



# **STANDING COMMITTEE ON INTERGOVERNMENTAL AFFAIRS AND JUSTICE**

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**STANDING COMMITTEE ON INTERGOVERNMENTAL  
AFFAIRS AND JUSTICE**

Mr. Warren Michelson, Chair  
Moose Jaw North

Mr. Frank Quennell, Deputy Chair  
Saskatoon Meewasin

Mr. Greg Brkich  
Arm River-Watrous

Mr. Michael Chisholm  
Cut Knife-Turtleford

Mr. Wayne Elhard  
Cypress Hills

Ms. Deb Higgins  
Moose Jaw Wakamow

Hon. Laura Ross  
Regina Qu'Appelle Valley

[The committee met at 11:06.]

**The Chair:** — Well good morning, committee members, and welcome to the Intergovernmental Affairs and Justice. Today we have two items on our agenda: the consideration of Bill No. 160 and the consideration of Bill No. 172. We will start with Bill No. 160.

First of all I'd like to welcome you, the members. My name is Warren Michelson. I'm the Chair of the committee. And the members of the committee include Mr. Chisholm, Mr. Brkich, Ms. Ross, and Mr. Elhard, along with Ms. Higgins and Mr. Quennell. Welcome, Minister Morgan, and your officials. On consideration of Bill No. 160, Mr. Morgan, Minister Morgan, would you like to introduce your officials, please.

**Bill No. 160 — *The Saskatchewan Human Rights Code Amendment Act, 2010***

**Clause 1**

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined today by Judge David Arnot, the Chief Commissioner of Saskatchewan Human Rights Commission; Susan Amrud, Q.C. [Queen's Counsel], executive director, public law division; Tom Irvine, senior Crown counsel, constitutional law branch; and Maria Markatos, Crown counsel, legislative services branch.

Mr. Chair, I'm ready to make some introductory comments.

**The Chair:** — Please proceed . . . [inaudible].

**Hon. Mr. Morgan:** — I'm pleased to be able to offer opening remarks concerning Bill No. 160, *The Saskatchewan Human Rights Code Amendment Act, 2011*. Mr. Chair, *The Saskatchewan Human Rights Code Amendment Act, 2011* will amend the Code to transfer the powers and duties of the Saskatchewan Human Rights Tribunal to the Court of Queen's Bench and eliminate the tribunal. The amendments include transitional provisions to allow the tribunal to hear any matter that has already been referred to an inquiry. The amendments also remove the review provision.

The amendments move the cost provision from *The Saskatchewan Human Rights Code Regulations* to the Code and limit awarding costs to situations where there has been vexatious, frivolous, or abusive conduct on the part of any party to the proceeding.

As a result of moving the duties of the tribunal to the court, *The Labour Standards Act* will be consequentially amended to remove references in that Act to the tribunal and to provide for the appointment of an adjudicator to hear inquiries into equal pay complaints.

Mr. Chair, these amendments also support the Saskatchewan Human Rights Commission's four pillar strategic business plan by, firstly, strengthening gate keeping and investigation powers; by establishing a directed mediation approach; thirdly, by adding a provision that enables the commission to promote systemic advocacy.

With respect to directed mediation, the amendments add a new provision that allows the Chief Commissioner to direct the parties to mediation prior to referring a matter to the hearing stage. It allows the Chief Commissioner to dismiss a complaint where a reasonable offer of settlement is made by the respondent and the complainant refuses to settle.

These amendments also repeal and replace section 48, the exemption provision, with a new provision that will allow any person to adopt or implement reasonable and justifiable measures designed to prevent, reduce, or eliminate disadvantages without the prior approval of the Chief Commissioner.

The amendments expand the Chief Commissioner's powers of dismissal to allow him or her to dismiss a complaint where, in his or her opinion, there is no reasonable likelihood that a further investigation will reveal evidence of contravention of the Code and where a hearing into the complaint is not warranted given all of the circumstances.

Mr. Chair, the amendments will strengthen the threshold requirement for the filing of a complaint by moving from a subjective to an objective standard by requiring that the complainant provide enough information to show that objectively reasonable grounds exist for believing that there has been a contravention of the Code.

The amendments will also expand the delegation powers to allow the Chief Commissioner to delegate any of his or her powers under the Code to an employee of the commission, another commissioner or, in certain circumstances, a person outside of the commission.

The amendments will clarify the commission's administrative independence and powers by adding new provisions that will allow the commission to be responsible for the allocation of resources dedicated to the commission but still be accountable for any expenditures to the Minister of Justice and Attorney General.

Finally, Mr. Chair, the amendments reduce the limitation period in the Code from two years to one year. A new provision is also added to allow the Chief Commissioner to extend the limitation period if appropriate given all of the circumstances.

Mr. Chair, with those opening remarks, I welcome question from the members respecting Bill No. 160, *The Saskatchewan Human Rights Code Amendment Act*.

**The Chair:** — Thank you, Minister Morgan. Before we get into questions, I'd ask that any of the officials, if you're required to answer any questions, if you'd please state your name originally so that we could have it on the record. We'll open the floor to questions. I recognize Mr. Quennell.

**Mr. Quennell:** — Thank you, Mr. Chair. I actually don't have any questions. I think I understand the Bill.

But I do want to express a concern about Chief Commissioner Arnot's attendance and if any of my fellow committee members have questions about his answering those questions. Not that

it's not always a pleasure to see David Arnot — it is but we do not view him as an official of the Ministry of Justice. And his attendance to be here and potentially answer questions is not appropriate. It's certainly not appropriate without consultation between you and I as Chair and Deputy Chair of the committee. His attendance here would be somewhat akin to having a Provincial Court judge or the chief judge of the Provincial Court here to have answered questions about the Provincial Court legislation that was recently before this committee. That would have been highly unusual as would his attendance here today be unusual if it's proffered for that purpose.

And I don't know if any of my committee members have questions to ask, but I would have to say at the outset — because I don't want to make the objection later on, I think I should make it at the outset — that hundreds and hundreds of people have called for public consultations on this Bill and asked for it to be withdrawn so that it could happen. The government had the option. I don't think the government's ever taken this option, the Sask Party government's ever taken this option of having public hearings on a Bill, and they certainly could have had public hearings on the Bill. Chief Commissioner Arnot would have been a very appropriate witness at such public hearings — so would former Deputy Minister John White, so would professor Ken Norman, so would have been the secretary-general of Amnesty International, and so would many of the other people who oppose this Bill been appropriate witnesses if we had had public hearings for this Bill, which I think would have been highly appropriate.

So I hope that's clear. I don't have any questions. If we do have a discussion and Chief Commissioner Arnot ends up giving his point of view about this legislation and the discussion, I would consider it, Mr. Chair, to be highly inappropriate. And I would hope that my objection in advance is understood.

**The Chair:** — Mr. Minister, did you want to comment?

**Hon. Mr. Morgan:** — I'll comment. We have Chief Commissioner Arnot here as we do during budget deliberations and a variety of other ... [inaudible] ... And his role is somewhat different than that of the chief judge of the Provincial Court. His role is more akin to that of the director of prosecutions. He's the person that determines whether matters shall or shall not proceed. He is not in a judicial role in making a final determination. He determines the threshold test whether those should go ahead. It is most appropriate that he should be here for deliberations regarding this Bill.

The consultations which the member from Meewasin has raised were actually conducted by Judge Arnot, and if they have questions regarding the consultations or regarding the public input on them, here is no one better to answer them. He also was consulted extensively regarding the drafting preparation of the Bill and in fact is, for all practical purposes, the person that was the driving force behind this piece of legislation. We are highly supportive of the legislation and feel it would be a wrong choice for him not to be present and not to be here to answer questions.

In the event that we chose not to have had him here, I suspect that the members of the opposition would have raised a great hue and cry that they were being treated unfairly and being

dealt with inappropriately. And to raise it now on the eve of the committee, I think is nothing more than political grandstanding. We, however, have our officials ready, and we are ready to proceed with consideration of this Bill.

[11:15]

**The Chair:** — Thank you, Mr. Minister. Seeing no more questions, I thank you for your comments, and I agree with you. I think it's part of being open and transparent, and I appreciate the comments. Seeing no more questions, we will proceed with the voting of the Bill. In consideration of Bill No. 160, clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

[Clause 1 agreed to.]

[Clauses 2 to 28 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts the following Bill: Bill No. 160, *The Saskatchewan Human Rights Code Amendment Act, 2010*. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. I would ask a member to move that we report Bill No. 160, *The Saskatchewan Human Rights Code Amendment Act, 2010* without amendment.

**Mr. Elhard:** — I so move.

**The Chair:** — Mr. Elhard. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. Thank you, Mr. Minister, and thank you for the co-operation of the committee on Bill No. 160. We will take a two minute recess and come back with Bill No. 172.

[The committee recessed for a period of time.]

**Bill No. 172 — *The Victims of Crime Amendment Act, 2011*  
*Loi de 2011 modifiant la Loi de 1995*  
*sur les victimes d'actes criminels***

**Clause 1**

**The Chair:** — Well thank you and welcome back to the Intergovernmental Affairs and Justice Committee. Welcome back, Mr. Morgan. Minister Morgan, you've got some new officials. If you'd like to introduce them, and then if you have any opening remarks, please proceed.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined today by Dwight Lawrence, program manager, victims services branch, who's on my far right. On my right is Jan Turner, executive director, community justice division. And I'm also joined by Darcy McGovern, director at legislative services branch.

Mr. Chairman, it is a priority for this government to ensure that

the justice system provide adequate focus on and support for victims of crime. Key leadership in providing that support for victims in Saskatchewan comes through our police-based victims services programs and from our victims services providers throughout the province.

The Ministry of Justice and Attorney General provides funding for 18 police-based victim services programs in Saskatchewan. The staff and workers in these programs work closely with police and assist victims in the immediate aftermath of a crime or tragedy and throughout the criminal justice process. Services offered to meet the needs of victims include crisis intervention, information, support, and referrals to other specialized programs and services. Services are provided by staff and a team of volunteer victim support workers. If these victim services providers cannot determine who has been the victim of a crime, they're unable to provide their support for these individuals.

*The Victims of Crime Act, 1995* is being amended by this Bill to establish a requirement that members of the RCMP [Royal Canadian Mounted Police] who are acting under a provincial policing contract, as well as municipal police officers, must disclose to designated local victim service providers certain limited identification about a victim. These amendments seek to address a disclosure issue that has arisen with the RCMP across Canada. Despite the RCMP support for the timely delivery of local victim services, they need greater clarification that this information can legally be disclosed for this specific purpose. Accordingly this Bill will express the authorized limited release of victim information to designated victim services providers as named by minister's order.

To be designated under this section, the person must be engaged in the delivery of victim services. The privacy rights of the victim will be carefully safeguarded. The information provided by the police will be restricted to contact information and the limited incident information necessary to allow victim services to contact the person to determine whether they would consent to any victim services. The Act specifically limits the purposes for which the information may be used by the designated person to contacting the victim and providing or facilitating victim services. Where the individual declines those services, no further contact will be made, and the designated victim services provider will be required to destroy the information they were provided under the Act.

The legislation is being brought forward at the recommendation of our victim services branch following their consultations in Saskatchewan with, firstly, the police-based victim services units, the Saskatchewan Association of Police Affiliated Victim Services Inc., Saskatchewan-based RCMP community policing representatives, and the policing services division of the Ministry of Corrections, Policing and Public Safety.

At the national level, Saskatchewan is co-chairing the working group on RCMP referrals to victim services along with officials from Public Safety Canada. The working group was struck by the federal-provincial-territorial deputy ministers responsible for Justice to work with the RCMP to identify solutions to resolve this issue. As this is an RCMP issue, the federal government agencies have been leading the confidential consultations with the federal privacy commissioner.

The Saskatchewan Information and Privacy Commissioner has recently asked a series of questions regarding the privacy implications of this approach. We have endeavoured to answer these questions for him, and we welcome the opportunity to do so for this committee.

This Bill follows the approach adopted in Newfoundland and Labrador, and it is being considered as a model in all Canadian provincial and territorial jurisdictions. Our government is strongly of the view that the justice system must protect victims while it seeks to punish criminals. I am hopeful that all members of the committee will support this Bill to help ensure that victims can receive the victims services and support that they need.

Thank you, Mr. Chairman, we're prepared to answer questions from the committee members.

**The Chair:** — Thank you, Mr. Minister, and welcome to the officials. I would ask the officials, if you're called on to answer any questions, if you would please state your name for the record.

Mr. Minister, this is a bilingual Bill but, as a courtesy to the Chair, I'd appreciate it if you'd keep your answers in English. Thank you.

**Hon. Mr. Morgan:** — I'm quite prepared to do that, Mr. Chair.

**The Chair:** — Thank you. Are there any questions from the committee? Mr. Quennell.

**Mr. Quennell:** — Well maybe we'll have to bring in simultaneous translation at some point so as not to be stepping on the rights of the minister to work in either of the official languages of the country.

First of all I want to start, Mr. Chair, and I don't want to prolong this any longer than it's necessary to do the Bill justice. But in respect to concluding remarks of the minister in respect to support of the Bill, I think the minister knows — and I can certainly assure him today that as far as I know — every member of the Legislative Assembly, whether on the government or the opposition side, supports the principles of the Bill. And I don't think any of the discussion that's going to follow would suggest otherwise or cause anybody to believe otherwise.

The minister referred to correspondence he received from the Privacy Commissioner. He also in his remarks referred to consultation with the federal Privacy Commissioner. I am somewhat concerned, and I guess my first question is going to be, when I get to it, why the provincial Privacy Commissioner wasn't better consulted in advance of the Bill.

There were a number of questions raised by myself and other members of the Assembly in second reading. Oh I might also comment that it might have been helpful if some of the detail that was provided in the minister's introductory remarks today had been in his second reading speech. That might have shortened the second reading debate a little bit as well. But there were a number of questions raised in the second reading debate by members of the opposition about how this Bill came

about, what concerns had been raised, whether they'd been raised by the RCMP as implied by the second reading remarks of the minister, whether they came out of events or incidents in Saskatchewan or somewhere else in Canada because the second reading remarks of the minister weren't specific on that regard either.

But we in the opposition had some confidence — maybe misplaced, particularly given the lack of consultation on some other Bills that we've been debating this spring — that appropriate consultation had taken place and that this matter should proceed to committee before we rise next week.

So the day after I make my second reading remarks, the final remarks on behalf of the opposition and allow this matter to proceed to committee, we receive a copy of the letter from the Privacy Commissioner which, well I mean, suggests that the Privacy Commissioner learned of this debate and this discussion on April 20th, 2011, which seems a little late for the Privacy Commissioner to be learning about a discussion about a Bill that, I mean, deals primarily with privacy and the disclosure of information.

So if the minister was following all those criticisms and questions, why wasn't there better consultation with our own Privacy Commissioner in the province of Saskatchewan before the Bill was introduced into the legislature?

[11:30]

**Mr. McGovern:** — Darcy McGovern, director of legislative services. The focus of the legislation, the member will appreciate, is very much a response to a position that has been taken between the RCMP — the federal body — and the federal privacy commissioner. The FPT [federal-provincial-territorial] table of deputies has identified the issue as an ongoing concern and that the history on the file, which the member may recall, is that in as far back as 1999, there's been back and forth between the RCMP and the federal Privacy Commissioner in terms of two core issues, I think.

And this is, I think, the substance of the debate, is whether or not the release of a victim's information by the RCMP, a federal institution, to the police-based victim services units — which of course are not provincial government institutions either — whether that release of information is consistent with the purpose for which the information was initially collected by the police from the victim. And consistent is the key term here because in the federal privacy legislation which governs this information, whether or not that information is consistent with its collection determines whether or not it can be used in a particular manner. So that's the first issue: is it consistent with the purpose for which the information was collected when a victim's information is provided to the police?

The federal Privacy Commissioner in their ongoing discussions . . . and now it's of course Ms. Stoddart. That's part of the ongoing discussions that the federal agencies are leading on the FPT side with that office to determine whether or not that issue can be revisited. All we can do in Saskatchewan with this legislation to help address that circumstance is to provide support for that being a consistent usage.

Now our victim services branch of course, it's antithetical to their operations to suggest that in the justice system, when a victim in a crime provides information, that that's not part of the justice system response, that the purpose for which that information is provided in the first instance isn't just, as has been suggested at the federal level through that office, isn't just to prosecute the accused but rather it's for a much broader, more holistic approach. And assisting the victim in that regard is very much consistent with that. So that's the one central issue that we're seeking to assist with to the degree we can.

Obviously we can't amend federal legislation here, but we are seeking to impact it in the sense that we are trying to provide clarity that in Saskatchewan, certainly with our municipal service, police services, that it is very much part of the justice system response, and the purpose for which the police get that information is to assist the victim. It's not all about just putting someone away, though of course prosecution of offences is an important element. The victim is very important as well. And I appreciate the member's initial comments that those principles are by no means foreign to this member.

The second issue that this Bill needs to address then is with respect to the issue of consent. In the face of a decision by the federal information and privacy . . . Privacy Commissioner, I should say, that this is not consistent usage, the issue then becomes how consent is provided for that disclosure. And so that's where, as the member notes from the letter, the experience with our victims branch . . . and I'd like to let them speak to this more directly as the experts.

But their experience certainly is that informed consent is a deferred consent in this context. That the first instance when a victim is in a traumatic circumstance and being asked the question, perhaps by the police, whether or not they would like their information to be provided to victim services for further assistance, statistically it's shown that the victims are not receiving the services in those circumstances, that there's a drastic drop-off in the difference between when a trained victim service worker asks that question — do you want further services? — and when a police officer with the RCMP chooses to ask that information. And of course that's their concern.

So we have two federal issues that we're seeking to address here with respect to information that never enters into a provincial government institution. So the focus on the consultations in that regard has very much been through the FPT process with the federal commissioner. That's where the solution lies in terms of if there's a change of views, and so that has certainly been the focus in that regard.

**Mr. Quennell:** — Are there any — just because of what Mr. McGovern said about having other officials speak to it directly — are there any other officials who want to comment on that question?

**Mr. Lawrence:** — Dwight Lawrence, program manager of victim services branch. With respect to the drop-off in services delivered to victims following the '99 decision of the federal Privacy Commissioner, between 2001-2002 and then 2006-2007, we noted about a 50 per cent drop-off in referrals to victims, which is a significant drop-off, and then victims experiencing crisis not receiving services because a referral was

never made because of that privacy issue. And this is a very significant impact on victims and the well-being of victims.

And I can maybe just speak briefly about listening to the impact at a recent Western Canadian conference on victims of homicide in Edmonton, attended by a number of family survivors of homicide. Particularly a case struck me from Alberta where a referral wasn't made because there was no referral in the RCMP process, and that family never received services in their time of crisis. And so it was discouraging to hear victim services being cast in that kind of a light, as being perceived by victims and community as non-caring, non-responsive, and it's the result of an issue that creates problems with referrals.

**Mr. Quennell:** — And not to belabour the point but . . . And I understand and I appreciate the assistance the officials are giving to the committee very much. And not to belabour the point, but none of that seems to preclude consultation with our own provincial Privacy Commissioner which didn't seem to take place and seems that on the part of the Privacy Commissioner, it would have been appreciated.

**Hon. Mr. Morgan:** — We regarded, you know, the recommendation from the officials that it was a federal matter and that would be the appropriate place for the consultation to take place, and that in fact happened.

Having said that, we always appreciate and value the input from the provincial Privacy Commissioner. So we've received the comments, and you've seen the correspondence back and forth on it. Now that that correspondence has been completed, nothing comes of that that changes how we would want to go forward with this or the fact that we would want to go ahead with it. And it certainly wasn't intended to be a slight towards Mr. Dickson. We value and appreciate his work. We don't agree with him all the time, but we certainly appreciate and value and we're glad that he's there.

**Mr. Quennell:** — Thank you to the minister for that response. The Information and Privacy Commissioner in his correspondence of May 3rd, 2011, to the minister cites his authority under his enabling legislation. To comment on legislation, I think, is the questions that he sets out. He relies on that authority to ask those questions. Whether it's primarily a federal matter or not, it's provincial legislation as he points out, and therefore he has questions about it which he thinks members of the Assembly might want to ask. And as the minister pointed out, this is an opportunity, I suppose, to get some of those questions and answers on the record.

In a couple cases I may just quote from the letter and other cases I'll paraphrase. I trust that won't cause any difficulty. I think the minister and his officials have a much better an idea of what I'm going to ask than they usually do when we're discussing legislation because of the Privacy Commissioner's itemization of questions and concerns.

And his first question in the letter after the preamble setting out his authority and the date when he first learned of the debate is:

Does the proposed section 2.2(4) square with section 2.1 (a) and (b) of *The Victims of Crime Act, 1995* which

provides that victims of crime should be treated with the courtesy, compassion, and respect, and that privacy of victims should be considered and respected to the greatest extent possible?

**Mr. McGovern:** — Thank you, Mr. Chair. As the member will be aware from the minister's response, the view of the ministry certainly is that this is very much the case. The reference in the Act that's made is to 2.1, the declaration of principles. It starts with that:

(a) victims of crime should be treated with courtesy, compassion and respect;

(b) the privacy . . . should be considered and respected to the greatest extent possible.

It also goes on through a number of other letters of subclauses to talk about safety and security of the victims: information should be provided to victims about the criminal justice system and the victim's role and opportunities to participate in criminal justice; information should be provided to victims in accordance with prevailing policies and procedures, about the status of the investigation; information should be provided about victims assistance services; views, concerns and representations of victims are important; needs, concerns, diversity.

And as the member, I believe, started his comments, I'm aware that those principles are supported by all members of the Assembly and certainly by the ministry.

When our victim services group who recommends the Bill, who have, you know, I think can fairly be said, devoted their careers and their lives to supporting these principles that — and as mentioned by Mr. Lawrence — when this information isn't provided to the victims in a way that they can process in a non-traumatic way and that they can learn actually what the process is . . . That's how we respect them being treated with courtesy, compassion, and respect.

It was the view of our victims services branch that asking a victim in that context by a police officer was resulting in a huge drop-off in them being able to provide their services. And so if we're going to be substantive about this issue, in terms of courtesy, compassion, and respect, then that's exactly what, in our view, what this amendment is about, being able to provide those people with that list of services. If we're formalistic at that point, the rest of it falls off the table, and that's the instance that Mr. Lawrence mentioned for example.

**Mr. Quennell:** — Which takes us to the second issue raised by the Privacy Commissioner about the desirability, in his view, of prior express consent and I think the response to the minister that — I don't think he used the words formalistic, which Mr. McGovern just used — but that informed consent should not be expected from a victim who has recently been the subject of specific trauma. And I take it it's the ministry's view that this kind of requirement for prior expressed consent is one of the reasons for the drop-off in referrals that was previously referred to.

**Hon. Mr. Morgan:** — Well you weren't even able to seek the

consent. You know, the information didn't flow, so it was just sort of dependent on what the RCMP would make available. I mean the usual course would be the victim support group would contact the victim directly. And, you know, these people have often gone through horrific traumatic experience, and to sit down and explain to them the legalities of informed consent at that point in time may not be practical. And a more practical approach may be to have the consent sort of fall in course as the services are being there.

But I think on the part of victim services, if a victim does not want the things there, it's not a matter of saying, you must withdraw your consent or whatever. If it's clear that they don't want it, they drop away from the process virtually immediately. But we've had, I think Dwight maybe will be able to answer it better than I, the stats as to the number of people that do use the services.

[11:45]

**Mr. Lawrence:** — Right. So we understand that when victims are experiencing crisis following a horrific incident, they're not always in a position in immediate aftermath to make a decision about they need. And so the personnel around the province, part of their training includes looking at the impact of trauma, understanding the timeliness and when it's the best to offer information so they can be fully informed in order to give consent to receive services that will help them through those times.

And so yes, after the '99 decision, the numbers did drop off, as I mentioned earlier, about 50 per cent. But those victims that do receive victim services and after they've been assisted through their trauma and through the justice system . . . you know, we're just really pleased to be able to look at some of the results of a client survey that's been conducted between 2006 and 2009. And that survey, which reports from victims following their receipt of services through police-based victim services, indicates that 97 per cent of respondents were satisfied or very satisfied with the services they received, and I really can't think of many other or any other services that provide that kind of level of satisfaction, particularly when the issues are so horrific that folks are dealing with.

**Mr. Quennell:** — Thank you for that as well. Now it's the Privacy Commissioner's, except I guess, inclination when looking at legislation to prefer a minimum amount of information be provided. And in one of his questions, a third of questions or set of questions, he does raise the issue of whether the information being disclosed is more than the minimum amount that would be required to achieve the objective. I take it that the ministry's view is that that is not the case, but if we could have something on the record please.

**Mr. McGovern:** — Thank you, Mr. Chairman, to the member. And this is I think the thrust of three and four, I think as well, of the questions that he's raised. Certainly I think our opening thoughts on that of course is as little information should be disclosed in this context that can still allow us to allow victim services to do their work.

The member will be aware that in Newfoundland they have passed this legislation. We're of course restricted in terms of the

conversation of the FPT table regarding confidentiality. But it's instructive I think in Newfoundland's piece that they have chosen in their context to provide for the victim's name, the victim's age, the victim's address and telephone number, a brief description of the crime alleged to have been committed, the charge of laid, and the victim's relation to the accused.

Now a simple contact information may well be . . . I mean that hasn't been precluded as being that the response . . . What we're aware of right now in the process is that in some, for example, in a situation of extreme family violence where family members are the accused, are the victim, and are perhaps even still the custodial parent — Newfoundland's chosen to have a separate criteria with respect to a child victim — that, to put it briefly, it can be more complex.

If we think of it as an I-got-punched-by-a-stranger circumstance, then someone just being able to phone me might be the most — that simple information — may well be appropriate. But we're not sure, as suggested in the letter, that one-size-fits-all here. We're absolutely committed to it being the least information that is required. But what is required might be a little more substantive here in certain circumstances so that the individuals phoning, knowing there's a difference between a B and E [break and enter] and a domestic violence circumstance . . . and how those professionals make that contact may well be different in that context.

**Mr. D'Autremont:** — Mr. Chair.

**The Chair:** — The Chair recognizes the Government House Leader.

**Mr. D'Autremont:** — Thank you, Mr. Chairman. With leave to introduce guests.

**The Chair:** — The House Leader has asked leave to introduce guests. Is leave granted?

**Some Hon. Members:** — Agreed.

### INTRODUCTION OF GUESTS

**Mr. D'Autremont:** — Thank you, Mr. Chairman. It's my privilege to introduce to you on behalf of the Minister of Social Services 20 grade 4 students from the Robert Melrose Elementary School in Kelvington along with teachers Tracy Ziola and Shannon Murch as well as a number of chaperones that have come in today to tour the Assembly and to gain a little better understanding of how the legislature works.

And one of the young gentlemen up there, just before we left our talk, was asking me about the statute books in case somebody forgot what the law was. So I'd like to point out that the two cabinets on either side of the Speaker's dais, one is full of the statute books and one is full of regulations.

So, Mr. Chairman, I would ask that the members recognize the students, teachers, and chaperones from Kelvington.

**The Chair:** — Welcome to the students and teachers and hope you had a good trip. This is a committee meeting for the Intergovernmental Affairs and Justice. We're just in the process



of discussing consideration for Bill No. 172, *The Victims of Crime Amendment Act*. So I hope you enjoy the proceedings. So we will continue. The Chair recognizes Mr. Quennell.

**Bill No. 172 — *The Victims of Crime Amendment Act, 2011*  
*Loi de 2011 modifiant la Loi de 1995*  
*sur les victimes d'actes criminels*  
(continued)**

**Mr. Quennell:** — Thank you very much, Mr. Chair. The statute books and regulations here in the Chamber might be a good start. I'm not sure that they're always entirely up to date, but yes, that's a good start.

Mr. Chair, in the minister's remarks earlier and Mr. McGovern referred to it as well, this legislation is the second in the country, I take it, having already been passed in Newfoundland and Labrador. But I think the minister says a model for across the country. And does the minister expect that — I mean it appears that this will become law in Saskatchewan very soon, that we would be the second but we would be the second of a number — such legislation's going to be introduced and enacted across the country?

**Hon. Mr. Morgan:** — In my remarks, I indicated that that was a likelihood. And I don't think I want to talk a great deal about what takes place at FPT, but I think it's a fair assumption that all jurisdictions are dealing with this and that model that's been put forward by our jurisdiction will have a good chance of being adopted elsewhere.

**Mr. Quennell:** — Now I think I know the answer to this question, but it's not simply my question. It's Mr. Dickson's question as well. Would the government consider the publication of draft regulations for public commentary before the Bill leaves the Assembly? I have to say that with a smile because the minister and I talk about regulations quite often, and we did when our roles were reversed.

**Mr. McGovern:** — I think from the ministry's perspective, there's a substantive issue here as well in terms of the FPT processes ongoing. So there hasn't been finalization with respect to, for example, the issue we just discussed in terms of what that information might be. So those regulations are not drafted and complete by any means at this point, and so they're not subject to disclosure at this point.

**Mr. Quennell:** — Then the Privacy Commissioner, the Information and Privacy Commissioner proceeds to a question about prohibitions on improper use and disclosure of prescribed victims' information and offence provisions and penalties. And I think it's become a little bit more common over the last, well over this term of government to ensure that there are offences and penalties for — and that they are more rigorously applied even after people leave public office — for officials carrying out public duties. And I don't know if it would be considered to be unusual in this type of legislation to have such express prohibitions, penalties, and offences, but might as well get the ministry's response on the record.

**Mr. McGovern:** — Thank you, Mr. Chair, to the minister . . . to the member. We have a very closed loop of where this information is going to be held in this context. We have our

police-based victims agencies who are subject to a contract, which speaks of course to issues like privacy, like how that information is to be held. The police, as the member well knows, both the RCMP and the municipal police agencies are subject to discipline proceedings in the nature and penalties under that process. So I think in that mix, where you have a very limited group of professionals involved, we haven't had any concerns in that regard.

There are contractual obligations with respect to the victim services teams, and that the police are covered, that it wasn't recommended that offences or penalties were required in that regard, keeping in mind that those are instruments of general deterrence on a policy level. And because of the specific application here, at this point we're confident that that substantive issue can be addressed without those mechanisms.

**Mr. Quennell:** — Well I know specifically in this regard we haven't had any issues. But we certainly have had issues with police files being appropriated by . . . now one might be former, police officers and being even in the possession of members of the Legislative Assembly for some period of time and put up and sat on party websites and inappropriate use of police records in respect to crimes for which there may not have been sufficient prohibitions, offences, and penalties. But I appreciate it in respect to the types of matters that we're talking about today, perhaps not so many specific issues.

The next question that the Information and Privacy Commissioner raises is in respect to the timely destruction of personal information in the event that the individual declines the offer for service, which is not an uncommon occurrence, I take it from the discussion we've been having today. And the commissioner suggests that it be a relatively short period of time, 48 hours. I appreciate there might be some difficulty with that short a period of time. So I would ask the minister or the officials to address the question in principle, and not just whether 48 hours is an appropriate length of time but whether, after some reasonable period of time, there shouldn't be set out in the legislation a requirement that the information be destroyed.

**Hon. Mr. Morgan:** — I'm advised by the officials that the timeline may vary. It sort of depends on the context of the situation. As you can see, the situations would, as you understand, would be different. So I'll let Ms. Turner answer that.

**Ms. Turner:** — Jan Turner, executive director, community justice division. Certainly there would be no attempt to hold information longer than need be, but just to prescribe a time might be difficult. As the member is aware, there is very remote detachments in some parts of the province. Victim services is regionally based in other parts. So just the timeliness may vary by a few days, depending on the location. So there's no intent that the records would be held any longer than need be. But as I say, setting a specific time might be difficult for all of the units to achieve.

**Mr. McGovern:** — Mr. McGovern again. It might be useful for the committee to note that Shawna Lumgair, who's the chairperson of the Saskatchewan Association of Police Affiliated Victim Services, addresses the circumstance already.

As the member knows, we've added in the legislation a specific requirement for destruction with respect to this legislation. We didn't speak to a short timeline, I think for the reasons that Ms. Turner spoke to.

But I note that in her letter of support to Mr. Lingenfelter with respect to Bill 172, she notes that, as is regular practice with all victim services programs, if the victim declines the offer, then no further contact is made and the information is destroyed.

So just to be fair to that, I think the ministry would acknowledge that this is a recognition of an existing good practice that is in that community and a statement in the legislation that we don't think they'll have too much difficulty complying with, albeit perhaps not on a specific hourly basis.

[12:00]

**Mr. Quennell:** — And again I guess this is a follow-up question. And it raises the same issues about how long do you wait. But it's, in a way, a different question that the Information and Privacy Commissioner asks. If at the point of first contact the victim doesn't decline, and then they consent — for whatever reason, not necessarily the reason set out by the Information and Privacy Commissioner but possibly for that reason — and it goes forward to a designated person or classes of person, and then they decline, they want to opt out, and we've discussed the ability of victims to do that at any point, will the information be destroyed in that case? And arguably there wouldn't be as much need for a longer timeline in that case because then, I mean, it's a more considered decision to have, to have opted out.

**Hon. Mr. Morgan:** — I think you're probably right. In those circumstances, a shorter time period might be appropriate but not necessarily a prescribed timeline. You may have a vulnerable victim that is ambivalent or is changing his or her mind periodically, and then they may say to you, well we'll wait longer once again. And I think it depends on the context. And I think for purposes of the Act and for purposes of the regulations, we would be reluctant to specify a specific timeline because of the nature of the variations in the context.

**Mr. Quennell:** — Finally, the Information and Privacy Commissioner had some questions about the list of designated persons or class of designated persons, and again I guess this is a matter again of what can be done in regulation and what should be appropriately done in a Bill, that actually gets debated by the Assembly. The commissioner makes a good point. I think we all agree with it. Governance is often very, very complex, and in this area it's considerably complex as well — community agencies that provide services to victims, youth justice committees, mediation services, mental health services, committee counselling services, etc., etc.

How would the preparation of regulations, how would the ministry ascertain who qualifies and who doesn't qualify to be in this designated list? And would it be restricted to municipal police services or other police services, or is it going to be broader to include these NGOs [non-government organization] and CBOs [community-based organization]?

**Mr. McGovern:** — Mr. Chair, I'll make an initial response to

that at least, that the intention is that police-based victim services units are the prescribed designated parties in this regard.

Certainly it's fair for the Information and Privacy Commissioner to raise the issue. I think we're alive to the issue. The intention is to provide it to those organizations only. The difficulty, as the member's aware with listing them specifically in the legislation, is that that is an evolving process. We have 18 of those, I believe, right now with different names and locations, and so I think it lends itself better to regulations. That's not a surprising thing for a Justice lawyer to indicate, I appreciate. But, I think, in this case that's the intention. There certainly is no intention to make this a general process. It's very much specific to these organizations.

**Mr. Quennell:** — Again this is all really discussion of detail and, I think, that discussion . . . [inaudible] . . . public interest, there's no argument about principles here as far as I'm aware. And not to quibble at length, but if a designated list is going to be police-based victim services, can't a definition of or could not a definition of police-based victim services be provided in the Bill itself, which would have given some comfort to the Information and Privacy Commissioner and others who have that type of concern?

**Mr. McGovern:** — I'm not going to suggest that it would be an impossibility to take a snapshot now and capture for the legislation what may have been done. Obviously our drafters are skilled folk, and they could define their way around that.

The trick would be of course how you get to a growth position on that if we end up with 20, if we end up with having to . . . [inaudible] . . . individuals and how they're delivered. I think in that regard, we're prepared certainly to have that discussion with the Information and Privacy Commissioner to provide that comfort in a different context. But I think for the members of this committee and for the Assembly, at this point we would state our specific intent and be comfortable with that.

**Mr. Quennell:** — Mr. Chair, I think those are all my questions. I want to thank all the officials for their service and their assistance in responding to the concerns that have been raised by me and directly and indirectly by an independent officer of the legislature. And with that, I'm concluded unless others have questions.

**The Chair:** — Thank you, Mr. Quennell. Are there any other questions or comments by committee members? Seeing none, we will proceed with the voting on clauses of this Bill. I would remind the members that this is a bilingual Bill. Bill No. 172, *The Victims of Crime Amendment Act, 2011*, clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 7 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent

of the Legislative Assembly of Saskatchewan, enacts as follows: Bill No. 172, *The Victims of Crime Amendment Act, 2011* without amendment. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — I would ask a member to move that we report Bill No. 172, *The Victims of Crime Amendment Act, 2011* without amendment.

**Mr. Brkich:** — I so move.

**The Chair:** — Mr. Brkich. Thank you. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Thank you. Mr. Minister, thank you and your officials for your attendance.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I would like to thank the officials, on behalf of myself and all of the members, for being here today and for their ongoing professional assistance in these matters.

**The Chair:** — Thanks again, this concludes our business for today. I'd ask a member to move a motion of adjournment.

**Hon. Ms. Ross:** — I so move.

**The Chair:** — Ms. Ross. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried, thank you. Committee members, this meeting is now adjourned.

[The committee adjourned at 12:07.]