted and the payment was made because we felt that it fit within those criteria that I've just outlined.

Yes, the recommendation would have been in writing. Is it available to the public? Yes, through our annual report where we summarize it and we report all of the recommendations.

That particular letter though would not be available to the public. There are confidentiality provisions involved. It's the confidentiality of the individual who made the complaint — and particularly with respect to health issues, people are sensitive about that privacy. It's the confidentiality of the ministry as well. And the third part of the confidentiality is the

confidentiality of our office. We think that people need to know that when they come to us, what they bring to us will remain confidential so that they feel comfortable bringing those issues to us.

Is that sufficient answer to the second question?

**Mr. Taylor:** — Absolutely. Yes. And I don't need a very long answer for the second part.

**Mr. Fenwick:** — With respect to the second issue, the current government in the last election campaign talked about committing funds to the creation of a health ombudsman office.

In response to that, I asked my staff to prepare, not a position paper, but a background paper looking at health ombudsman models around the world. And we did that and we shared that paper in draft form with the Ministry of Health and the Ministry of Justice.

In response to that, we have heard now from the Ministry of Health and the Ministry of Justice, and I believe the Minister of Health announced in this House last year that the assessment had been made that it was not necessary to amend the legislation to create a separate health ombudsman office, nor was it necessary to enact new legislation to give my office specific health ombudsman powers.

My understanding from the minister, as I believe he indicated in this Assembly, is that there is a recognition now that there is a health ombudsman in Saskatchewan, and I'm him; that our office already does health ombudsman work — indeed we entertain roughly 100 complaints a year about health issues; and that the particular issues that were identified by the current government in its election promise are issues that can be addressed by our office.

We believe that there is support from the government for an enhanced role for our office. We believe that there is an enhanced role that we can play. In fact there are a number of the systemic issues that we have identified in the last year that are health related. The issue of course is one of resources.

I would like to create within our office a health unit, a subunit within the office specifically dedicated to health issues. That will be an issue that you will be hearing from at the Board of Internal Economy, I think, when we bring our budget submission forward in February of this year.

**Mr. Taylor:** — Thank you very much. That concludes our questions, Mr. Chair.

**The Deputy Chair:** — Thank you very much. Seeing no further questions, we will have concluded consideration of the 2008 annual report from the Ombudsman Saskatchewan office. I'd like to thank the Ombudsman and Mr. Speaker for appearing before the committee, and thank the members of the committee for their questions.

With that, the next item of business before the committee is the consideration of estimates for the Chief Electoral Officer, vote 34, found on page 13 of the Supplementary Estimates book. And we'll just take a few minutes for the opportunity for

officials to change.

**General Revenue Fund  
Supplementary Estimates — November  
Chief Electoral Officer  
Vote 34**

**The Deputy Chair:** — Thank you very much, committee members. I'd just like to remind members that the estimate before us is statutory. It is from the Chief Electoral office. Open the floor for questions.

Okay, it appears there are no questions. So I would like to announce the Chief Electoral Officer, vote (CE01) in the amount of \$496,000. There will be no vote required because this is statutory.

[Vote 34 — Statutory.]

**The Deputy Chair:** — All right, Mr. Speaker. Unfortunately, or fortunately perhaps, there were no questions, so I'd like to thank the officials and yourself for appearing before the committee. Sorry we had to bring you out on this cold evening without a number of questions be asked. Mr. Speaker.

**The Speaker:** — Thank you, Mr. Chairman. I think it would be certainly appropriate to acknowledge the representatives from the Chief Electoral office who came this evening to respond to any questions that may have been asked. We have with us our Acting Chief Electoral Officer, Mr. David Wilkie, and he's accompanied by Brent Nadon. And so I want to express my appreciation for them coming this evening and presenting their supplementary estimate for the Assembly to review.

**The Deputy Chair:** — Thank you very much.

**General Revenue Fund  
Supplementary Estimates — November  
Legislative Assembly  
Vote 21**

**The Deputy Chair:** — With that we would now move to the supplementary estimates for the Legislative Assembly, vote 21, on page 13 of the Supplementary Estimates book. This is in the amount of \$65,000. Are there any questions?

Seeing none, if there are no questions, we have before us committee support services, subvote (LG04) in the amount of \$65,000. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Deputy Chair:** — That's carried. I'll ask a member to move the following resolution:

Be it resolved that there be granted to Her Majesty for the 12 months ending March 31, 2010, the following sums for the Legislative Assembly in the amount of \$65,000.

Moved by Mr. Chisholm. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Deputy Chair:** — That's carried.

[Vote 21 agreed to.]

**The Deputy Chair:** — Committee members, that concludes the consideration of the estimates before us. We have a draft report that we're handing out for consideration of the members.

Committee members, if you've had an opportunity to review the report, it requires a motion:

That the eighth report of the Standing Committee on House Services be adopted and presented to the Assembly.

Do I have a mover? Mr. Taylor. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Deputy Chair:** — That is carried. I'd like to thank the members of the committee for their diligence tonight in getting the work done that's before the committee. At this time I would ask for an adjournment motion. Moved by Mr. Taylor. Adjournment, all in favour?

**Some Hon. Members:** — Agreed.

**The Deputy Chair:** — Agreed. This committee now stands adjourned.

[The committee adjourned at 20:40.]