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Chair

Mr. Garry Breitkreuz

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•(1100)

[English]

The Chair (Mr. Garry Breitkreuz (Yorkton—Melville, CPC)): I'd like to call this meeting to order.

This is the 39th meeting of the Standing Committee on Public Safety and National Security. Today we are dealing with Bill C-279, An Act to amend the DNA Identification Act (establishment of indexes).

We'd like to welcome our witnesses to the committee. We have Ms. Karen Sallows, the director of research and evaluation and strategic coordinator for the Department of Public Safety; Mr. Ronald Fourney, from the Royal Canadian Mounted Police; and Mr. Greg Yost, from the Department of Justice. Welcome to you all.

You are all welcome to make opening remarks.

My information is that Ms. Sallows is prepared to begin. Please go ahead.

Ms. Karen Sallows (Director, Strategic Coordinator, Research and Evaluation Division, Department of Public Safety): Thank you, Mr. Chairman.

[Translation]

Hello. I am the Director of the Strategic Coordination, Research and Evaluation Division at Public Safety Canada. I am the one in the department in charge of the Missing Persons Index file, the MPI. I appear before you as such.

I would like to introduce two of my colleagues who have been working on this file for several years. There is, first of all, Mr. Ronald Fourney, Director of National Services and Research at Forensic Science and Identification Services in the Royal Canadian Mounted Police, and Mr. Greg Yost, Counsel at the Criminal Law Policy Section in the Department of Justice. We will be pleased to answer your questions on this subject.

However, I would like to start with a presentation outlining the context of the Missing Persons Index initiative and its progress.

[English]

Most view a national MPI as creating the capability to allow the DNA profile of a missing person or close biological relative to be compared to the DNA profiles derived from found unidentified human remains from jurisdictions across Canada. Coroners and police in Canada can use many other forensic and investigative tools, including a specialized index on CPIC, the national computer system used by all police. Local authorities sometimes do use DNA

technology locally for identification or to assist in missing persons cases, but there is no centralized or standard way for DNA-based comparisons to be made across jurisdictions and no common approach by authorities.

As you may know, the possibility of establishing a missing persons index was raised briefly in 1994 and again in 1996 as part of public consultations related to what is now the DNA Identification Act, for which the Minister of Public Safety is responsible. More recently, Judy Peterson of British Columbia—whose daughter, Lindsey, has been missing for many years—proposed an MPI in response to the 2002 Department of Justice public consultations on the operation of the DNA data bank legislation, and of course there have been previous private members' bills on the subject.

•(1105)

[Translation]

In the fall of 2003, the federal, provincial and territorial ministers responsible for Justice ordered an FPT working group on this Missing Persons Index to be set up. They also asked officials to review issues raised by the establishment of a national index primarily for humanitarian reasons.

I chair the FPT working group on the Missing Persons Index but I am here as a federal public servant. I will provide an overview of the work undertaken by the group over the last several years and sum up the work accomplished and the anticipated timelines. However, since a large amount of information was provided on a confidential basis during the discussions in the working group, I am not in a position to divulge the individual positions of the various jurisdictions at this stage.

The mandate of the FPT working group is to assess matters related to the extent of the Index as well as privacy issues, legal, operational and financial aspects, and to undertake public consultations, to recommend potential models, and to provide support to the ministers and deputy ministers responsible for Justice with regard to setting up an MPI and related decisions.

[English]

The public consultation was completed in summer 2005. There were 150 respondents from the general public, police associations, several police services, provincial governments, missing persons organizations, and some bar associations. Detailed results from the consultation are available for the standing committee's examination. But in a nutshell, the results indicated strong support for a national MPI managed by the RCMP.

Also, as part of the consultation process, the FPT working group discussed the issues and challenges the proposal raises with the Office of the Privacy Commissioner, the national DNA data bank advisory committee, Mr. Gary Lunn, and Mrs. Peterson.

I should note that letters of support from concerned citizens who support the creation of a national MPI are received on an ongoing basis by the Department of Public Safety. This remains an issue that is close to the hearts of many Canadians, especially those who are in the unfortunate situation of knowing someone who is missing.

In November 2005, following the consultation results, FPT ministers confirmed their commitment to develop options. They directed officials to conduct detailed work on the cost, privacy, and legal implications. An overarching principle in developing an MPI model was to do no harm to the existing criminal law regime.

Three subcommittees were formed.

The missing persons definition subcommittee reviewed the resources and police procedures that already exist and focused on what guidelines would be required to ensure the most effective management of missing persons cases when these profiles were included in a national MPI.

The legal, administrative, and privacy issues subcommittee focused its research on analyzing the various legal issues involved in an MPI. These included issues such as the implications of cross-matching the MPI with the national DNA data bank's criminal indexes; informed consent; legislative jurisdiction; legal guarantees relating to analysis, retention, use, and destruction of biological samples and DNA profiles; and so on. Mr. Yost co-chaired that group.

The cost and funding formula subcommittee looked at factors that would affect costs and operations. More specifically, the subcommittee assessed the operational procedures you would need to put in place to provide law enforcement officials with access to a national MPI service. It also looked at how this would work in conjunction with existing procedures. The RCMP and Dr. Fourney have been very helpful with this work.

The FPT working group has been active in addressing and resolving a number of issues, many of which have arisen in the debates on Bill C-279. The discussions have coalesced around a number of elements. A national system operated by the RCMP as part of national police services and established largely by the federal government—this is similar to the national DNA data bank—would have the same advantage of having both high numbers of profiles and geographic impact. Provinces and territories could participate on a voluntary basis. In other words, they would be able to choose to gather DNA samples and upload the profiles according to established common criteria, for example, after exhausting other investigative or identification methods.

A missing person could be broadly defined in any legislation, but participants would use regulations and agreed upon guidelines to allow for local flexibility and best common practices.

The MPI would most likely have three separate indexes containing DNA profiles that could be cross-matched among themselves and potentially with existing criminal DNA indexes. The first of

these would be human remains from unidentified human remains. The second would be personal effects of missing persons, voluntarily supplied, but using guidelines and verification practices. Third would be relatives of missing persons, voluntarily supplied, with measures to ensure active and informed consent.

Any advisory or oversight body would need to recognize differentiated federal, provincial, and territorial jurisdiction and roles.

If coroners identify human remains through a missing persons index, this finding could be used to establish death for provincial and territorial purposes and would deal with related issues, such as inheritance, insurance, and so on.

An assessment would need to be made of corresponding legislative changes respecting provincial and territorial police and coroner legislation that may be needed.

The working group has made significant progress with regard to jurisdictional issues and consent issues. This keys on both the consent given by any individual involved in a missing persons case and the jurisdictional responsibilities exercised by the originating province or territory. Again, almost all missing persons cases originate through a report to police or when found human remains are given into the control of a provincial or territorial coroner.

It is hoped that recommendations can be made for a legal framework for a national MPI that is flexible enough to deal with these important concerns, which have direct relevance to the prospect of cross-matching the MPI indexes with the existing criminal law indexes. Through informed consent, individuals could be able to control cross-checking of their profiles, provided for MPI purposes, with any of the existing criminal indexes in the national DNA data bank. The originating jurisdiction could also determine the degree of cross-matching it would permit.

• (1110)

Let me quickly note that there is other FPT work under way respecting missing women in particular. Established in February 2006, the mandate of the FPT missing women's working group is to consider issues associated with the effective identification, investigation, and prosecution of cases involving serial killers who target persons living a high-risk lifestyle, including but not limited to the sex trade. They are looking at strategies to protect persons who have a high likelihood of being victimized by these predators. The results of the working group will be in the form of recommendations to FPT deputy ministers responsible for justice. We liaise closely with this group where the potential use of DNA arises in discussions.

A word perhaps on the scale of the situation for missing persons in Canada. As I believe you may know, there are currently between 500 and 600 sets of unidentified human remains in Canada. While there are approximately 100,000 missing persons reports made to police each year, most cases are resolved quickly. For example, it is estimated that approximately 95% of missing persons are located, or the case is otherwise resolved, within 30 days. Approximately 6,000 ongoing missing persons cases are recorded on CPIC, and each year about 420 cases of people missing at least one year are added to this number. Therefore, we know there is a need to build a system that can deal with ongoing cases and with the existing historical group of 6,000 cases.

I should note that the indications are that the raw numbers of actual hits or matches from any MPI may be very low, especially in comparison to the number of matches we're getting for the national DNA data bank. As well, experience from the United States indicates the investigative value to law enforcement MPI matches may be somewhat smaller than is often assumed. However, in the humanitarian sense, any match to human remains or any help in advancing an MPI case is of great value to the family concerned and can assist law enforcement officials and coroners who are working with these families.

California is probably the best example in that its population is close to that of Canada. The California missing persons DNA program has resulted in very few cold hits in which unidentified remains were linked directly to a profile uploaded to the central system. The majority of other hits in the California system, which assists in the identification of about 71 unidentified persons, were what is called "warm identifications", where DNA was used to confirm what was already suspected. Sixteen of the warm identifications were classified as homicides, 30 were unknown undetermined circumstances—many could be homicides—and 24 of the remaining identifications died of natural causes, suicide, vehicle accidents, etc.

In general terms, this endeavour would be similar to building the national DNA data bank. While the science and experience exists already, there are costs for development and implementation and a need to ensure the participation of the provinces and territories in using similar processes and techniques to conduct the DNA analysis and ensure privacy and security is protected. With this in mind, the working group has intensified its work on an operational model in costing and is trying to work toward final cost estimates to be part of the final presentation to FPT ministers.

I can illustrate for you some of the factors that will determine overall costs. Three of the major cost factors are related to the minimum number of days that could elapse after a person has been reported missing before DNA samples are collected and sent for analysis; the scientific process or processes selected to analyze DNA samples; and which forensic laboratory or laboratories to use, whether government run or private labs or a combination of both.

In March 2007, a business process mapping exercise was completed, which has produced a proposed structure and an operational model, identified jurisdictional responsibilities and coordination of operations between agencies, and provided information that will lead to a more precise cost model to assist in determining how to implement and run this initiative. These results

in this timeline are consistent with the direction and timelines given to the working group by FPT deputy ministers at their January 2007 meeting in Toronto. The working group plans to present its findings to the FPT associate deputy minister committee on policing issues in Calgary on May 23, 2007, and make a final report to deputy ministers in June 2007 in Yellowknife. These deputy ministers would consider the report and its specific recommendations that would be presented to ministers at their fall 2007 meeting.

Again, while I cannot speak for the views of provincial and territorial partners, I can tell the committee that there has been very good participation, cooperation, and goodwill from jurisdictions throughout the process. There are considerable policy challenges and choices, but again, there is considerable goodwill and momentum.

• (1115)

Thank you. We'd be pleased to answer your questions.

The Chair: Thank you very much. We'll go to questions in a minute.

You said there are very good reasons for the jurisdictional concerns. Could you give this committee some idea of what those concerns are? And you said at the end that you've been talking to provinces and territories. What's an example of a concern and how it would affect this issue?

Mr. Yost.

Mr. Greg Yost (Counsel, Criminal Law Policy Section, Department of Justice Canada): The fundamental issue being raised is whether the DNA MPI is something that flows out of provincial responsibility. It's coroners in the provinces, their health systems, and things like this that identify the debt. The police are responsible for the administration of justice, so even a normal police investigation would normally be the jurisdiction of the provinces. The federal law powers...there's always spending power, and of course there's the criminal law power. To the extent that the DNA MPI is used for law enforcement purposes—an adjunct to our criminal power—then it becomes something like CPIC, where the national service could be set up. Provinces are not interested in having the federal government tell them how their coroners should handle investigations of missing persons and stuff like that.

The Chair: Okay.

By the way, does anybody else have any opening remarks before we go to questions? None? Okay.

For the first seven-minute round, Mr. Cullen, please.

Hon. Roy Cullen (Etobicoke North, Lib.): Thank you, Mr. Chair.

And thank you, Ms. Sallows, Mr. Fourney, and Mr. Yost. I'm glad to hear that this is moving. I gather it is somewhat complicated, and I understand.

In terms of the jurisdiction, is it not fairly well established that in order for this to actually be implemented, the provinces have to play a key role? Is there still debate around that point? Have the jurisdictional issues been squared away in terms of who has responsibility for what?

Mr. Greg Yost: We've done a final report, which will go to the main committee, and through it to the deputies, in which we discuss the jurisdictional issues. I think it would be fair to say that as long as the provinces can decide the extent to which they want to participate, then we are not treading on their jurisdiction, and we could establish federal legislation to facilitate the interchange by the provinces, etc. With the national DNA data bank, we do not force the provinces to upload crime scene index profiles. It's something they do because the service could be very useful to their police. So we'd be talking about a service at the federal level that could be of benefit to their police, and their police could decide when they wanted to access it, etc.

Karen mentioned that the jurisdictions would decide to what extent they want to participate and whether they would place restrictions on information the residents of their provinces and their police forces would be allowed to upload.

● (1120)

Hon. Roy Cullen: Good. From what you're saying, it sounds like there's a lot of goodwill to work through this and make it happen in some respect.

I had a couple of more detailed questions. I remember being previously involved in this with Mr. Lunn and the department. But just to give me a gauge as to how you're working through some of these issues, I'll give you a couple of concrete examples and maybe you could tell me where the current thinking is. There are two examples that have struck me as not necessarily problematic but challenging. One is where young people will leave home voluntarily and then disappear. What rights do they have, in a sense, if their location is discovered? What responsibilities, obligations, rights, do various parties have if this person has actually left home voluntarily and doesn't want to be identified?

The second example is if you have a missing person, they're on the index, and their DNA is discovered at a crime scene, for example. They might in fact be a suspect. Tell me where the thinking is on that. I may have picked bad examples, but they stuck in my memory as being issues that needed to be worked through somewhat carefully.

Mr. Greg Yost: I assure you that those are the kinds of issues that we have dealt with.

The question of the person who doesn't want to be identified is one that is an operational issue, if I can put it that way. We always think of this in terms of Judy Peterson's missing child, a young child, and obviously the parents have a major interest. One of the problems is that an awful lot of missing persons reports are of a different nature entirely. Probably the biggest example is Project KARE, which you have heard of, where they gather the DNA from the sex trade workers. They actually wouldn't fit into Bill C-279. The police are not a relative so they have no right to upload it, and that's one of the issues, if it's to be a useful tool for the police, that we have to deal with.

My understanding is that in other jurisdictions that have these the police protocols have.... You find a person three years later who's disappeared at age 16 and you ask, why did you leave? There may be allegations of abuse. There can be all kinds of things that go in a completely different direction. The normal thing is that an adult is

not going to be forcefully, if I can put it that way, identified to the person who reported them.

Those are difficult issues that would require police protocols. The operational side was dealing with that more than the legal side. We were aware of that issue.

The one that's probably bothered us the most is the privacy and charter implications surrounding the person. It's been uploaded in a normal way and sometime later it's a case of—I don't know if we can call it this—good news, bad news. We have good news: your child is alive. We have bad news: we think your child is involved as a killer out in Kingston, or something like that. That would be difficult.

The view of—I'll say this—the federal Department of Justice, because some of the provinces are not quite as convinced as we are, is that if the police have obtained information in an appropriate manner, and they would have done this in accordance with the legislation that's provided to them, and if this leads them to something else that they're entitled to follow—if I can use an analogy, the parents show up with a picture of the child, and for whatever reason it's recognized as the picture taken off a closed-circuit camera while a robbery was under way—the police would have, we believe, the right to follow that up. But it's very important that you inform the person who's uploading it and that this be the right person who has some genuine interest in it, that there is this possibility, that it could happen, and you ask, “Do you want us to check the crime scene index or not?” If they say no, you could cut it out.

Ron knows the way these things are operated in other jurisdictions because he deals with them all the time. But I understand that this kind of “fill out the form with which one you want checked” is what's used in other countries.

● (1125)

Dr. Ronald M. Fourney (Director, National Services and Research, Royal Canadian Mounted Police): I should add to that perhaps. What distinguishes this index as different from other indices is the humanitarian component and of course the voluntary nature. It's so important to have the consent properly established at the beginning. The training and the collection of those samples are part and parcel. It's very similar to, for instance, a mass disaster.

We were involved with the identification of the victims of Swissair. We also had to develop a very sound consent form enabling us to go forward and make any identifications, but at the same time, the people who were providing the samples to us were very comfortable in what we were doing and what we should not be doing. What distinguishes this index is...it's like a long-term mass disaster. You have a lot of missing people over a period of time.

My counterparts, for instance, in the United States have faced similar situations, and it's interesting to look at the various states involved. For instance, some states are very concerned about the privacy and security, as they should be, of their citizens. On the other hand, I would say that they also balance that with the prospect of making identification. So, for instance, in Florida, my colleagues there have designed a consent form that establishes what can or cannot be searched based on the permission of those individuals providing the sample up front. It would very much be a case of establishing the trust of the individuals in trying to find your missing loved one, but at the same time following the rules that are in place within that consent form.

So part and parcel of this whole process will be establishing the rights and privileges and respecting those at the very front end, and we hope a proper consent form will do so.

The Chair: Thank you. Your time is up.

Monsieur Ménard.

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Has this issue been submitted to the Uniform Law Conference of Canada that meets every summer? It usually brings together the Justice and Public Security deputy ministers.

Mr. Greg Yost: To my knowledge, this issue has not been discussed there. I have been working on this file since February 2005. Perhaps there was some resolution previous to that date and that I am not aware of. I have never been asked to comment upon any resolution coming from that Conference. That would be the normal way for me to find out that something is going on.

Mr. Serge Ménard: First of all, I am a sovereigntist, but I am absolutely convinced that it would be a good thing to have such a bank, including for missing persons, without there being any criminal activity. If there were criminal activity, this would in any event fall under federal jurisdiction, would it not?

Mr. Greg Yost: Yes.

Mr. Serge Ménard: The problem therefore flows from the introduction of this missing persons data bank where there is no criminal activity, and this is where this would come under the jurisdiction of the provinces, if I understand correctly. Am I right in saying that?

Mr. Greg Yost: If a province wished to establish a provincial bank with human remains and the DNA of any of its residents having filed a report, then that would be its business entirely; that would not at all involve the federal government. The problem is due to the fact that we want to do something nationally that will cover that in part, while at the same time helping solve investigations that could entail a criminal aspect. It is the second part that clearly falls under federal jurisdiction.

Mr. Serge Ménard: Excuse me?

Mr. Greg Yost: Our jurisdiction is over the second part. As for the first part, in other words the human remains that might be found, the coroner who would be put in charge of the file and the reports of missing persons, that is much more the jurisdiction of the provinces.

Mr. Serge Ménard: Yes, but is it your impression that there are provinces that are resisting the idea of participating in this type of data bank?

• (1130)

Mr. Greg Yost: I do not believe that there are any provinces that are resisting the idea. Some provinces are of the belief that if we want to establish this, they will have to change their legislation, set up their own procedures, etc. Our legislation should be flexible enough to allow provinces to establish their own rules. There is tremendous good will out there. The first problem is one of jurisdiction. The other problem is the DNA.

Mr. Serge Ménard: The English name of the Conférence pour l'harmonisation des lois is "Uniform Law Conference of Canada". Obviously, we did not like the word "uniform" in French, because that is not what we want to see. That is why we opted for "harmonization".

It seems to me that this is the typical case for which this Conference was created, in other words, a situation for which it would be beneficial to have a common stance throughout Canada and a common ground in order that, first of all, there be consensus on the aims and, secondly, that the legislation be harmonized.

I do not understand why the matter was not placed before this Conference. My impression is that if it were, unless a province was really opposed to the idea underlying this project, the whole matter would be resolved within two years, one year to reach some consensus, and there are always deputy ministerial meetings between conferences, and the following year to agree on the laws that could be put in place in the 10 provinces of Canada and the territories.

Mr. Greg Yost: I would say that that is an interesting suggestion, but the directive we received from the deputy ministers was to go ahead with our working group and to make our recommendations. If, when they receive our report, which should come in a few months — we are almost there —, they decide that it would be a good idea to submit our report to the Conference in order for there to be a discussion at that level, then that would be possible. I am not at all opposed to that idea.

Mr. Serge Ménard: We could perhaps make the suggestion ourselves to the deputy minister, but it would not be a bad idea for you to take the initiative. Deputy Minister Bouchard has been deputy minister for some time in Quebec, and I believe he would be pleased to pilot this file, especially if you told him that I agree, that it is a good project and that it should be carried out.

I know that he has participated in this Conference for having attended it with him over many years.

[*English*]

The Chair: Mr. Comartin, please.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

Thank you for being here.

Ms. Sallows, I have just a quick question. Regarding the figures you gave us, of the 71 cases in California, were they working on a database of samples similar to that of the 6,000-plus that you would have in Canada?

Ms. Karen Sallows: I don't know. I'll ask Dr. Fournay, who worked on these, to get the information about the United States, to be more precise, if he could. Thank you.

Dr. Ronald M. Fournay: They're growing as well, and I think it's approximately the same size. But for some reason California tends to have more missing individuals than other states do. I know Texas is in a similar situation. I'd have to check my records to give you those numbers.

I can tell you that from a national perspective, the way it works in the U.S. is that they have a national missing persons registry that is funded federally. That basically allows the FBI and two other laboratories to provide service to identify missing remains. Yesterday I checked with my colleague who runs this registry, and they have 4,245 missing person samples in that registry, which was established in 2000. They have about 1,195 unidentified found human remains, the origin of which they just do not know. To date, they've made seven of what I would call cold hits. That means there would be no prior understanding that this sample would match these parents, for instance. In contrast, for instance, we have what we would call a warm or a hit to assume identification, where the police have come forward, and they're pretty sure that this might be the missing individual, but for reasons of environmental insult, perhaps, there are no fingerprints, the remains are not all there, or there are different conclusive results. They have 1,100 cases, for instance, that they've processed based on what we would call conformational identification.

• (1135)

Mr. Joe Comartin: I'm sorry, they identified that many or they have that many...?

Dr. Ronald M. Fournay: They have 1,100 cases, and they've identified 165 from that group.

As my colleague Karen Sallows has indicated, the whole concept of the data bank is certainly to get as many samples in there as you can to increase your chances of identification, but it will not match, for instance, the number of matches and hits we would have within the national DNA data bank for criminal offences and casework that's been resolved.

Mr. Joe Comartin: Assuming we build a national one, whether it's provincial or federal and it covers the whole of the country, is there any reason to believe our success rate would be any better than that of the U.S.?

Dr. Ronald M. Fournay: I don't believe so, based on this and what other countries I've talked to have said. But on the other hand, I can certainly tell you that for the national DNA data bank, for example, from a crime scene to convicted offender match, we tend to have many more matches than expected based on the numbers of samples that are in it. So I would hope we would build an effective and efficient system. Our idea would be to be better than anybody else in the world, because this is a very important endeavour.

Mr. Joe Comartin: Mr. Yost, in terms of building the system—and I haven't looked at this closely enough, but let me just throw it out—has that type of a model in which we would, at the federal level, begin to take the samples and then contract work out somehow to the provinces been looked at? So we would, maybe on a fee-for-

service basis, provide the service federally for the whole of the country, and then the provinces individually could purchase that.

Mr. Greg Yost: I won't go into the financial end of it, because I'm on the legal issues committee and we have no mandate on the finances. I rather suspect that will be an interesting issue when we get further down the road.

Basically, Bill C-240 was in the House and Bill C-279 was in the House, and when we did the consultation, the support was for a national one run by the RCMP. That's what we've been focusing on. If the federal government passed amendments to the DNA Identification Act or a separate missing persons data bank act with these kinds of safeguards and consents, etc., then the provinces would be under no obligation to make use of it. It would just be a service there for them to use if they wished. The higher your fee for service, the less likely they are to take advantage of it, I would imagine.

Mr. Joe Comartin: They'd do it for you.

Ms. Karen Sallows: I could add a little bit to that, Mr. Comartin, if it's helpful.

Throughout, no one is.... It's being envisioned as a publicly funded capacity. There would be no question, I don't think, of individuals and families being asked to pay for any part of the service. Nothing like that is being contemplated.

The estimates in the working group are still being finalized. The business process mapping exercise we conducted really helped us to understand who would be doing what at one end of the system, at the intake level in terms of provincial jurisdiction, up through to, again, a national data bank, and who would be incurring costs all down the line.

So we do have kind of a map for that. In a way, it's apart and aside from the legislative framework that goes with it, but it's certainly informed by it.

Again, the objective is to present the FPT ministers with that core model and that recommendation and the means to achieve it. The issues on funding—how to fund, and therefore the means, with the possibility of cost sharing—all remain to be discussed at that level.

Mr. Joe Comartin: In terms of building the infrastructure, once the decision is made—and I'm saying this optimistically—on what model we're going to use, do we have any estimate of how long it will take to get it up and running?

Ms. Karen Sallows: I'll give an initial comment, and then perhaps Dr. Fournay can add something.

We're somewhat informed by the experience of setting up the DNA data bank in 1998 to 2000, when the original legislation came in, with regard to how long it took to stand up a national system, the laboratory capacity and everything to go with it. The ballpark we've been given, depending again on when the legislation and funding sources would come into play, is somewhere—again, if the RCMP stood this up—in the order of 14 months to 18 months from that time to turning on the switch, if you will, or opening the doors for samples and matching.

• (1140)

Mr. Joe Comartin: And that would include entering into the data bank all of the 6,000-plus samples that we would have at that point?

Ms. Karen Sallows: Part of that process—again, the decision is how we would go after those 6,000 historical cases—would probably have to be a separate project on its own. That's been part of the cost estimates we've been doing. Whether that starts during the 12 to 18 months or when legislation is implemented, and you can stand up the lab capacity to go with it, it may run as a separate project to catch up, as well as taking new cases on board.

I don't know if Mr. Fourney has anything to add.

Dr. Ronald M. Fourney: In terms of the technical application of the technology, we have pretty good groundwork for that from the national DNA data bank, and certainly from following other countries in the world that have missing persons registries, much like the FBI, for instance, in the U.S.

From my own perspective as a scientist, I think the time factor for us will be not so much the infrastructure and the technology as it will be the samples themselves that will be coming in. We're dealing with an awful lot of samples across the country that go back many years. There are some real questions; even though there may be 6,000-plus people reported to be missing at this time, the question of who would bring samples in, who would be responsive....

After all, this is a voluntary database. It's not like our situation at the national DNA data bank of Canada, where if an offender is found guilty and it's a designated offence, the sample is automatically taken. This is strictly working with the families and making them aware of the situation and the technologies that would be used and the soundness of the approach we're taking. Hopefully the samples would then come in.

Once again, in a situation parallel to that of my counterparts in the U.S., I gave you the figures there of just over 4,000 samples; they have over 100,000 events on a yearly basis, and there are probably 10,000 to 20,000 found unidentified human remains. Reflecting on their service and what they provide, and what has come in, I think we'd have to take a lot of caution in terms of timing. The infrastructure can be in place, we can ramp up the technology, but will those samples come in? That's a real question.

The Chair: I guess we'll have to leave it there.

Mr. Joe Comartin: But I had a brilliant question—another one.

The Chair: Really?

Well, with the consent of the committee, we could let you pose it.

Any problem...?

Mr. Joe Comartin: No, no, Mr. Chair, I wouldn't presume to use the committee's time. I will wait.

The Chair: Okay, we'll come back to you.

Mr. Joe Comartin: Thank you.

The Chair: Mr. MacKenzie.

Mr. Dave MacKenzie (Oxford, CPC): Thank you, Mr. Chair.

Thank you to the witnesses for being here.

Mr. Comartin always has brilliant questions, so we missed that opportunity.

How many other jurisdictions in a general sense would have this kind of legislation in place?

Ms. Karen Sallows: In the international context, I might ask Dr. Fourney if he has.... I know the United Kingdom, the United States....

Dr. Ronald M. Fourney: Technically, in this context, I can only think of the American model at this point. Other groups may provide certain assistance in the event of a mass disaster—for instance, the Bali bombing that occurred, and Australia developed a missing persons index for that case.

No, I think this is fairly new.

Mr. Dave MacKenzie: Okay. There are a couple of questions I would have relating to questions asked, and I want to comment.

Mr. Cullen mentioned young people who voluntarily go missing and don't want to be found, but that's also true of a number of adults who leave for a variety of reasons and don't want to be found. By and large, this would not be utilized in those cases anyway. We are talking about human remains being identified.

It would be difficult for the police agencies to find missing persons, get a DNA sample from them, and tell them that you want to compare it with somebody who's looking for them.

Ms. Karen Sallows: I guess there are many scenarios, but in terms of which index you set up, you can, of course, take from found human remains with the coroner.

When you have a missing persons report with police and whatever protocols you attach to that, you may take samples, with consent, from the missing person's hairbrush or something like that, which could bring them into the scope of the system, and again, with consent, their relatives.

If you go back to that second circumstance, that reported missing person and what their consent is and what their perceptions are, their privacy assumptions, again that's one of the issues, as Mr. Yost has said, that becomes complicated.

But in another context, I guess that sort of speaks to not just the informed consent that would take place, but again, as Dr. Fourney knows, how do you report back matches to police and jurisdictions, and how could those be controlled, the results in a report?

• (1145)

Mr. Dave MacKenzie: I don't see a police agency wanting to obtain DNA from someone who has gone missing and doesn't want to be identified. They will do it for minors, and so on, but I don't see that being the issue for adults.

Ms. Karen Sallows: Sometimes you may not know about that. Someone else may report them missing, but it's hard to determine that circumstance or that intent, if I understood your question properly.

Mr. Greg Yost: I was just going to say that DNA is the very end of the missing person process. The police would normally not be asking for DNA the first time you walk through the door. They want all kinds of other information. The DNA MPI is basically if we run out of every lead. We don't know.

We can explain what we can do with it. Maybe not just now but six months from now, or six years from now, something may get entered there and we may get a match, but it's just done as a last resort.

Mr. Dave MacKenzie: Okay.

I sense from my colleagues opposite that there is certainly a willingness to see this kind of registry go forward in some manner. I think we all recognize the importance of it with respect to families that have questions about family members who are missing and certainly those who are deceased.

My other question would be, how far away would you anticipate we could be from getting the jurisdictional issues resolved among the provinces?

Ms. Karen Sallows: I think as Greg and I have indicated, from our particular perspectives, we are optimistic of it. It is the decision of deputy ministers and ministers above us. We can't guarantee how that would go, but we feel that our work is complete. The working group is in a position to make a final report and put those decisions forward.

Subsequent to that, we've talked about a possible timeframe for legislative and other implementation, and then there is the issue of costs. We do know that, generally speaking, the labs have said there is no additional DNA capacity to absorb something like this, even if we.... There could be an upper and lower range of how many samples would come in. Again, that's considering the workload that is with the systems now and the future workload anticipated from new legislation coming online and the capacity to deal with all of it.

They've said there is no flexible capacity to bring on an MPI at this point.

Mr. Dave MacKenzie: If we overcome that issue with respect to costs and the availability, would it also be, or could it be, an option at some point that federally we set up the system and allow the provinces to opt in if they so desire?

Ms. Karen Sallows: I would say that is probably the model that is on the table now. That's what we meant when we talked about everybody wanting a flexible model whereby they could choose to control that. That's envisioned as the best way of making more provinces able to participate, of making it accessible, and as well, from their perspective, making them able to participate.

Mr. Dave MacKenzie: The timelines for that could be less than attempting to get the provinces to all agree to one model that from the beginning everybody is part of.

Ms. Karen Sallows: I think they would all see themselves as part of it. It's a matter of who establishes the system and how it interacts between things that originate in the provinces and territories and what's done in a national data bank.

Mr. Greg Yost: I hope we haven't overstated the jurisdictional issues. The legal issues were complex, and we've hacked away at those for about a year and a half. We have a report, as I said, and it's

the view of the Department of Justice that this could be done, but it won't work unless the provinces are willing to come onside, or if we don't have something that can do the processing. There's a lot of goodwill in the world, but there are also provinces that are screaming for more DNA crime scene work to be done and that kind of thing. Getting legislation through might actually be the least difficult part of it.

• (1150)

Mr. Dave MacKenzie: Fair enough.

The Chair: That's very interesting.

We now come back to the opposition side.

Ms. Barnes.

Hon. Sue Barnes (London West, Lib.): Thank you very much.

I think you're probably correct. I would think in many parties, if not all parties of the House, there are MPs who wish we had some workable solution to this situation.

I want to go into the international community. When we have Canadians abroad who are killed in a natural disaster, how do we get the DNA matching done now? What's used?

Dr. Ronald M. Fournery: Typically in a case of mass disaster or a series of environmental incidences, there's an international program established amongst countries. There's a process, and also the way forward is pretty well set out.

For instance, if people went missing within Canada, a report is put on our Canadian Police Information Centre that we think this person may be in Canada and can you help us. We store approximately over 1,000 of those individuals, I believe, on our database now.

Hon. Sue Barnes: I only have five minutes and I want to follow up on this.

On your working group in the report, did you cover off international agreements?

Mr. Greg Yost: Yes.

Ms. Karen Sallows: Yes.

Mr. Greg Yost: There's a discussion at the international exchanges, yes.

Hon. Sue Barnes: It's still in the discussion and it wasn't excluded. That's what I wanted to know.

Again, Ms. Sallows, I don't want you to say which province or territories are onside, but is it fair to say there's a mix of people who are wanting this system and also those resisting it?

Ms. Karen Sallows: I think it would be fair to say that everyone wants it, but it's a matter of how it happens.

Hon. Sue Barnes: Good. That's helpful.

A lot of the concern is not only surrounding the desire for families, but it has legal implications with the definition of what death is, for instance, in an insurance situation. Has that been addressed, Mr. Yost?

Mr. Greg Yost: The legal paper does point out that it is the function of not only the coroner in a province to do a death certificate, and it's the coroner who would make the call as to how convincing the DNA evidence was in establishing the fact that this is the match and the person is dead, but there are applications made on the basis now of warm hits, or whatever, where we have DNA found in bones that matches these people and on that basis we believe it's their son that's dead. It would be the same process in front of the provincial courts, except there would be a start because there had been a match done in this bank instead of fortuitously, if I can put it that way, by the police.

Hon. Sue Barnes: Thank you for coming here today to put the evidence on the record that you're working quite hard. Your group has finished its current role and now it's up to the respective ministers and the respective jurisdictions.

Indirectly I'm asking you if there is any money in the budget right now for the implementation of this, or was the money only for the work of the working group?

Ms. Karen Sallows: There was no money per se given to the working group to conduct its work. In the FPT context, we all collectively sponsored that, and our department was leading on behalf of the FPT community, again at the direction of those ministers, so that work just proceeds on its own. There has been no source of funding identified, if you will, in the FPT context, other than that we all know we have to address that at some point because we know that to set it up requires additional resources.

Hon. Sue Barnes: In actual fact, Mr. MacKenzie said to us last week that there will be no royal recommendation going with this private member's bill. So, effectively, for all intents and purposes, that kills this particular bill.

But I think we're all hopeful, and the reason you're here is to convey in a very formal manner that we're all hopeful, that your work moves forward so that we can have a government bill come forward in the not too distant future, after the province and the federal ministers have met. I'll just put that on the record.

The Chair: Okay. Are there any further comments?

We'll move now to the Bloc Québécois.

Ms. Mourani, do you have...?

[Translation]

Mrs. Maria Mourani (Ahuntsic, BQ): I do not have any questions.

[English]

The Chair: Okay. We will then go back to the government side. Does anyone have a question? We have no one else on the list.

Go ahead, Mr. Chan, and then Mr. Comartin, if you have anything.

• (1155)

Hon. Raymond Chan (Richmond, Lib.): Thank you, Chair.

My concern is about the cost of the implementation. I've been a software systems guy before politics, and at that time, in the eighties, custom systems were not very available on data manipulations and so on.

Learning from the past experience that we have in government, how do you intend to approach the implementation of such a system? Are you engaging expertise outside of government, or would you like to develop your own expertise?

Ms. Karen Sallows: I will ask Dr. Fourney to elaborate. We have, as I said earlier, the advantage of all the experience and science and technology, including interactive softwares, in building the national DNA data bank in a DNA context, the handling of profiles and how you would manage them in an electronic context. So that is there that could be taken advantage of in terms of MPI.

That said, again it's certainly not going to be cost free.

Dr. Ronald M. Fourney: I think the good news is that we've learned a great deal from our work with the national DNA data bank, and for that matter from the last 10 years with DNA in general.

I'm happy to report that I think from a software perspective, certainly the matching and the maintenance of the records, there seem to be existing programs and software out there. A lot of this is our own. For instance, the national DNA data bank was an intellectual property we provided for Canada, and we established software that is used worldwide, and also from our colleagues in the U.S., the combined DNA index system, or CODIS, which is freely given to any law enforcement agency in the world, is sponsored by the U.S. Department of Justice.

I'm happy to report we have a committee working right now on the potential of using this software and opening it up for others to use from a missing persons perspective. So I think we're in pretty good shape, actually.

Hon. Raymond Chan: Thank you.

The Chair: Thank you.

The best is for the last, our brilliant questions now.

Mr. Joe Comartin: Actually, this is more visionary than anything else.

The only effective way that we can make use of a DNA database is to have everybody sampled, the whole population sampled. Is that fair?

I know we're not there yet, but has there been any assessment made of that long term? With what the U.K. is doing in terms of the numbers of crimes they grab samples on, they're moving rather rapidly toward catching a much larger base than we are. But has any assessment been made?

Let me give you one scenario. You're parents of a child. At time of birth you say, I want to be sure that until this child is an adult their sample will be in a base someplace where we could always compare it if the child is kidnapped or in some other way lost to us. Is there any thinking, any analysis, going on? Are there any reports on that approach?

Ms. Karen Sallows: Perhaps Greg would have other information to add.

I do know that there has been comment that DNA profiles should be treated just like fingerprints. Then when you make analogies to situations in which parents.... And there are programs with different police forces and schools to have their children fingerprinted for such proactive persons. I have heard tell that some private companies are offering this service to parents in the United States and other places.

As far as that happening on a national basis, I think we have been focused on this purpose in this context. That debate hasn't advanced forward. The idea comes up around the concept of DNA and its public interest uses a number of times, but in terms of this work, we're not expanding a bit further.

It's not to say that once an MPI index is established that other uses, such as in natural disasters, other things like that...there might be expansions of scope in that regard, or perhaps the military or others may want to proactively sample their personnel, but that's not part of this exercise at this point in time, if that gets at your question.

Mr. Joe Comartin: Have you seen any analysis of what it would take?

Mr. Greg Yost: There was some commentary when Tony Blair made a comment to the effect that everybody should be in. That was a couple of months ago. One of the interesting analyses was of the costs involved in getting all 60 million Britons in there and what the actual benefits would be, as opposed to a system based on identifying certain people who appear to be more dangerous. We're now talking the criminal side here; we're not talking the missing person side, of course.

I don't think I'd even dare ask our charter people that question. I think the answer would come back by return e-mail.

• (1200)

Mr. Joe Comartin: I can tell you that on the charter side, you're safe on the scenario of the parent with the child, but it's beyond that. How to get the sample out once they become adults would be the next issue.

Mr. Greg Yost: Yes, that would be an issue.

Mr. Joe Comartin: Thank you, Mr. Chair.

The Chair: Are there any further questions before we move in camera to decide what we're going to do?

Hon. Sue Barnes: I just want to put on the record that it would be very useful to have this group back to update us after the next ministerial conference in the fall.

The Chair: All right.

We will pause for a moment to move in camera. We thank our witnesses very much for coming.

[Proceedings continue in camera]

• (1200)

_____ (Pause) _____

• (1215)

[Public proceedings resume]

The Chair: We are now going to proceed with the clause-by-clause of Bill C-279, the DNA Identification Act. The bill has five clauses. The normal procedure here is to have a discussion and then vote on each of these.

Do we want to have any discussion before I call for clause 1 to carry?

Mr. MacKenzie.

Mr. Dave MacKenzie: Mr. Chair, I have one issue. The researcher has properly given us some guidance there, but what about simply the comment on the overall bill as opposed to on the clause-by-clause? I'm finding it difficult to go through it clause by clause, to tell you that I have an issue with each clause, or any clause. It's the whole package.

The Chair: As chair, I would welcome comments on the entire bill. Does anybody have any general comments, then, on the bill as a whole before we go into clause-by-clause—support or concerns?

Go ahead, Mr. MacKenzie.

Mr. Dave MacKenzie: Mr. Chair, I certainly support the bill, in principle. The difficulty, going forward, is that we still do not have the jurisdictional issues resolved vis-à-vis the federal-provincial-territorial arrangements.

At the same time, as long as this has been worked on, we still do not have any financial amounts for the committee to ponder. Without a royal recommendation, the bill can't go forward.

• (1220)

The Chair: Right.

And for those who are watching these proceedings, I think it's important to let them know that we will be preparing a report expressing our concerns, but also that we generally support this bill and would like to see the issue move forward.

I understand from the discussion and the procedures, where we had the witnesses before the committee, that this was in fact the case.

I think it's important that people realize there is strong support from all parties around this table and that we'll be preparing a report to explain our concerns.

Mr. Norlock.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): For record purposes and proper acknowledgement, Mr. Wallace worked very hard on this bill. We acknowledged that by having him come and speak before the committee.

Mr. Wallace has been, frankly, quite open vis-à-vis the jurisdictional issues and some of the attached fiscal issues. I just want to mention that I know Mr. Wallace is disappointed, but he sees the issues, as previously mentioned.

The Chair: Okay. We'll now go over to the opposition for some comments.

Mr. Cullen.

Hon. Roy Cullen: My sense is that there is strong support. I can't speak for all the committee members, but I think there is strong support for the need for a missing persons index.

There seems to be good progress being made at the federal-provincial-territorial ministers.... Their subcommittee is looking at some complex issues around privacy and jurisdictional questions that need to be clarified—very much so—and there seems to be good progress there.

Without those jurisdictional issues being clarified completely, and without resources to implement, I think it's prudent that we say no to this bill, but that we would be supportive of the government as they develop a response, because I think Canadians generally support the need for a missing persons index.

The Chair: Are there any other comments?

Mr. Comartin.

Mr. Joe Comartin: I would just echo what we've heard both from the government side and from Mr. Cullen: the widespread support for the approach to the missing person index.

In my mind, when I analysed the bill, I had a couple of concerns around the way they defined “relative” and who would be able to ask to have a sample brought forward. I think the categories need to be either clarified or perhaps expanded. So some work needs to be done on that. I would just put on the record that at some point when we look at this—either the government does through a government bill or we have another private member's bill—that this particular area be given some broader scope. It's a bit too limited, I believe.

The Chair: Okay, thank you.

Ms. Barnes.

Hon. Sue Barnes: After listening to the officials and the member putting forward this bill, I also want to say that I would like to have in this report a statement that this committee would like the officials to come back after the federal-provincial-territorial ministers' meeting on this issue in the fall so we can get an update on government plans to move forward on the issue.

Again, I think the consultation that's been done with the public... There have been recurring jurisdictional and some constitutional questions over time. It's very good that we heard from Justice Canada today that it thought that these could be overcome. So we look forward to seeing some law and a new government initiative on this as soon as possible.

The Chair: Right.

Monsieur Ménard.

[*Translation*]

Mr. Serge Ménard: I agree with much of what has been said, but I still do not understand why we have not opted for the ideal solution. To my mind, we are not choosing the best way to draft laws and harmonize them for the purpose of establishing a DNA data bank in Canada. I believe that this question should be put to the Uniform Law Conference of Canada.

Based upon the follow-up that would be done, we would be able to obtain not only a federal law that would be agreed to by all of the provinces, but also complementary laws for each province that would be in perfect harmony with each other as well as with the federal legislation.

• (1225)

[*English*]

The Chair: Okay, thank you.

Seeing as there are no more members wishing to comment, we will now go to clause-by-clause.

(Clauses 1 to 5 inclusive negated)

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

The Chair: Shall I report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Thank you. I think the last question I will not bother with, which is about reprinting the bill.

That concludes the public part of our meeting. We will now proceed in camera to discuss future business of the committee.

[*Proceedings continue in camera*]

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