Standing Committee on Oversight of Government Operations and Public Accounts Hearing on the 2022-23 Annual Report of the Information and Privacy Commissioner Iqaluit, Nunavut April 20, 2024

Members Present:

George Hickes, Chair Bobby Anavilok Janet Pitsiulaaq Brewster Adam Lightstone Joanna Quassa Joseph Inagayuk Quqqiaq Alexander Sammurtok, Co-Chair Joe Savikataaq Craig Simailak

Staff Members:

Alex Baldwin Stephen Innuksuk

Interpreters:

Eva Ayalik Andrew Dialla Lisa Ipeelee James Panioyak Jacopoosie Peter Blandina Tulugarjuk

Witnesses:

Megan Hunt, Deputy Minister of Health
John MacLean, Senior Legal Counsel
Kyle Seeley, Deputy Minister of Community
and Government Services
Graham Steele, Information and Privacy
Commissioner
Pauloosie Suvega, Acting Deputy Minister of
Executive and Intergovernmental Affairs
Dean Wells, Corporate Chief Information
Officer

Susan Anderson, Chief Information Officer

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Mark Witzaney, Director of Access to Information and Privacy Protection, Community and Government Services

>>Committee commenced at 9:59

Chairman (Mr. Hickes): Thank you. I would like to open up the Committee meeting again with the Information and Privacy Commissioner and government witnesses. Before we get started, I would like to ask Ms. Quassa to lead us in prayer, please.

>>Prayer

Chairman: Thank you, Ms. Quassa. Just before we get started, I understand, Mr. Steele, you have some information to provide from some questioning yesterday. Mr. Steele.

Mr. Steele (interpretation): Good morning, Mr. Chairman. Thank you. (interpretation ends) Yesterday the Member for Iqaluit-Manirajak asked in which Canadian jurisdictions the commissioner has ordermaking power. I did not have that list at hand yesterday, but I do have it now.

Mr. Chairman, I can inform the Members that the following jurisdictions give their information and privacy commissioner the power to issue orders: Northwest Territories, British Columbia, Alberta, Ontario, Quebec, Prince Edward Island, Newfoundland and Labrador, and also the federal information commissioner has the power to issue orders. The Government of Nova Scotia has said that they intend to give their commissioner the power, but have not done so yet. Thank you, Mr. Chairman.

Chairman: Thank you for that, Mr. Steele. Before I go to the next name on my list, I would like to touch on something that was mentioned yesterday by Mr. Steele on the culture of self-reporting. We were talking

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Mr. Steele: Thank you, Mr. Chairman. In fact, there should be no penalties at all. What we want to do is we encourage people to report when there has been a privacy incident, and we don't want to do anything to make them think that they will be punished for it.

Let's be clear: the penalty provision is only for the sort of case where there is a very clear, very deliberate breach of somebody else's privacy. Other than that, the emphasis of the legislation, certainly my emphasis, is on learning what we can from the incident and trying to change policies, procedures, and systems so that it doesn't happen again. In those cases, Mr. Chairman, there's no question of punishment at all. Thank you.

Chairman: Thank you for that. The next name I have on my list: Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. Good morning, officials and Nunavummiut joining us or watching the proceedings today. I hope everyone is enjoying the nice weather.

I want to start off by thanking Commissioner Steele for providing his supplementary response in identifying the number of Canadian jurisdictions that currently have order-making power, authority given to privacy commissioners, and adding the additional province that's in the process or in

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the works or has committed to doing so. As you had indicated, there are currently 7 out of 13 provinces and territories, eight if you want to include the federal jurisdiction, that have order-making powers, which does represent the majority, and in my opinion, common best practice. Thank you for providing that list.

That further strengthens my support that I have been calling for our current ATIPP Act to also incorporate order-making powers to the privacy commissioner, again, reiterating that the public has the right to public information, and in order to increase accountability and transparency, I believe that the government should be providing as much information as possible, going above and beyond the minimum requirements, and accepting recommendations, or I guess they would be orders, more frequently.

I would like to move on to my first line of questions now and it will be to the commissioner. I would like to briefly revisit the issue of the *Police Act*. When we were considering this bill during the previous Assembly, we considered the reporting practices from a number of Canadian jurisdictions, including the independent Ontario investigation body. Assuming that you have done your research and preparation for consulting with the department on the reporting mechanisms of this bill or Act, I would like to ask which jurisdictions' reporting practices would be a good model for Nunavut to replicate. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Steele.

Mr. Steele: Thank you, Mr. Chairman. You pay me a compliment by suggesting that I have done thorough background research on this question, and I have not, to be honest. I'm aware of the fact that Ontario

investigation reports are generally public. I think that's a good practice.

I'll go back to what I said yesterday, Mr. Chairman, and that is that it's not really for me to say to this legislature what they should do or not do. What I want more than anything is clarity. I think what is missing from the *Police Act* as it was passed in this legislature almost three years ago now is that it's not clear on the face of the legislation whether the investigation body's report will in fact be available to the public, as it is in at least some other Canadian jurisdictions. To me the important thing is to make it clear, either it is public or it is not public, and not leave it as uncertain as it is today.

That's why one of my suggestions in terms of best practices is when the Government of Nunavut enters into an agreement with an external investigation body, that agreement should be clear about the ownership of the report. The way that it has been working up until now, for example, there's an incident in Nunavut, the RCMP asks the City of Ottawa Police to investigate and prepare a report, and then when somebody, a journalist, a citizen, or anybody asks for the report, the RCMP says, "It's not our report." The City of Ottawa is not within our jurisdiction, so they say, "Well, you don't have any authority over us and we consider it to be our own internal report." Nobody in Nunavut gets the report.

Let's make it clear. That's really my fundamental point, rather than saying be like this province or be like that province. It's let's have clarity. Thank you, Mr. Chairman.

Chairman: Thank you, Mr. Steele. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. Thank you for your response. I agree with the

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My next question is going to be for the commissioner again. You did make a very good comment yesterday that any agreements that the Government of Nunavut has with outside organizations, it's very important that any sort of reports or intellectual property remains the property of the Government of Nunavut. Under the Access to Information Act, I believe that the Government of Nunavut needs to get permission from third parties to release such information that they have through the Access to Information Act.

With our current recruitment challenges that the territory is facing and the increasing requirement to utilize consultants, I would like to ask the commissioner if he has identified any sort of trends with regard to ATIPP requests where the information is not shareable because it is not the Government of Nunavut's property. Thank you, Mr. Chairman.

Chairman: Mr. Steele.

Mr. Steele: Mr. Chairman, I don't think that I'm the right one to talk about trends because, remember, I only hear appeals. I only see the cases where somebody is not satisfied with the response that they have received. The better people to talk to about trends within the government are the people from Executive and Intergovernmental Affairs.

Let me address your question as best I can, given the fact that I don't see all the requests that come to the government. You

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The problem that I do see is that sometimes if a third party says, "No, we don't want you to release it," and the department says, "Fine, we're not releasing it," that's not what the law says. I have to keep reminding departments that that is not what the law says. What it says is that you ask for their opinion, you get their opinion, and then you take that into account when you're making a decision under the law.

Now, recently I saw a case from the Department of Economic Development and Transportation, and they got it exactly right. They asked the third party for their opinion but didn't agree with everything the third party said and made their own decision. That's the way it's supposed to work. For me, I'm going like "Yes, finally somebody got it exactly right." That's what I would like to see all departments do.

If I can mention another issue, Mr. Chairman, this is an issue that is still not resolved. Why? Because there is a lack of clarity and, that is, if there is a harassment complaint against a GN employee, it comes under what is called Policy 1010, policy 1-0-1-0, which is referred to in the government as Policy 1010. What the Department of Human Resources will do in the case of a 1010 complaint is they will hire an outside

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investigator, typically a lawyer, almost always a lawyer, who does not live in Nunavut. They do not live in Nunavut. They are qualified to practise law, usually, in Nunavut, but they are hired not as a lawyer but as an investigator.

What happens is that some of the people involved in the complaint will apply to the department and say, "We want to see a copy of that investigation report," and sometimes the department will say yes and sometimes they will say no. It's still not as clear as it should be. When the government hires an investigator and the investigator does an investigation and writes a report, who does that report belong to? Does it belong to the investigator or does it belong to the Government of Nunayut?

Now, it would be really easy to solve this problem, which is happening right now, today. That is a problem that has never properly been resolved and, that is, that when the investigator is hired, the contract is very clear that the results of the investigation, the report, belong to the Government of Nunavut. That way there could be no question that the report is subject to the access law. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. Thank you, Commissioner Steele. Before I pose the same question to the Government of Nunavut, I have one more follow-up question I would like to ask you. Thank you for explaining that specific aspect of the Act that the government only must seek an opinion of third-parties before releasing information.

I would like to raise another matter, and it's with regard to children in care of the Government of Nunavut and placed in out-of-territory group homes. There have been a

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number of instances where these young children out of territory have raised very serious allegations of mistreatment. I recall a family had requested to get information through the Department of Family Services on the report of an incident that occurred in one of these group homes, and I believe that family was denied that information.

Do you believe that they have the ability to make an appeal to you to seek that information; the incident report created by employees in the group home in relation to this young child that has been placed there? Thank you, Mr. Chairman.

Chairman: Thank you, Mr. Lightstone. Commissioner Steele, before I go to you, I do recognize that this is a specific example that the Member is asking about. I know you likely don't have the details of that, so I know you would be reluctant, if even able, to comment on that specific example, but the outline of the issue I think is a fair question. Mr. Steele.

Mr. Steele: Mr. Chairman, you just took the two first paragraphs of my answer. Thank you. That's exactly a what I was going to say. Obviously, I cannot address a case about which I know none of the facts. That's one of the important things for somebody in my role, is that you do not have the facts you should not comment on a specific case because sometimes the facts can come out an in surprising ways.

I don't want anything that I'm about to say to be taken as a comment on this specific case, but Member, you do raise a very interesting question: could they appeal to me?

What happens in a lot of cases is that somebody wants some information from the government, and they will simply approach the department and say "can we have this

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information?" Sometimes the department will say yes. Sometimes the department will say no, and that happenings all the time every day, because not everything has to go through the access law. It says right in the access law that if the government would normally release this kind of information, they can't force somebody to go through and make a formal application. Okay, so people are asking for information from the government all the time, every day; no problem.

If somebody is refused information that they feel that they have a right to, then what I would suggest to them is, if you have approached the department informally and the answer is no, now it's time to file a formal request because now you're bringing yourself inside the four walls of the access law and there's a definite system. You're going to get a formal answer from the government in accordance with the rules under the access law.

If you're not satisfied with the response, then you can appeal to me. I will look at the situation as an independent officer of this House. I will make a recommendation to the minister. Then the minister makes a decision in writing and if the person is still not happy, then they can go to court. So that's the system.

I would say, Member, yes, a family involved in the kind of situation that you're talking about does have a right to appeal to me, but they first have to make a formal application to the department and get a formal answer. Then they can come to me. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. Thank you, commissioner. I appreciate your

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response. I would like to return to my original question and pose it to the Government of Nunavut.

As the commissioner had indicated, when the government has agreements with third parties, whether it's contracts or otherwise, and receives ATIPP requests, the government only has to seek an opinion before releasing that information or deciding whether or not to release that information to the ATIPP applicant. I would like to ask: how often do ATIPP coordinators have to seek the opinion of third parties, and how often is that information either shared or declined? Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) It depends on the departments. Some departments interact more with contractor than others. It depends on the content of the request itself. Section 24 of the Access to *Information and Protection of Privacy Act* is the one that requires third party notifications, and it does apply if there's, say, trade secrets at play or financial commercial or technical or labour relations information. If it's just a report that they prepared for the government, then that's in our custody or control and so other factors come into play that aren't subject to third party notification. Those are things like privacy, whether or not it's the subject of a law enforcement investigation. The commissioner mentioned investigations for employee relations matters. There are other exemptions under the legislation that apply more appropriately to those types of records.

Where we see section 24 used the most is when it is in response to a request for proposal or some sort of contract negotiation or a third party is requesting those records

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That is where we see the third party notification the most often. We really don't see it much for those types of investigation reports. It's more so when it's talking about contract negotiations or contracts. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. Thank you, Mr. Witzaney, for that response. Maybe it would be a good idea for the committee to dig further into that issue.

Returning to the issue of consultants and the contracts that the government has between the government and the individual performing the work, assuming that those types of contracts go through Department of Justice and Department of Community and Government Services for vetting and drafting and approval, who retains the ownership of the work, the intellectual property that is being produced? Thank you, Mr. Chairman.

Chairman: Thank you. Mr. MacLean.

Mr. MacLean: Thank you, Mr. Chairman. *Ullaakkut*, and I thank the Member for the question. It depends on the contract, but generally speaking, when the government pays for the production of information, or the production of a report, or development of a program, we want to own the result of the product. The intellectual property provisions are addressed in the contract.

Similarly, if there is a consultant working in our building or working hand in hand with a government team within government employees, it is hard-wired into the contract that they have to abide by the same privacy ϤͰʹϽͺʹϷϘϟϹϤϽϹʹʹϽϹͺΛϲʹʹϲϭϟϹ^ϧ ϒͽϸʹͿ·ʹͼʹϭϲʹʹϽϹͺϤͰʹͿϽͺϤϲϽϘͼͺϧϧϧʹϹͼ ϤϧϲϽϤϽϹϧϹϥ ʹʹϧϧϧϧϧϧ

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rules as employees do, because that is straight out of the *Access to Information and Protection of Privacy Act* definition of employees. So that is built into consulting services contracts. *Qujannamiik*, Mr. Chairman.

Chairman: Thank you. Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. Thank you for your response. I would like to move on to my last line of questioning. I've gone way longer than I intended to on those issues. My next question will be for the commissioner, and then I'll be is posing the same question to the government and its relation to Claire's Law.

During the last appearance before the Standing Committee, you had indicated that you provided formal written input in 2021 to the Department of Justice concerning the development of Claire's Law. A number of Canadian jurisdictions have passed this type of legislation, which again addresses the disclosure of information with respect to intimate partner violence. As of today, have you had any further discussions with department or the Government of Nunavut on this specific issue? Thank you, Mr. Chairman.

Chairman: Mr. Steele.

Mr. Steele: Mr. Chairman, the answer is no. There have been no further discussions on that topic since the letter that the Member referred to. Thank you, Mr. Chairman.

Chairman: Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. Thank you, commissioner. I'm posing the very similar question to the Government of Nunavut. Since the commissioner provided his input in 2021 to the Department of Justice

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concerning the development of Clair's Law, as of today, what is the status of the development of this legislation? Thank you, Mr. Chairman.

Chairman: Thank you. Mr. MacLean.

Mr. MacLean: Thank you, Mr. Chairman. I don't have a comprehensive update for the Member. I can tell you it is still on the legislative priority list for the department and it is still being looked at by colleagues in Justice policy, but I do not have any concrete timelines for you today. *Qujannamiik*, Mr. Chairman.

Chairman: Mr. Lightstone.

Mr. Lightstone: Thank you, Mr. Chairman. Thank you for the response. I guess that's something that we could follow up on in the Committee report.

Last question on this topic. Claire's Law is developed and designed to be a very powerful tool to prevent intimate partner violence, and when I first posed questions on this issue about Claire's Law, I also cited the very rampant rates of child abuse and how this powerful tool can also be utilized to protect children from harm.

During the Department of Justice's development and work towards developing Claire's Law, has the department taken my recommendation into consideration and also utilized the Claire's Law to provide warning to potential victims of child abuse? Thank you, Mr. Chairman.

Chairman: Mr. MacLean.

Mr. MacLean: *Qujannamiik*, Mr. Chairman. I don't have a straight yes or no answer for you on that question, but I can tell you we will take it under advisement and will refer

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that question to my colleagues at Justice policy. Thank you, Mr. Chairman.

Chairman: Thank you. Next name I have on my list is Ms. Brewster.

Ms. Brewster: *Ullaakkut*, everyone. Thank you, Mr. Chairman. Somebody very kindly cleaned up my desk between the time we left and came back this morning, and so my intention piles are a little bit messed up. What I'm going to start off by doing while I try to figure out where I was at is to just ask some follow-up questions.

Commissioner, in a response just now you mentioned policy 1010, the HR policy on harassment and so I would just like to go back to your report where you stated that the *Access to Information and Protection of Privacy Act* has become a proxy battle ground for labour relations within the Government of Nunavut. I believe you're referring to that use of those access to information and privacy in relation to harassment issues.

I would just like know if you've observed any improvement in this area before your last appearance before the standing committee. Thank you, Mr. Chairman.

Chairman: Mr. Steele.

Mr. Steele: Thank you, Mr. Chairman. What the Member is referring to is my previous annual report where I had noted that a lot of what I was seeing was coming from inside the Government of Nunavut, both on the access and the privacy side.

When we talk about the access and the privacy law, I think we tend to think of citizens out there in the world and they have some dealings with the government, and they either want information from the government

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or they believe the government has breached their privacy, but what was happening is that the biggest users of the law, at least from what I saw, were employees of Government of Nunavut.

Now, the law doesn't exclude them. The point I was making back then, Member, was that the law really wasn't written with that kind of case in mind, and what was happening is that employees were fighting with each other, or fighting with management, and using the access and privacy law to do it. That's not really, in my opinion, what the law was designed for, but that was the way that it was being used.

In my first year here in Nunavut, I would say that easily the majority of the cases that I saw fit within that category. So that is why I mentioned it. I used a fancy phrase; the proxy battleground, but really all that means is people were using this law to fight each other inside the Government of Nunavut. That's really what I meant.

Now interestingly, in my second year and into my third year here in Nunavut, that kind of faded away and it was never clear to me why. Since the Department of Executive and Intergovernmental Affairs hasn't been producing any statistics for a number of years now, it hasn't been clear to me what's going on down on the ground. I only see the appeals, but there was a period when I was getting very few of that kind of thing, and it's interesting; just in the last few months it has come back again.

Since the beginning of this calendar year, 2024, I would say the majority of the new cases that I've seen have involved fights inside the Government of Nunavut. I've been hoping that they were gone forever, but that has turned out, sadly, not to be the case. Thank you, Mr. Chairman.

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Ms. Brewster: Thank you, Mr. Chairman. Commissioner, the Standing Committee's November 2022 report recommended that the Minister responsible for the *Public Service Act* formally requests the Office of the Ethics Officer to initiate contact with your office to discuss areas of potential collaboration. What discussions have you had with the office of Nunavut's ethics officer concerning the relationship between his office's role in addressing employee concerns regarding wrongdoing and harassment and your office's role with respect to the use of the *Access to Information and Protection of Privacy Act*? Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Steele.

Mr. Steele: Thank you, Mr. Chairman. The ethics officer is appointed under the *Public* Service Act to deal with certain kind of complaints from inside the Government of Nunavut. The short answer to your question, Member: there have been no discussions at all. However, I want to add a couple of details to that. One is that there has been a lot of turnover in that position over the last year. The previous ethics officer retired, then somebody was appointed and a few months later was named as a judge. So then there was somebody temporary to replace her for just a few months, and it's only about two months ago that I think another ethics officer has been appointed. Hopefully that person will stay, but because of the turnover, I really didn't expect there to be much conversation.

Having said that, the other thing I want to add, Mr. Chairman, is really, we do very different jobs, the ethics officer and I, and I don't anticipate that there would be a lot of overlap or ways for us to cooperate. In the three years that I've been in Nunavut and I have had, if you add up the total number of

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files, it's over 200 now, I've had one; one case out of over 200 where there was a good reason for me to consult with the ethics officer because there was overlap between what I was doing and what he was doing.

I anticipate that there will be ongoing conversation between the new ethics officer and myself once he settles into his role, but it's not going to apply to a lot of the work that we do because we do have quite different jobs. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. Commissioner, I posed that question in the context of perhaps working together to help to educate specifically employees on the route that they can take to address issues of concern that they have within the workplace. Does that make better sense to you? Thank you, Mr. Chairman.

Chairman: Commissioner Steele.

Mr. Steele: Thank you, Mr. Chairman. Yes, Member, that does make sense to me. It's always a good idea to make sure that employees of the Government of Nunavut know what avenues are available to them if there's some issue that they have that they need to pursue. There's the ethics officer if they seen what they believe to be wrongdoing. There's access and privacy if there's information that they want, or if they believe that their privacy has been breached.

Let's not forget that the main avenue for Government of Nunavut employees is the collective agreement and the grievance process, which is very well established and I think very well known. They are quite different processes without a lot of overlap between them, but if there's anything I can do together with the public service, the

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Department of Human Resources, and the ethics officer to help educate Government of Nunavut employees about what options are available to them, I'm more than happy to do that.

To date though, to answer your question directly, Member, there have been no discussions of that kind. Thank you, Mr. Chairman.

Chairman: Thank you, Mr. Steele. I'm sure Mr. Murdoch-Flowers would be interested in speaking to both the Department of HR and yourself. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. I don't know if I have publicly congratulated Mr. Murdoch-Flowers on his appointment, so congratulations. I'm sure you're listening today.

To the Department of Executive and Intergovernmental Affairs, on that same issue of the government's response to the Standing Committee's November 2022 report, it indicated that to date the Government of Nunavut has not had any discussions to revise the grievance processes in relation to access to information and protection of privacy, and the issue can be raised at the next meeting with the Nunavut Employees Union. I would like to know what the status of these discussions are. Thank you, Mr. Chairman.

Chairman: Thank you Ms. Brewster. Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) I'll have to confer with my colleagues at the Department of Human Resources. Unfortunately, they're not here with us today, but I think it's a good avenue to explore because the commissioner is right

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that we do have a lot of these types of files that come to us where it's an employee relations matter or a conflict in the workplace that escalates to the Access Act. It's not the best avenue for that. I think a lot of people expect there to be a smoking gun in their supervisor's email or in one of their colleague's emails that says, "Oh, this person was talking about me behind my back."

The reality is that most Government of Nunavut employees understand that there's an access Act and will say those things on the phone or to each other face to face. I don't think anybody actually gets much out of the access process when it comes to employee relations files.

These also are files that tend to get to the Information and Privacy Commissioner's desk just because the emotions are high and so people want to explore any kind of avenue for relief if they aren't getting the records they are looking for or expect to see. However, it continues to be an area that I think our department needs to collaborate closer with the Department of Human Resources on, particularly about providing more information to employees when they are being either terminated or if there is a conflict in the workplace, being able to provide them more information may satisfy them that there's not some sort of background conspiracy happening, because most of the time if it's getting to an employee relations case there's some pretty egregious behaviour happening.

Your point is well taken and I will follow-up with Human Resources to see what more we can do to explore those avenues. (interpretation) Thank you, Mr. Chairman.

Chairman: Ms. Brewster.

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Ms. Brewster: Thank you for that response. I know that there's work to update the Human Resources Manual, section 1104 on the release of information and I'm hearing from the witness that he doesn't necessarily have that information in front of him, so I would like to ask for a commitment to get back to us with an update on that, Mr. Chairman. Thank you.

Chairman: Thank you. Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends)
Absolutely. As a response to this Committee following the hearings, or as a response to the report, I will be more than happy to confer with our colleagues at the Department of Human Resources and give a full update. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you for that commitment. Ms. Brewster.

Ms. Brewster: Thank you. I appreciate that. It's early in the morning. I keep fumbling with when to put my headphone on.

I would like to go back to the Information and Privacy Commissioner and just talk a little bit about different public bodies. Just to start, commissioner, what's your position with respect to making alcohol education committees subject to the *Access to Information and Protection of Privacy Act*? Thank you, Mr. Chairman.

Chairman: Mr. Steele.

Mr. Steele: Thank you, Mr. Chairman. Just to start with a very brief bit of background, the access law and privacy law applies only to public bodies. Those are the words in the English version of the law, "a public body," and which is defined to a certain extent, but modern governments have so many entities

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where it is not clear whether they fit within the definition or not.

The Member is asking whether the alcohol education committees are, or are not, or should be, or should not be under the legislation. All I can say, Member, is that to my knowledge, and I've read every single appeal decision since Nunavut was created, the question has never been raised.

I do not want to sit here and give an advance opinion on it because if somebody were to actually apply for information from one of those committees or complain about a privacy breach, I would have to look at it with an open mind and not already be committed to a certain answer. All I can say, Member, is I can look at the definition and it's not clear to me whether they are in or out. It's something I'd have to look at very carefully given the facts of a particular case.

I'll end, Mr. Chairman, by just going back to something that seems to be one of my main points of my appearance before this Committee, and that is what I want more than anything is clarity. If you, Members, believe that alcohol education committee should be covered by this law, well that's an easy thing to do. You either change the law to say so, or you put pressure on the government to add them to the regulation, because the list of public bodies is in a regulation. So that's not something this House would change. It's something that the cabinet would change, and if you believe that they should be, you need to tell the government to add them to that regulation. Thank you, Mr. Chairman.

Chairman: Thank you, Mr. Steele. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. I appreciate that. Commissioner, the

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Government of Nunavut's strategy titled *Taking Steps to Reduce Alcohol-Related Harm in Nunavut* was published in October, 2016, and it indicated that it would explore "...ways to increase communication between the courts and the permit system with respect to alcohol-related limitations, restrictions and prohibitions for individuals in the territory...". During your last appearance before the Standing Committee, you stated that you did not understand what the holdup could be about the courts and the government talking to each other about who was under an alcohol prohibition and who was not.

I would like to know: have you had any discussions with the government concerning this issue? Thank you, Mr. Chairman.

Chairman: Mr. Steele.

Mr. Steele: Thank you, Mr. Chairman. Again, the short answer is no. There have been no such discussions, but I hasten to add, nor would I expect there to be because that's not the sort of thing I would expect the government to consult me about.

I just want to make sure that we understand each other, Member, about what exactly I did say last time, and that is that court orders are public documents. Now, sometimes the order may be that somebody's identity is not revealed, but let's leave those aside. However, your typical court order is a public document because our courts are public. They operate in public, and so there's nothing inherently secret about a court order.

If somebody's under an alcohol ban, which is honestly a common provision of, for example, bail orders and often of sentencing, that's a public document. What I was saying last time, and I'll say again, is if the issue is that people don't know what the court orders say, I don't understand what's preventing

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anybody from just going to the court and getting the orders. They're public documents.

The other issue, which I understood last time was the main issue was: is it really the role of the retailer, the person selling the alcohol, for example, the beer and wine store here in Igaluit to enforce that? I completely understand people who say that's not the role of the retailer, but that's a different issue entirely from the question of how could we know who's under an alcohol ban. Court orders are public documents and I don't understand why.... This is not my area of expertise, so I should just stop there and say I don't understand why there would be any problem knowing what those orders say, but maybe I'm missing something big because I don't practice in this area of law. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. Commissioner, the example that you just gave of a retailer was the beer and wine store, which is in fact the Government of Nunavut that runs that establishment. I guess its an establishment. That's correct. I think that's different from a bar that is owned by individuals or a group of individuals. When it comes to that beer and wine store and the permit system, both of these are run by the Government of Nunavut. The employees are employed by the Government of Nunavut.

As you say, these court orders are public documents. They're accessible to anybody who knows how to look them up. To me, I think there are two different things. There's the issue of communicating internally about those orders, which I think would include the alcohol education committees, which are not... . Actually, I'm not going to try to figure it out in my question.

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To be clear, the beer and wine store that is run by the Government of Nunavut here in Iqaluit as well as the one in Rankin Inlet are run by employees who are employed by the Government of Nunavut. The permit offices are also Government of Nunavut employees, and so that information is internal information that could be used to create a list of do not sell. I don't know what the list would be called formally, and I'm wondering whether or not that in fact would be a breach of somebody's privacy. Thank you, Mr. Chairman.

Chairman: Mr. Steele.

Mr. Steele: Mr. Chairman, I agree with the Member that there are two different issues. That's really what I was trying to say. Member, you and I agree on that point. I guess what I'm saying is that I don't see any privacy issue here because court orders are public.

There is a completely different issue which is well outside of my jurisdiction, which is: what is the practical way to enforce these orders on the ground? Really all I'm saying is that has nothing to do with privacy, unless I'm missing something big about court orders not being public, but I don't think I am.

All I'm saying is what you're raising, Member, is a legitimate issue. It's just not for me; it's not for this forum. It's about how the government is going to enforce it. I don't see it, in short, as a privacy issue at all. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. I think I need another cup of coffee before I can get down to focus here. I'll go to the Government of Nunavut to ask, related to the strategy *Taking Steps to Reduce Alcohol-*

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Related Harm in Nunavut, and specifically that commitment to explore ways to increase communication between the courts and the permit system and ask: what actions is the government taking to implement that idea? Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Suvega.

Mr. Suvega (interpretation): Thank you, Mr. Chairman (interpretation ends) and thank you to the Member for that question. We don't have representatives from the Department of Finance here to speak to those in detail, and we can take some of those questions back and try and provide a more detailed response. I wonder if I could ask Mr. Witzaney to provide a supplementary, through you, Mr. Chairman. (interpretation) Thank you.

Chairman: Thank you. Please proceed, Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) I'm a little bit lucky on this one too because my last hat was manager of liquor and cannabis for the Department of Finance. I can't bind them to anything or commit them to anything now, but I do know we had conversations with the courts at various times.

It's not a privacy issue that stops the Nunavut Liquor and Cannabis Commission from gathering that information, because the commissioner is right that the probation information and the bail information, those are public documents and public orders. It's more of an operational and more of a policy decision not to do that work at the Nunavut Liquor and Cannabis Commission. Partly it's because of the nature of these types of orders. They are likely to change regularly as the individual works their way through the court system.

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In speaking to my colleagues at the courthouse, they were saying that sometimes they would have up to 100 to a couple hundred change orders on these probation and bail orders in the run of a week or even the run of a day, so they're constantly changing and evolving. Having frontline retail staff make those decisions about okay, what does this court order say, how has it changed, can we keep track of the changing nature of these orders; it was beyond their expertise on a job-description basis as well.

There are a lot of factors that play into it. I can't speak fully for the department, but I would just say this is not a privacy concern. It certainly is a policy decision and an operational decision for the Nunavut Liquor and Cannabis Commission. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. Just on a couple of things; number one is actually not.... I won't give the numbers because they are all of equal weight. To the last statement that putting it on the retail workers as to make these decisions or judgment calls, I don't think should even be part of the discussion. That this is a list that could be updated on a regular basis, whether it's weekly, bi-weekly, monthly; the Government of Nunavut can make that decision.

These restrictions are placed on individuals for the safety of our community, and that means that the restrictions are in place in order to protect individuals from the harm that the individual under the prohibition may do to those individuals in their lives if they have access to alcohol. I can't stress enough how important it is for the Government of Nunavut to take action on this. It's just as

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important as updating different manuals. It's there to protect the public.

What we know is that often when people do go through the court system, especially when there is grievous harm and abuse meted out by an individual, often when we hear about final sentencing, the alcohol access and use is a factor in creating those harms. So I think it's extremely important that....

What I'll say is this: in the future, if we know that there is a potential to have a public discussion about an issue like this that the witnesses who are capable of giving a more fulsome response are here. Somebody from the Department of Finance should have been here, is my feeling about that.

I will move on to that and just go back to the commissioner to ask the same question about whether or not the district education authorities are, or should be subject to the *Access to Information and Protection of Privacy Act*. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Steele.

Mr. Steele: Thank you, Mr. Chairman. We had some brief discussion of this top three the last time I was here as well, and so the situation is the same. I can say definitely that the district education authorities are not public bodies within the meaning of the access law. They are not subject to the access and privacy law. It is a bit of a gap because schools are subject to the access and privacy law and the Department of Education is subject to the access and privacy law, but the district education authorities which sits somewhere in the middle are not.

Now, it's my understanding that before my time here in Nunavut, there was discussion about whether the district education authorities should come under this law, and it ᠰᡃ᠘᠘᠌᠌᠌ᠺ᠘ᡩ᠐ᢋᢛᢗᠫ᠅᠘ᢗᡱᡙ᠒ᢋᢛ᠒ᠳᡗᠮ ᡮ᠋᠈ᡶᡥ᠈ᠾ᠑ᢖᢑ᠘ᢣ᠕᠅ᠫᠾᡝᠦᡟ᠘᠘ᡌᡠᡗ᠑᠅ ᠘ᢣᡃᢣᠦ᠘ᡌᢀᠣ᠕ᡥᠣᡑ

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is my understanding that the decision at the time was made that they would not because they're not ready. I think the issue is very similar to the municipalities. The district education authorities are very small. They have very few staff. They really don't have the resources to invest in proper records management, so they don't have the capacity to actually respond to obligations under the law if in fact they were brought under the law.

Now, I note with interest, Member, very recently, within the last month, the Government of Nunavut announced an allocation of new funding for, I believe, fulltime executive directors for the district education authorities, which is not something that they've had up until now. They're still very small, but now they're going to have more staffing and more support. However, again, the decision about whether the district education authority should be brought under the legislation does not belong to me. It belongs to all of you. You have the authority to change the law to specify that they will be covered. Or you can put pressure on the Government of Nunavut to change the regulation to specify that they are public bodies, but I expect that there would have to be a conversation first to make sure that everybody believed that they are ready before they were declared to be under the law. Today, right now, they are not covered by the access and privacy law. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. To Executive and Intergovernmental Affairs, the government's response to the standing committee's November 2022 report indicated that "...the Department of Executive and Intergovernmental affairs has been doing

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consultations with regard to increasing the list of public bodies accountable under the Act, including the designation of District Education Authorities (DEA) as public bodies. Amending the regulations to designate DEAs as public body is the last step. Amending the regulations to include District Educations Authorities will be done when it is possible for them to meet their ATIPP obligations. Similar to municipalities, there are identified challenges in records management technology and human resources to overcome."

Taking into account the commissioner's response just now, as well as the examples that we had about the different approaches to access and to information and protection of privacy that the different departments take throughout the Government of Nunavut, including the teams that are specifically ATIPP-focused versus the teams like the example of CGS... I'm sorry, I'm using acronyms; where departments are using a management and executive leadership topdown approach to managing requests for information, and hearing that now there are positions designated as executive directors to those district education authorities, hearing that they are getting a little bit more human resources, I would like to know what is the government's timeline for amending the regulations? Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Suvega.

Mr. Suvega (interpretation): Thank you, Mr. Chairman, (interpretation ends) and *qujannamiik* to the Member for that question. I think before I ask my colleague to respond through you, Mr. Chairman, I would like to respond to Member Brewster's earlier question on Finance. In preparing for this hearing, we looked at the issues trying to prepare and to determine which departments should be here. When I did respond, I didn't

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To the question, I would like to ask you through you, Mr. Chairman, Mr. Witzaney to respond. (interpretation) Thank you.

Chairman: Thank you. Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) It's something we will have to explore through the district education authorities to see if the additional human resources capacity does allow them to do that work. We haven't seen much interest in the public of accessing records that they may have.

I can see there being challenges just given the nature of the electoral process. I know from dealing with alcohol education committees, often Members are using their own personal devices and personal email accounts, or may not even have an email account or a personal device. They may just go to the meeting and give their input, and so the Access to Information and Protection of Privacy Act struggles when there's not a defined record or an actual physical thing to request. I can see that being a challenge when it comes to district education authorities as well, where they would have to have additional technical capacity to have those types of formal email addresses, and then training and resources to access those email accounts.

It's not something that I think can happen quickly. I think it would require probably some significant collaboration with the Department of Education and district education authorities to do that work. It

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Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. Thank you, Mr. Suvega, for that acknowledgement. I appreciate it very much.

Just in follow-up to Mr. Witzaney's response just now, can I just get an idea of whether or not there is a new or there's an existing communications protocol for these bodies that they can avail of, because what we know about non-governmental groups is that they don't often have the same access to up-to-date manuals on the workings of an organization.

What kind of manuals are out there with respect to communication and privacy, the use of mobile devices, as you mentioned, and storage of information? What training and manuals are out there? If there are some, how often are they updated? Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) Each department that helps and assists those arm's length elected bodies, such as the alcohol education committees or the district education authorities, support those bodies in different ways. I know, for example, with Finance, they have a manual that they provide to the alcohol education committees that goes through what their responsibilities are as a committee and provides resources to them.

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I'm not sure what the Department of Education provides for district education authorities. I think part of their additional capacity that they are now having is to do some more of that work. Oh, sorry. The coalition is to do some of that work to prepare them and to provide more resources to those bodies.

It's something I can ask my colleagues at the Department of Education and commit to getting back to see what type of resources they have available to them. However, it is a good point that there might be more collaboration between our office and the Department of Education and the Department of Finance in providing some more privacy-centric and access-centric support for those bodies. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. We know that sometimes these appointments and election periods are set. However, people resign and don't necessarily stay for the full period of time, so membership is often changing. Are there regular onboarding trainings at regular intervals that are aside from the standardized election dates? Thank you, Mr. Chairman.

Chairman: I'm not sure Mr. Witzaney would have that information. It would be specific to the Department of Education, the Department of Finance, but maybe through your previous role you might have some experience in that regard. Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) I know at the Department of Finance we would do every second year a conference with alcohol education committee members to provide more training and provide more support to

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them, and that way new members, or interested members, could come to a central location and get education and training on various aspects of their work.

With the district education authorities, I'm not as sure what they do. I'm sure the Department of Education is supporting them in any way they can and the coalition of district education authorities has been created to do that kind of support work as well. I can definitely bring that question back to my colleagues at the Department of Education and get more information in response to this Committee. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: That's great. Thank you for that response. I think it's really important to provide ongoing onboarding for these groups. I would like to know whether or not there's an option for online training as well; some kind of distance training, as well as whether or not each of these bodies has a code of ethics, and whether or not the members take oaths of confidentiality?

What we know is that both of those; the alcohol education committees as well as the district education authorities, by the nature of the work that they do, have access to information about individual citizens, and I think it's really important to ensure that we protect our citizens' privacy to the greatest extent that we can.

If I can hear back maybe now or have a commitment to come back to us to reassure us that they do sign code of ethics and confidentiality oaths. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Witzaney.

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Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) Our ability to set policies for these groups or require them to do things is complicated, just given the nature that they are elected bodies and set their own sort of agendas and they set their own kind of policies and procedures. It's a recommendation I can make to our colleagues at the Department of Finance and the Department of Education to have that as part of their training or part of their onboarding. To the best of my knowledge that is not currently happening, but I don't have that detail of knowledge either, in front of me. Again, they are independent elected bodies and so our ability to force them to do one thing or another thing is pretty minimal. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. I just want to reiterate that request. I don't think it's a matter forcing a group to do something. I think it should be just a baseline, a standard. To me, again, I will say especially with district education authorities, they're potentially hearing about receiving information about minors. These are children and we have an even stronger responsibility to protect the privacy of children and youth than adults, in some cases. I would like to see that become standardized.

Mr. Chairman, as I mentioned earlier, my intention piles got a little bit reorganized, so I'll stop there for now, but I can assure you do are more questions. Thank you, Mr. Chairman.

Chairman: Thank you, Ms. Brewster. Mr. Simailak.

Mr. Simailak (interpretation): Thank you, Mr. Chairman. Good morning. (interpretation ends) To the commissioner, I've got a few

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Chairman: Thank you. Commissioner Steele.

Mr. Steele: Thank you, Mr. Chairman. The finances of my office are handled by the Office of the Legislative Assembly, so all of the processing is done by them. I rely on them to provide to me reports of spending. It's a very long time since I received such a report. I'm sorry to say, Member, that I do not have a figure for the amount of actual expenditure by my office.

What I can say, just based on how much I've spent is that the actual spending would be within budget, very definitely within the budget, but unfortunately that's all I can say today. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Simailak.

Mr. Simailak: Thank you, Mr. Chairman and thank you for staying within budget. We don't hear that too often here in this House. I'm wondering now, still with the commissioner: can you indicate how much travelling you've done outside of Nunavut and within Nunavut, and if it's within Nunavut, or actually any travel, to where? Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Steele.

Mr. Steele: Thank you, Mr. Chairman. During the fiscal year that is under consideration today, in the 2022-23 annual report, I believe I am correct in saying that

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the only travel I did was to the annual conference of information and privacy commissioners, which that year was held in St. John's, Newfoundland and Labrador. It's a very useful conference where everybody doing the same work across the country gets together. It's very, very useful, especially here in Nunavut where the entire work of my office is done by myself. Even the Northwest Territories, which is similar in size, has three or four staff people, but I'm still doing it myself, so it's very useful for me to go to those conferences.

In the year after that, the fiscal year that's not currently before us, there was an additional trip in addition to the trip to the annual conference of the information and privacy commissioners, and that was to a conference put on by the Canadian Bar Association on access and privacy law. That conference is held every year in Ottawa, and so the normal expenses you would expect for flights and hotels in Ottawa. That is the travelling I have done at the expense of my office over the last two years, Mr. Chairman.

In terms of travel within Nunavut, I have done none. The same issue came up the last time I was here, and I do want to explain why that is. The main reason is, honestly, because the municipalities are not covered by the law. If I ever had a file where it was useful for me to travel to other communities, I wouldn't hesitate. I would do it. There's enough money in my budget to do it. I would do it. So far that hasn't come up.

Most of the issues that I'm dealing with, honestly, are with departmental headquarters here in Iqaluit. There was one file over the previous year where I thought there was something that I needed to go and inspect in Rankin Inlet, but because of the way things worked out, that turned out to be unnecessary.

There was another privacy breach in another small community, which is so small that I won't name it because then probably everyone would know what I'm talking about and I thought there was a chance I might have to go to talk to people there in person, but because of the way things unfolded, that turned out to be unnecessary.

The amount of travel that I would do within the territory, Mr. Chairman, would expand substantially if and when the decision is made to bring municipalities, the hamlets, under the access and privacy law because then it would be very important for them to see me in their communities. However, until that happens, Mr. Chairman, I still do not expect to be doing a lot of travel within the territory. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Simailak.

Mr. Simailak: Thank you, Mr. Chairman. Thank you, commissioner. It's a bit surprising, actually, that there isn't much travel within Nunavut. You mentioned in your last response that perhaps if the municipalities were under this law, that you would see some travel, but we do have government offices in every community, which is surprising that you haven't been able to get out to these smaller communities.

Would the suggestion of maybe a small educational tour, as suggested; would you be able to do that so that you can go out and have these small meetings with some folks outside of Iqaluit of what your office can and cannot do? Is that something that can be considered or done by the commissioner? Thank you, Mr. Chairman.

Chairman: Mr. Steele.

Mr. Steele: Thank you, Mr. Chairman. Yes, certainly, Member, I would be open to

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anything like that. I do want to remind the Members though that I am like the referee in a hockey game, okay. I'm like a judge of a kind, and when people go out and promote the National Hockey League, it's not the referees who are doing the promotion.

The people who really need to go out and explain to their own staff how the legislation works are the departments themselves. If, for example, the Department of Health has people in every single community, and every single employee of the Department of Health needs to understand how to protect the privacy of the citizens in that community, that's fundamentally the work of the Department of Health.

I'm the referee. If something happens that's bad, if there's a privacy breach that needs to be investigated in that community, that's when I would go. That's fundamentally the difference, Member. So that kind of educational tour really is not.... I don't see that as my role, just like we don't have judges going out and telling people that they should make greater use of the justice system. If you said that, that just doesn't make sense.

It's the same for me. I'm the referee, so I kind of have to sit back, but there's all kinds of work that the Government of Nunavut could do to make sure that their staff in every single community, yours and everybody else's, that they are aware of their rights and responsibilities under that law.

Again, I'll say that if a proper case presents itself where I need to go to a community, Member, I will not hesitate. I will be there if that's what the work requires. Thank you, Mr. Chairman.

Chairman: Thank you, Mr. Simailak.

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Mr. Simailak: Thank you, Mr. Chairman. To the Government of Nunavut, following the commissioner's last response, is that sort of education being done with the Government of Nunavut employees in each department following the *Access to Information and Protection of Privacy Act*? Do the Government of Nunavut employees know about this? Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) We do training quite regularly in the Department of Executive and Intergovernmental Affairs. We have a standing item on the employee orientation program where we tell people about the Access to Information Act and what their responsibilities are to protect privacy. I know my colleagues at the Department of Community and Government Services and Department of Health actually have their own training that they give to staff and staff across the territory as well, as does Justice.

We are doing quite a lot of training and we want to make sure employees know what their obligations are and what their rights are, and I can pass the torch on to my other colleagues through you, Mr. Chairman, if you would like. (interpretation) Thank you, Mr. Chairman.

Chairman: Before I do that, I'll just go back to the Member to see if you want some detail on some of the training that is being provided across the territory. Do you want me to go directly to the government officials, Mr. Simailak? Thank you. I'll just go down the line. I'll start off with Mr. Seeley.

Mr. Seeley: Thank you, Mr. Chairman. As described, the Department of Community and Government Services uses its own model

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 to meet our operational needs to inform our staff on the importance of managing information correctly. One of the new resources that's under development right now and is scheduled for rollout this fall is a virtual platform sharing records management and privacy best practices for staff. That is similar to our onboarding resources that describe the processes and programs and services of the department. They are available virtually and those are mandatory for any new staff joining the department.

In addition to that, our IMIT, our information management and information technology branch, has set the pace with a series of cyber security modules also available online to all staff GN-wide to ensure that staff have a full understanding of the importance of things like multi-factor authentication, and ensuring that devices are managed appropriately, and that information within those devices is transmitted and managed appropriately.

This is of course in addition to other branch and divisional initiatives specific to what their program lines are and what their services might include within the department.

We have a fairly comprehensive suite of training materials available to our team and we fully expect that that's only going to continue to grow in the coming years. Those resources are, of course, available to our colleagues at other departments, although we do administer them and develop them within the department. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. MacLean.

Mr. MacLean: Thank you, Mr. Chairman. The largest group of employees in the Department of Justice are Corrections, and I can advise the Committee that correctional workers receive privacy and confidentiality training as part of their orientation to

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Corrections, but also on a regular basis, I know myself, I've gone to speak to them.

That's the next sort of thing I would like to mention. As a supplement to the programs provided by Community and Government Services and our colleagues in other departments, part of our role in Legal and Constitutional Law Division is to provide client education to any of our client departments and agencies that ask. In my substantive role as senior legal counsel, teaching is part of my job. I get to go and talk to departments and give presentations, and one of the things that I am frequently asked to talk about is privacy, and I will happily turn up and give that presentation to anyone who asks. Thank you, Mr. Chairman.

Chairman: Thank you, and finally, Ms. Anderson.

Ms. Anderson: Thank you, Mr. Chairman. From the Health perspective, we emphasize privacy training and the obligations under ATIPP for all staff, but also all contractors, because we have a significant number of individuals that are brought in under contract for clinical users, etcetera, across all the communities. It's not just for employees, but we initiated online privacy training in April 2023 and encouraged all staff and contractors to take that.

I would love to say that everyone consumed the training, but that was not the case in terms of the online. We had close to 500 individuals we trained last year. We were renewing our efforts this year starting in April 2024 to continue with an emphasis to mandatory for all new staff, all new contractors across Nunavut.

In addition to the online training, we developed a number of what we call tip sheets, information documents, that we make **Δ⁶/«ኦር**% (ጋጎ,১በሀና): የ<mark></mark><mark>ሪ</mark>ታ°<u>۵</u>广⁶. ላ¹L የኄ/⁻ር⁻⁶ሩ^{ና6} Γ¹ ላ⁶ጋኒ⁻.

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accessible to staff that is just some guiding tips about appropriate use of technologies, including their office tools, emails, and those sorts of things, in an effort to keep people out of difficulties, I'll say.

The training that we do, we very clearly emphasize the personal accountability under ATIPP and we do not differentiate between an accidental or deliberate incident and that the jeopardy of the individual is their personal responsibility to, in essence, accept the risk, self-report, and then that is brought forward to the ATIPP coordinator.

I think the last comment I'll make is; we also made our privacy training available to Mr. Steele, and thank you for having partaken and provided us some feedback.

The last comment I'll make is; at present the training content has not completely been translated, so our intention is to make that available in this next generation with accessibility in each of the languages. Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Simailak.

Mr. Simailak: Thank you, Mr. Chairman. Thank you all for the responses, and before I move on to my last question, if I can get the commitment from Executive and Intergovernmental Affairs to check with all the other departments that are not here for responses to my last question about the training and whatnot or ATIPP so that we covered all bases. If I can get that commitment quickly. Thank you, Mr. Chairman.

Chairman: Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) I can talk to my colleagues in other departments.

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I know our department actually does a good chunk of training, if requested, for other departments, but I'll just confirm that they haven't done anything additional to what we discussed today. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you for that. Mr. Simailak.

Mr. Simailak: Thank you, Mr. Chairman. My last question is to the commissioner. You mentioned in your opening statement that you wanted to discuss artificial intelligence and its impact on access to information and protection of privacy. Can you expand on your concerns and recommendations in this area? Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Steele.

Mr. Steele: Thank you very much, Member. I really appreciate the opportunity to address this topic and I'll do so as briefly as I can, Mr. Chairman.

I've been the commissioner here in Nunavut for three years, and during the first two years hardly heard the words artificial intelligence at all. Now when I go to a conference or I meet with my colleagues, it's all everybody is talking about.

This technology has burst into the public in a way that I think none of us imagined and it has profound implications for the way information is handled within a government. It has profound implications for access to information and also on privacy.

My very fundamental recommendation, Member, is that the Government of Nunavut needs to get ahead of this issue. The technology is developing so fast that the Government of Nunavut is already behind. I cannot urge them enough to at least give to 'δρλL4'\ ΛαλβΓγρ'
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their employees a framework for how artificial intelligence should be used within the Government of Nunavut. First of all, in decision-making, artificial intelligence has the ability to be used to make decisions, but suddenly now the decision is not being made by a human being; it's being made by a machine. If you apply for information about how that decision was made, it's not clear at all how the access law applies to that, or whether the Government of Nunavut would even be able to explain how it made that decision. So that's the big implication on the access side.

On the privacy side, the way that artificial intelligence works is to gather an enormous amount of information, an unimaginable amount of information and analyze it so that essentially it can predict what the next word in a sentence is going to be, or should be, or usually is. That means that the models take in as much information as they can get their hands on.

I think people would be shocked if they knew how much information is being taken up by these models, and that includes the information of Nunavummiut.

There is a risk that if there are not careful controls by the Government of Nunavut, that staff will be using artificial intelligence, but without any guidelines, and one of the conditions may be that they have to feed in a lot of information that is currently held by the Government of Nunavut. They may not even realize they are agreeing to do this, but it's part of when they click yes to say they want to use one of these products, that everything they put in then becomes part of the database that artificial intelligence uses. So the information, the private information of Nunavummiut, can be brought into these machines without anybody even realizing it.

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The answer; the immediate need I would say, Member, is for the Government of Nunavut quickly to develop guidelines for its employees for how artificial intelligence can and should be used. I'm just going to hold up here briefly a document from the Government of Ontario, and it's called Principles for Ethical Use of Artificial *Intelligence*. It just says, alright, we know artificial intelligence is here, these are the conditions under which it can be used, this is how we're going to work with it, and here is what you cannot do. That is so that citizens know what to expect from their government in terms of the way artificial intelligence is being used.

I think, Mr. Chairman, that we can say with certainty that out there in the territory Government of Nunavut employees are already using artificial intelligence. The tools are right there, but right now they're using them probably without the knowledge of their managers or without much input from their managers, without any guidelines from the government about what's acceptable or not acceptable. This technology is developing so fast that we desperately, at a minimum, need a document like this Ontario principles document so that GN, Government of Nunavut employees know what is acceptable and what is not.

The last thing I'll say, Mr. Chairman, is I'm not saying don't use artificial intelligence. Artificial intelligence presents an enormous opportunity, particularly for a government like this one, which is chronically short-staffed. This is an opportunity to get a lot of good work done quickly, but it comes with a lot of risks, and we have to know what the risks are and very carefully lay out the rules for staff before it gets out of hand. Thank you, Mr. Chairman.

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Chairman: Thank you. I realize that was your last question Mr. Simailak, but I think Mr. Steele brought up some really relevant points from the Government of Nunavut's standpoint. I would like to get Mr. Wells' perspective on some of the comments that the commissioner has made in relation to the question.

Mr. Wells: Thank you, Mr. Chairman. I think that part of working in information management, information technology, there are always shiny new toys that come and this makes our jobs one of the most interesting.

Artificial intelligence tools are by far one of the biggest breakthroughs that we have seen probably since the Internet and yes, it is really, really popular. As the commissioner has stated, it is growing really quickly.

Within information management and information technology, because this is so new and we really are being very, very cautious on how we approach artificial intelligence. There are two areas here that we really need to focus on. One, is that some of these tools are available on the Internet, so people can go and access these tools outside of Government of Nunavut control. There are also other artificial intelligence tools that we can bring into and put into our production environment within the Government of Nunavut network.

So there are really two areas that we need to focus on. One, is that these tools are available outside and, yes, I do agree with the commissioner that we need to develop a framework and guidelines around that, but that is going to be what I believe is a committee type of approach. It wouldn't just come from IMIT and information management. I think we need to include our other departments as well in representation as to how we produce a document similar to

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what our commissioner has just pointed out to us.

The tools that we will be releasing or bringing into production into the Government of Nunavut is now currently being tested within IMIT in a very, very small area. The commissioner, again, is absolutely correct; without proper data classification in our environment, then these tools will comb through every piece of information that we have and it will consume it, and it will use it to report back. If we look at privacy, and that is where our concern is certainly at, it will comb through and it does not know the difference between people's names, social insurance numbers, birth dates, more so than it would make a report or minerals or anything. It just consumes the information.

We are being very cautious and working with the federal government, and other jurisdictions as well, to find out exactly how they are advancing with these tools. We are being extremely cautious because it is not an expertise that we have in-house right now, so we are doing our best to work with outside consultants, and like I say the federal government, and other jurisdictions as well to release this properly.

When we have a proper report, a proper study done, a pilot project, if you will, we will bring that information forward to the deputy minister's committee and get direction and advice on how we should proceed from there.

We are looking seriously into artificial intelligence, but it is going to be some time before we actually use those tools within the Government of Nunavut, even though they are exciting and they will really be helpful when they are managed and controlled properly. Thank you, Mr. Chairman.

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Chairman: I appreciate that, Mr. Wells. I understand Ms. Anderson, you wanted to contribute as well. Ms. Anderson.

Ms. Anderson: Thank you, Mr. Chairman. I'm pleased to report that Health does have a resident expert around predictive artificial intelligence and automation. That is myself. I have four decades of background experience in this particular area. While the public are just now becoming self-aware around artificial intelligence, in particular with the advent introduction of open AI and generative AI, and some of these components, what I would say in a health domain; we have been using algorithms for support of decision support in our clinical information systems for years, and this goes back multiple decades, as the mechanisms not to have decisions that replace clinicians, but rather than in an advisory capacity. Leaving the ultimate decision to the clinicians to close the loop, if you will, not to have an algorithm do it on behalf of the clinicians.

This is not new in terms of that bridge. I do think though that we have in Nunavut a couple of simple examples, and the challenge here is that most people do not see these things publicly, so they do not understand what is going on, quote, under the covers.

Two quick examples; one, natural language processing. We used to do automated clinical coding of some of our electronic reports that we get in from all 25 communities, and this helps us to accelerate our reporting of thousands and thousands or hundreds of thousands of reports that we feed into the public health agency on an annual basis. So that is one example.

The second one I'll give is within our clinical system and the lab information system. In recent times we had a reduction or a loss in

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I'm just saying it's not all net new. Having said that, I would say that we do recognize that there are opportunities to embrace or to integrate some of the generative AI components, but with the right controls. Thank you, Mr. Chairman.

Chairman: Thank you for that, Ms. Anderson. I understand Mr. Seeley also wants to contribute. Go ahead, please.

Mr. Seeley: Thank you for recognizing me, Mr. Chairman. I wanted to circle back to the commissioner's earlier comment about advising that the Government of Nunavut get out ahead of artificial intelligence and its introduction.

He is correct that the growth within the sector on artificial intelligence has been exponential, and it will continue to be so for the foreseeable future. Like other organizations and other civil services, our growth is linear, so the potential for us to get ahead of this is very, very low.

The suggestion from the commissioner that we form a position on how we will have what principles, what values, and what ethical standards we would put in place to help us manage the next phase of artificial intelligence, and how it can be integrated into our systems, is the approach that we're taking to this to have that general set of rules to facilitate decision-making by the humans in the workplace to figure out how it is that these services can be integrated to enhance our capacity as a government, but also to ensure that the information that we are

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 responsible for is being managed effectively and that private information is being kept private.

The next piece to that is that where applications are being brought online, we do have a responsibility to complete an assessment of how that information will be managed. The artificial intelligence, I would say revolution, is being driven by industry, not by government. So we do need to consider how it is that that information will be accessed, how it will be processed before and as its being implemented.

The idea of coming up with a series of values or directives for the GN to operate within, that is definitely one of the next steps that we are taking under consideration in this next phase to incorporate artificial intelligence. Thank you, Mr. Chairman.

Chairman: Thank you Mr. Seeley. The next name I have on my list: Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. I would just like to continue this discussion on AI. I know Canada is one of the first countries in the world to propose a law on regulating artificial intelligence, and we have heard from a number of witnesses, and I feel somewhat reassured, however, I'm very curious to know: what is the Government of Nunavut drawing on in order to make good choices on the way forward?

The Government of Canada has the *Artificial Intelligence and Data Act*, and that is more about the design and development of artificial intelligence. However, it has got a number of areas within that Act that could be drawn upon for guidance, and I'm wondering whether or not the Government of Nunavut is leading the way through access to information like that really important Act, and whether or not there is a federal-

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provincial-territorial working group on artificial intelligence that the Government of Nunavut is involved in. Thank you, Mr. Chairman.

Chairman: Thank you. I'll start off with Mr. Seeley and then see if anyone else wants to jump in after Mr. Seeley.

Mr. Seeley: Thank you, Mr. Chairman. It was in June 2022 that the *Digital Charter Implementation Act* was brought forward federally, and there are a lot of other jurisdictions that have already, I'll say broken trail, on how it is that they plan to manage the introduction of artificial intelligence into their government operating systems.

Within the federal-provincial-territorial tables there are plenty of avenues to exchange information, best practices, and lessons learned, in much the same way there is cyber security. Those discussions are typically had at the federal-provincial-territorial level within each respective mandated department, but also among departments within the government.

Those best practices are definitely under review jurisdictional scans, taking a look at legislation, including regulations, policies, and directives in the development of any new resources at the departmental or GN-level. We are not unique in facing this challenge as a government. Thank you, Mr. Chairman.

Chairman: Ms. Anderson, I understand you had something to say as well?

Ms. Anderson: Thank you, Mr. Chairman. In contemplating our new health-specific privacy legislation, we recognize the importance of harmonizing the legislation with other emerging and new legislation that is coming into being, in particular Bill C-27

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and the emphasis including the *Artificial Intelligence and Data Act*, and I think the key component of this that we need to be very thoughtful about is around the protection of individuals and their right to understand when their personal information is being used in algorithms, to give feedback to them, whether it is around wellness, or preventative health, or in diagnostic purposes.

I think this is an area of caution and everyone, including the European Union, US, Canada now, are trying to step into this to try to figure out how to do this in a practical way. I think the key emphasis we will place is around our education with all of our citizens in Nunavut about how this is going to impact your lives in your own personal family and the decisions that you'll be making for yourself, because anybody who has access to the Internet is going to see some of these things expressed through. It is not just about what is the delivery or the health side, what are they doing, but it is what is going on in your own home, maybe your own children that had access to some of these tools. What are the cautions, the flags, and the controls that we can start to put in place.

We will contemplate this in terms of looking forward around some aspects within Nunavut's health-specific privacy legislation. Thank you, Mr. Chairman.

Chairman: Thank you. I'm going to recognize the clock and we will pick this back up at 1:30. We will break for now. Thank you.

>>Committee recessed at 11:55 and resumed at 13:28

Chairman: Good afternoon. I would like to welcome Committee Members and witnesses back to the Government Operations and

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Public Accounts Committee. Before us, we have the privacy commissioner and numerous government officials.

Just to get us started this afternoon, I understand that Mr. Witzaney has some additional information from a response earlier today. Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) A Member had a question about district education authorities and whether or not they had an oath of office and what training they were provided. I heard from my colleague at the Department of Education and they are required to sign oaths of office under section 130(3) of the Education Act. It's also written down in the DEA administration regulations in section 3. They aren't under ATIPP yet, which we have discussed, but they are hoping to bring them under the Act and they are encouraging them and training them around privacy currently. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you for that. We will go back to Ms. Brewster's line of questioning. Go ahead, please.

Ms. Brewster: Thank you, Mr. Chairman. Thank you for that clarification. I'm also encouraged by that.

I would like to stay on the discussion about artificial intelligence. I know we heard from Ms. Anderson this morning about the fact that, especially with looking at data sets, artificial intelligence has been a tool that has been used for decades, and it's an important tool. The privacy considerations around that are data accuracy, data protection, and data control. It also reduces the potential for human error. When taking a little bit of the human aspect out of it, there's less

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opportunity for, I think, humans to make the error of exposing information.

One of the emerging issues about artificial intelligence that is not necessarily related to information and privacy related to us as in governance or in civil service; however, I think we do have a responsibility as legislators to ensure that we are doing our best to understand technology in order to provide good governance. I'll give an example of something we know is happening with the use of AI that has a huge potential impact on people's privacy and on their lives. What we know is that there are some AI developments that can create artificial videos or photographs of individuals. We know that just recently there was a pop star that was targeted, and artificial photos of this person were created and distributed on the Internet, highly sexualized photos.

When it comes to protecting our citizens, we have to consider that we have the knowledge that there's a potential to put our citizens at risk, and especially children and youth, because we know that children and youth are far more advanced in their knowledge of new technology. That has always been the truth and it continues to be the truth. Young people know more about how to use this technology, new technology, than people who are less youthful, and more and more young people have access to that technology. What we know is that nefarious characters also have access to that technology as well that can potentially do harm to citizens of Nunavut. I'm specifically talking about youth here; however, it could be anybody that could be targeted. We know that there's a not-so-great politician that has been the subject of some spoof videos as well and photos. Everybody is a potential target.

Having said that, I would like to hear more about whether or not there is specific work

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being done to put forward legislation that not only focuses on AI, or artificial intelligence, and privacy issues, but overall legislation that will allow the Government of Nunavut to not only regulate how artificial intelligence is used in the delivery of programs and services and in people's ability to access programs and services and information from the government, but also how citizens will be protected from the not-so-good sides of artificial intelligence in the future.

That question was long, but I hope it makes sense to the people that I'm asking. Thank you, Mr. Chairman.

Chairman: Thank you, Ms. Brewster. We will soon find out. Mr. Seeley.

Mr. Seeley: Thank you, Mr. Chairman. The short answer is no, there currently isn't legislation under development for that protection. I think the longer answer is that information and education to Nunavummiut on how it is that they can recognize targeted or misrepresentative materials, I think, is probably our best step. I think that that comes down to some of our discussion earlier today and ensuring that Nunavummiut understand how it is that their information is being gathered, why it's being gathered, and what purposes it would be used for. That's just a general awareness and education piece.

The second bit from that, the second outcome from that, I think, is that as far as consumers or parents or youth reviewing materials, it is an awareness and education piece for them to recognize some of the signs and have a discerning eye on what information it is that they are taking in.

My guess is that each department does have different educational or awareness tools under development to help Nunavummiut Lclc>ς/d%)Π 'Ċ'/Γ"υ)σ 'Cd'à "Γ' ΔΠ' 'bς\> > b " υα 'B)σ Δ Δ 'a " ὑ "Γ' σ ' Λ' d > " Γ' το 'B \ Λ' d > " Γ' το 'B \ Λ' δ > " Γ' το 'B \ Δ = " Δ

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Currently, there isn't a program GN-wide to recognize artificially generated images or campaigns, but in the longer term it is education and training that will help Nunavummiut identify and manage it. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. I appreciate that response and I do recognize sort of the personal responsibility that we have to take as citizens, parents, children, and colleagues. However, my concerns are related to tying a knot before we get to the end of the rope and ensuring that there are the tools in place to hold people accountable if nefarious actions are taken.

I did take the time over lunch hour to look at Bill C-27, the *Consumer Privacy Protection Act*, the *Personal Information and Data Protection Tribunal Act* and the *Artificial Intelligence and Data Act*, as well as specifically, it's quite interesting, there is a fairly substantial paper that has been produced on Charter considerations related to that Act. I think it's of interest to us as legislators to ensure that when this is enacted, we are looking at our existing legislation to make sure that it refers to that Act and mirrors it in ways to protect our citizens.

On the issues of how we move forward internally, I want reassurance that there are specific frameworks put into place within the

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Government of Nunavut, that there are risk management frameworks, so any existing frameworks, whether it's cyber security, risk management, what have you, are as up to date and updated as often as possible to ensure that we are keeping as far ahead as possible related to artificial intelligence and the potential impacts on our citizens, as well as ensuring that there is a strong focus on training and education that's ongoing, that includes onboarding as well as regular trainings for our employees.

I would like to just go back to the commissioner, Commissioner Steele, to ask if he has anything to add to the discussion that took place just before lunch and just now. Thank you, Mr. Chairman.

Chairman: Commissioner Steele.

Mr. Steele: Thank you, Mr. Chairman. There is one thing I would like to add. Thank you, Member, for giving me the opportunity. This is something that nobody has mentioned so far and in fact, I haven't heard anybody mention it anywhere, and that is that what's new about this version of artificial intelligence is it is now widely available to ordinary people.

Ms. Anderson has talked about the fact, and it's absolutely true, of course, that the technology has been around for quite a long time, but it has been mainly restricted to expert use. Now it's available to everybody. There's a pretty good version of artificial intelligence that is available online for free and at a very modest cost, you can buy a version of, for example, the brand name is Open AI, but whatever it is you buy, for not very much money, you can buy one of the most advanced technologies that exist.

When employees in the Government of Nunavut open their computers and open the

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software that's installed in every computer, it's got artificial intelligence built right into it right now, today. Now, the way that this artificial intelligence works is it's based, as I said earlier, on an enormous amount of information. The technical term for this is a large language model. The English acronym, LLM, a large language model, that is, it scoops up an enormous amount of information which helps it to predict what, as I said earlier, the next word in a sentence should be. It appears to be thinking, but really, it's just basing it on everything that humanity has thought of up until now.

Okay, now I get to my point, Mr. Chairman, is that in this world of large language models, information about Inuit is a tiny little piece of it. If GN employees are using these tools, which are based on such an enormous amount of information, almost none of which is about Inuit, then the chances are that the outputs, the decisions coming out of this model will not make sense in the lived reality of Inuit and Nunavut. That's one of the dangers that I see that is specific to this jurisdiction about the use of the new version of artificial intelligence that is available to everybody.

That is why, Member, I will end on the point that I started with, which is that what we need more than anything are some guidelines for people working within the GN early in the process, before it's too late, to say, "Here's what's acceptable, here's what's not acceptable." We need to do that as soon as possible. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. Thank you, commissioner, for bringing that up. I did pull up some information that states that the Government of Canada is increasingly looking to use artificial

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intelligence to make or support administrative decisions to improve service delivery, and the government is committed to using artificial intelligence in a manner that is compatible with core principles.

Part of my concern about that is that there's a saying, "Garbage in, garbage out." When it comes to ensuring that decisions are made in the most informed possible way, then we have to go back to that baseline of what kind of data are we collecting, who are we sharing it with, and when are we sharing it with them. I have asked a number of times for the release of different sets of data and I pushed for the collection as well of different sets of data.

I think, commissioner, that was a very important point for you to make because I hope that our officials are listening with keen ears to know that a lot of this is completely out of our control. What is within our control is what kind of information, very important information that we collect on our population, so that that information can be used to make good and sound decisions for our citizens. I do appreciate that intervention.

I would like to move back on to the Department of Health in this context, as well as in the overall context of the introduction of the new health-specific privacy legislation. I would like to know whether or not that legislation will be ready within the life of this Assembly or what the timeline is on that, and of course, Ms. Anderson, anything else that you may want to add that's relevant to the discussion that has been taking place. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Anderson.

Ms. Anderson: Thank you, Mr. Chairman. In terms of timeline of when the new health-specific privacy legislation would be enacted,

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I will say that we're working diligently to prepare and execute our public consultation. One of the aspects of that that we were looking to move ahead with and are very excited about is an all-citizen survey that we want to make available to everyone in the territory to raise some simple questions related to what our objectives are with the health-specific legislation and to get some feedback at that level as we're continuing with our directed engagement with external partners and with some conversations directly with hamlets and here in Iqaluit as well.

I would be reluctant to give you a hard timeline. What we will say is that we're working diligently to prepare our content that we can make it then available to our partners at Justice to do the drafting. As I mentioned yesterday, this is focused on the Act itself, but in the background, we're also having conversations around the potential regulations to go under the Act. We see that work as operating in parallel.

I think I'll stop there. Thank you, Mr. Chairman.

Chairman: Thank you. Before I go back to Ms. Brewster, I believe what the Member is asking is: is it reasonable to expect health-specific privacy legislation to come forward during the life of this government? Ms. Anderson.

Ms. Anderson: Thank you, Mr. Chairman. Based on the conversations and our conversations with our advice with our justice partner in our steering discussions, it would be very tight. It is, perhaps, feasible

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but not guaranteed, depending on what other priority activities that are coming forward to the drafters of legislation. Thank you, Mr. Chairman.

Chairman: Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. I think what's important here is I would like to see that legislation come forward as soon as possible and within the life of this Assembly. What I would hope is that it is future-proofed, meaning that it's flexible enough to adapt to the rapid advancements of AI technology.

I would like to follow up on the call-out for applicants to the Mental Health Review Board. Mr. Chairman, I wonder if we could get an update on how many applications there were and when the first meeting of that review board might take place. Thank you, Mr. Chairman.

Chairman: Ms. Anderson, do you have that information?

Ms. Anderson: Thank you, Mr. Chairman. No, I do not have that information, sorry. Thank you.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. I would appreciate having that information, if possible, as soon as possible.

I've just got a bunch of follow-up questions that I have written down here. The government's 2019-2020 Annual Report on the Administration of the *Access to Information and Protection of Privacy Act* was tabled on March 16, 2021, and then the 2020-21, 2021-22, and 2022-23 annual reports have yet to be tabled. I would like to know what specific factors account for the

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Chairman: Thank you. Mr. MacLean. My apologies; I missed a person. Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) I don't actually have a good answer for you on that one. When I took over this role, it looks like there had been a lot of work done previously to prepare those reports. I have consolidated them into a version that we're now looking at to confirm that everything is accurate and to move along in the process. I'm hoping to have that done and tabled by the spring sitting to get caught up and to look to the future, but there are some factors outside of my control on that one, including the approval process and everything that goes along with it. It is a priority for our department to get caught up on that because you're right; it is something that has been outstanding for some time and I think the reports are at a point where they're ready to go forward. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. The Government of Nunavut's formal response to the November 2022 report of the Standing Committee indicated that those reports would be tabled during the spring 2023 sitting, and so a full year is a long delay. The witness did state that there were some roadblocks to that. However, it's not really clear to me, if the reports are completed and ready to go, why would they sit around for a year awaiting approval to be tabled. If I could get a little bit more information on that, I would appreciate it. Thank you.

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Chairman: I see Mr. Seeley wants to respond to that. Go ahead.

Mr. Seeley: Thank you, Mr. Chairman. I think that we have heard already that much of the data that would be included in those reports has been compiled, and the backlog of reports are being consolidated and prepared for tabling. The verification of the data and then formatting them appropriately to flow forward from the oldest year to the most recent does take some time before they're submitted to cabinet for review. Translations are completed in time for tabling in the next available session. The department will need to put together a plan to start advancing each of those reports to prepare for tabling. The next opportunity to get that volume of reports prepared is this June, spring session, but most likely fall session would be a more likely timeline to have that prepared. Thank you, Mr. Chairman.

Chairman: Thank you. Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. The Access to Information and Protection of Privacy Act actually does not currently require the preparation and tabling of an annual report on the administration of the legislation, and the most recent Standing Committee report on this issue recommended that the Act be amended to provide for a statutory requirement. I would like to know: what is the government's current position on this issue? Thank you, Mr. Chairman.

Chairman: Mr. Seeley.

Mr. Seeley: Thank you, Mr. Chairman. This particular topic, I think, for this subject matter of this report is a really good opportunity to talk a little bit about transparency and information. There's a variety of statutory requirements listed for

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each department where annual reports are required, and as the Member has correctly pointed out, these ones are not statutory requirements.

At the discretion of the responsible Minister, these reports can be tabled currently and I think the commitment is to table them. To make any kind of legislative change to require them to be tabled, I think, is something that can be considered, but it's not entirely necessary once the reports are completed and prepared and shared with members of the public. I think that that could be taken under consideration, but I think the real priority here is to get the information prepared and shared with the Assembly. Thank you, Mr. Chairman.

Chairman: Ms. Brewster.

Ms. Brewster: Thank you, Mr. Chairman. I think it is necessary to include it in the Act because we shouldn't always go forward with the assumption that the right thing will always happen, because we know that there is turnover. While the current administration might feel like it is something that can and should be done, there's no guarantee that a new administration would have the same opinion, so I respectfully disagree with your remark.

Mr. Chairman, I think that's all I have for right now. Thank you.

Chairman: Thank you. I have no more names on my list.

I would like to follow up on a couple of topics and I would like to thank Ms.
Brewster for covering most of them. I did have a question. There was a topic that came up yesterday on information that we as Members of the Legislative Assembly sometimes receive from our constituents and

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the privacy surrounding that. Mr. Steele made some comments along those lines.

Just to take it a little step further, there are oftentimes where we're the recipient of very private, detailed information from our constituents where we turn around and share that with the Minister responsible for the issue. Subsequently, once that information goes to the Minister's office, they are subject to the *Access to Information and Protection of Privacy Act* whereas the information under our oversight isn't. To me there's a bit of complexity there. Once we share that information with the Minister, it is then subject to access to information, yet there is still some detailed, private information in there.

I would like to get a little bit more feedback from the commissioner in that scenario where it's a little bit more precise where the Minister is the recipient of information that we have shared, yet it should not be for public consumption. Mr. Steele.

Mr. Steele: About 15 years ago, it would have been correct, Mr. Chairman, but not anymore. Thank you very much for that question. You're absolutely right, of course. Once information enters the box of the Government of Nunavut, it is then a record in the custody or control of the Government of Nunavut and therefore subject to the access and privacy law.

In the scenario you described, the information has personal information within it about the constituent. Now, one of the major exemptions in the access law is for personal information. Not all personal information; it has to meet certain conditions, but the chances are very good that in that case, if somebody else applied to get those records that you had handed over to the Minister, that personal information would be

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blacked out. The English word we use for that is "redacted." The information would be redacted.

Even though, Mr. Chairman, you have handed it over to the GN, to the Minister, it doesn't automatically mean that your constituent's personal information would be released. In fact, it almost certainly would not be released. Why? Because the law says so. Thank you, Mr. Chairman.

Chairman: Thank you for that. To take it a little step further, oftentimes it is constituent issues that drive a lot of the lines of questioning that we have in this House during other proceedings than this format, so a line of questioning may be of interest to the public and the media may grab onto a story, whether it be health information or education, or pick your battle, the topic may come up and they may want to get access to what led to this subject of discussion and may again, although that information may be blacked out, I know myself personally, I'm always very careful when I'm in this House of how I speak and to what level of detail I get into, and as in a few instances during this proceeding where I have reminded either witnesses or Members to stay away from specific items and to try to keep the issues general.

There are different levels of opportunity and sometimes the Minister's responses may lead a little bit more into interest of the media to bring more public attention to an issue.

Again, that information may be blacked out to a certain extent, but there are still some presumptions that Members can make or that media can make or members of the public can make. If you could flesh it out a little bit more. I guess I'll leave it at that. If you could just flesh it out a little bit more, please, Mr. Steele.

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Mr. Steele: Yes, it's hard, without having a specific case to talk about, it's difficult to lay out sort of general rules because a lot of this kind of stuff comes down to the facts of the specific case, but really, if an application is made for records to a department, their responsibility is to redact or black out all of the personal information. That's not necessarily just information that directly identifies somebody; it also would include information that indirectly identifies them where, as you say, a journalist or somebody else could just add two plus two plus two and say, "Okay, that's got to be six; it's got to be that person over there."

That's why these positions in government are so difficult because you have to exercise that level of judgment. That's why I have always said that these positions are not entry-level positions. They require a lot of experience and a lot of judgment. That's why it's important, I think, if we're going to improve the system that we create the conditions to get the best possible people. That's really as far as I can go, Mr. Chairman, simply to say that a lot of this is a judgment call, but your constituents' private information is protected by the law. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you. Just to use an example, again, that was mentioned earlier on the ability of a department to go to a third party or to the client and ask them whether they're comfortable with releasing information, it's still up to the department to make that decision. Myself as a Member of the Legislative Assembly, if a third party asks a Minister's office for a copy of a letter or correspondence and the department asks me for consent to release that information, and I say no, can the department still decide to release that information? Commissioner Steele.

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Chairman: Thank you, commissioner. I had one name added to my list for a question. Mr. Savikataaq.

Mr. Savikataaq: Thank you, Mr. Chairman. I just have one or maybe two, but I'm going to read it out to make sure that I get it right.

The Access to Information and Protection of Privacy Act was amended by the Legislative Assembly in September 2017 to allow for the government to make regulations "...prescribing procedures for the disclosure of part or all of the remuneration of employee of a public body, an employee as defined by the Public Service Act, or a member of the staff of a member of the Executive Council." The government's response to the November 2022 report of the Standing Committee indicated that "public employee salaries have not been disclosed at the individual level due to concerns that this could be harmful to GN employees living in small communities or in vulnerable social conditions." I would like to ask the

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commissioner if he agrees with that position. Thank you.

Chairman: Commissioner Steele.

Mr. Steele: I don't think we have the 5th Amendment in this country, do we, Mr. Chairman?

In all seriousness, so the Member raises a couple of points; first of all, the law was amended to allow for a regulation to be passed to allow for the release of employees' salaries. That regulation has never been passed, therefore there is no mechanism to release that. If the question is should the government pass that regulation, that's really not for me to say. Again, that's for the Members of the legislature. We know now that you don't need to amend the law to do it. What you need is a regulation which can be passed by the cabinet. If that's the will of the Members, well, then you need to lean on the cabinet to make sure that that happens.

The only other thing I can say, Member, is the same thing I said the last time I was here on the same topic is that I come from a jurisdiction, namely, Nova Scotia, where that kind of information has been released for over 40 years. The threshold in Nova Scotia was and I presume it still is \$25,000. The sunshine list essentially gives you the salary and expenses of every single person who works full time for the Government of Nova Scotia. It has been happening for 40 years and has not caused any problems at all. Thank you, Mr. Chairman.

Chairman: Mr. Savikataaq.

Mr. Savikataaq: Thank you, Mr. Chairman. To the commissioner again, this was not so much on whether the regulation should be passed, but on the statement that the government has said that it would be

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Chairman: Thank you. Commissioner Steele.

Mr. Steele: Thank you, Mr. Chairman. Again, it's not for me to say that I agree or don't agree with the government's position. I know that's the government position. All I can do is apply the law that's given to me by this House in the case of the Act itself or that's given to me by the cabinet in the case of the regulation. The decision about what exactly the law or the regulation should say is really not up to me. All I can say, Member, and it's a legitimate question, and if I were playing it safe, I would stop right now, but all I can say is that I come from a jurisdiction where this kind of information has been released for a long time. If it were going to create those kinds of issues, I'm sure that I would have heard about it.

I'm aware that in Ontario there is a mechanism by which somebody can specifically apply to be excluded from the sunshine list and there are criteria that can be applied, for example, people who can show that they are, for specific reasons, in a vulnerable position, they could be excluded from the sunshine list. Other provinces have found ways of dealing with this. The issue that we are talking about today is not new to Nunavut. We don't have to imagine what it would be like if we had such a law because laws like this exist elsewhere in Canada and they have managed to find ways to deal with the kind of issues that you mentioned just now, Member.

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The last thing I'll say, if you will excuse me, Mr. Chairman, my very last thought is yes, there are always potential problems with releasing somebody's exact salary, but there also can be some tremendous benefits. I'll just name one of them and that is if it's finally released what salary everybody is receiving, then people can assess for themselves whether they're being treated fairly.

For example, an Inuk might have a feeling that non-Inuit in their workplace are being paid more than them for doing the same work, but they can never put their finger on it because it's not public. The pay range for all of them is the same, but if the information is released, finally, there's evidence and it may show that there's no problem. It's not about creating problems; it's about giving people information so that they can make decisions for themselves about what they need to do with that information.

That's why, in other provinces, these kinds of lists can have benefits as well as the kind of drawbacks that the government has mentioned. Thank you, Mr. Chairman.

Chairman: Mr. Savikataaq.

Mr. Savikataaq: Thank you, Mr. Chairman. I know I asked the government on this yesterday, but I would like to ask the government again. If the government's position is that if the salaries were published in small communities, their concern is it would be harmful for the GN employees. I'll ask the government: is it harmful for the MLAs' salaries who live in small communities to be published? Thank you.

Chairman: Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) I want to

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be careful not to comment too much on the role of the Assembly to make rules regarding its own disclosure of salary.

I do know that when this was originally discussed, we did involve Tuttarviit, and we wanted to find out what considerations we should make according to *Inuit*Qaujimajatuqangit and there were serious concerns posed at that time, specifically harms that are under the Act under Division E when it comes to release of personal information. We're talking about things like damage to a relationship between family members, financial loss, and those sorts of things that are spelled out specifically in the legislation as concerns or as harms that are possible should personal information be released.

I don't think that the government is opposed to additional conversations on this internally, but we did take a step back at that point and hearing from our experts on *Inuit*Qaujimajatuqangit and decided to hold off for the time being. We have released information as a response to information and privacy requests, but as far as proactive disclosure, it was decided not to proceed with that at that time. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you. Next name I have on my list: Mr. Simailak.

Mr. Simailak: Thank you, Mr. Chairman. A question popped up from my line of questioning this morning. This is to the government, Executive and Intergovernmental Affairs. I was asking this morning about training for Government of Nunavut employees with the *Access to Information and Protection of Privacy Act* in my line of questioning this morning. The responses that I was getting, it sounded like it

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c was more towards brand-new employees' onboard training, if I understood correctly.

I'm wondering: for your yearly plans, today being 4/20, 2024, the start of the new fiscal year, do you guys plan ahead for refresher courses for existing Government of Nunavut employees to ensure they still understand the Act? Thank you, Mr. Chairman.

Chairman: Thank you for that question, Mr. Simailak. I was thinking the same thing. Sometimes the longer term employees are the ones that need the most training. Mr. Witzaney.

Mr. Witzaney (interpretation): Thank you, Mr. Chairman. (interpretation ends) It's a great suggestion. We don't currently plan proactively in that. We do offer training at the request of departments. For example, we gave training to the Department of Human Resources, I believe, last year in 2023-24 on the topic of access to information and protection of privacy. Our office does make itself available to do that kind of training.

The last time I was in a similar role to this, I actually did a lot of training across Nunavut with nursing stations and health clinics on refreshers on the privacy side of things. It is something that we do and maybe something that we need to look at more proactively, but you're right that everyone can benefit from more privacy training. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you. Mr. Seeley.

Mr. Seeley: Thank you, Mr. Chairman. In the first round of these questions this morning, I think we identified that each of the departments manage some of these training and development opportunities differently to meet their own staff needs.

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In a couple of circumstances, things like the cyber security training that deals with how we manage our information electronically, it goes out GN-wide, so it's not just for new staff and it goes out along with regular reminders GN-wide, reminding everybody of where they're at within their training, and then there's a report card for each department issued to each deputy on a monthly basis to let them know how their department is performing in compliance and completing that training. It's all existing staff as well as any onboarded staff. Some of the new modules that we are developing are targeted at new staff entering the public service because, for many of them, this is new.

In addition to the new onboarding on the privacy materials that is in its final stages of development and the cyber security and our departmental onboarding, which is available to all staff, we also provide in-year training available through seminars and webinars on financial management and things like procurement year round. Those are offered typically as training and development opportunities for new staff, but definitely where a performance evaluation indicates it, it's built into the annual plan for staff on whichever module. It's an ongoing process in our department. Thank you, Mr. Chairman.

Chairman: Thank you. I have no more names on my list. I'm going to give Mr. Seeley an opportunity to provide government closing comments, followed by Mr. Steele. Mr. Seeley first.

Mr. Seeley: Thank you very much, Mr. Chairman. Thank you, Members, for a very engaging discussion over the last couple of days regarding the commissioner's most recent report and some new developments in relation to privacy and access to information, and definitely, some very thought-provoking questions and I think some questions and

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discussion that will help lead our work in this area in the coming months, and hopefully years.

We do sincerely appreciate the questions, the dialogue, and the support from all the officials here and those who are not here, leading up to the session. Thank you very much for the opportunity.

I would like to thank the commissioner for his ongoing work in this area and his work as both a referee and a guide in relation to privacy and access to information. Thank you, Mr. Chairman.

Chairman: Thank you for that. Mr. Steele.

Mr. Steele: Thank you, Mr. Chairman. I would like to thank the government witnesses for their thorough preparation and their thoughtful answers to all the questions.

I would especially like to thank the Members of Committee for your time and attention. For me, as an independent officer of the House, I report to you. This occasion when I appear before you and listen to your concerns and answer your questions is very important to me, and I especially look forward to receiving the Committee's report where you raise questions, ask for additional information, and basically summarize your recommendations.

The last time I was here, I found the report of the Committee tremendously useful. The government's response to the report gave me information that I had never had before. I think the process works very well and I would like to thank you all for your time and attention today. (interpretation) Thank you, Mr. Chairman.

Chairman: Thank you, commissioner and witnesses. I know that there were a number

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'/በኦ' (ጋ坃ትበህና): 'dታ°፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞ዀ፞ 'dታ°፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞፞ዀ፞ጏ ኦ<ኌ°ኒዕታጐ፞፞፟፟፟፟፟ኯርባላኄር የኦናርናበላጐ፞ጏቦጐጏ ላለጐdበቦታኦላውና.

Ċºdd b∩L}qċc Þσºbºn Pð'cr CĹĠႪbP∩'¬∿L dºrd¬º Ͻ\PΓαcΡίLC CΔLΔ'Ͻσº ΛrLcÞ°°nαL CL°α Λ«'cd>t²\ Δ°n'q'ndiL' 'd>°αΓ'\d'L∆d¬» Þ'¬Γ \°°L>Þ'Nd™bÞUL. (Ͻ\λη)¬°Ġ°D) 'd>°αΓ' Δ°r«ÞC°°.

 Δ •**/<ሶና**•**ሶ** (ጋⁱላትበሀና): የb Δ የ<mark>d</mark>ንኮ/Lላጭ b Γ ላ Δ 6 የተ Δ 0 የተ

of commitments that were made during the proceedings and I'll ask Executive and Intergovernmental Affairs to coordinate and send a response to those commitments through myself as the Chair.

For future reference, we will be doing this again this fall, dealing with Public Accounts and, hopefully, the Languages Commissioner with her annual report. As well, I will look forward to further hearings along this nature and, absolutely, Mr. Steele has already provided his next annual report, so I do look forward to next year's hearing on that.

With that, we will be following up with the Representative for Children and Youth starting Monday morning at 9 a.m.

I appreciate everyone's participation, especially the interpreters that helped me very much throughout my job as chairing this. I think it's a very important recognition for the staff that are with me and obviously for the staff behind the scenes that provide a lot of the work preparing us and witnesses for this type of a hearing I would like to thank everyone's participation.

I look forward to Monday morning. Thank you.

>>Committee adjourned at 14:25

'b_A_>?>>'rod^bbll, CAbdd ALA>'rd'rG^bbl' belber i'bo di CAbd rabreb dadnrhbragl Ablebarbo

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