

ORAL QUESTION—JULIE GREEN, MLA YELLOWKNIFE CENTRE

QUESTION 384-18(2): RECORDS OF NON-CONVICTION

October 25, 2016

MS. GREEN: Mahsi, Mr. Speaker. My questions today are for the Minister of Justice. First off, I want to ensure that I understand the Minister's position on records of non-conviction based on our correspondence. As Justice Minister, do you believe the RCMP should release information on criminal incidences for which a person has never been lawfully convicted when the release of that information can result in unjust and even unlawful discrimination against innocent people? Thank you, Mr. Speaker.

MR. SPEAKER: Masi. I would just like to remind Members to direct their questions through the Speaker, please. Minister of Justice.

HON. LOUIS SEBERT: Thank you. In the year 2000, the Criminal Records Act, the federal piece of legislation, came into effect. It provided for an enhanced criminal record check in situations where vulnerable people, either children or other vulnerable people, were involved. This was seen as a way of protecting the vulnerable groups. I appreciate the Member's opposite concerns as there is also balance between individual right and the rights of the vulnerable. Thank you, Mr. Speaker.

MS. GREEN: Mr. Speaker, I don't object to having criminal record checks for vulnerable sector individuals or for any others who require them. What we are talking about here is providing records that say that there has been an interaction with the law but not a conviction. The Minister has said that the 2012 territorial policing contract was designed so that the RCMP remains independent of political influence, and yet has the ability to apply the rule of law as determined by and in consultation with the territorial Minister of Justice. My understanding of the rule of law is that people are innocent until proven guilty. Will the Minister apply this rule and direct the RCMP to stop issuing records of non-conviction?

HON. LOUIS SEBERT: The short answer is no, Mr. Speaker. As I say, this Act came into force in the year 2000. It has been in force for 16 years now. I frankly don't know whether it has been subject to Charter scrutiny or not, but since it still seems to be in effect, I assume that Charter challenges have not been made or failed. In my view, there always has to be a balance between protecting individual rights and, as I mentioned earlier, the rights of those that are vulnerable, children, and perhaps the aged in some cases. I think the act does set a correct balance. This can't be asked for in all circumstances. It can only be asked for when those two groups, vulnerable and children are involved.

MS. GREEN: Mr. Speaker, the 2012 media release announcing the new territorial policing agreement said, "With the formation of a new contract management committee, the Government of the Northwest Territories, together with other provinces and territories will have influence over cost and service decisions in an ongoing and co-ordinated way." Will the Minister put this issue on the agenda of the next contract management committee meeting and call upon the RCMP to cease issuing records of non-conviction in the NWT?

HON. LOUIS SEBERT: While we do meet with the RCMP, we do not interfere, if I can put it that way, directly with their day-to-day operations. As I mentioned earlier, I think that the enhanced criminal record checks provided for in the Criminal Records Act are a good idea protecting vulnerable groups. So I am not asking for any change.

MR. SPEAKER: Masi. Oral questions. Member for Yellowknife Centre.

MS. GREEN: Mahsi, Mr. Speaker. Thank you to the Minister for his responses. A practice, of course, is no less unjust for being national rather than territorial in scope. These records of non-conviction are opposed by, among others, the Canadian Civil Liberties Association, the John Howard Society, and most recently the Government of Ontario, which is taking steps to outlaw their use. The RCMP is a contracted provincial territorial police service in all jurisdictions except Ontario and Quebec. I am going to ask again, will the Minister of Justice consult with his provincial and territorial counterparts at the next meeting of Justice Ministers to seek an elimination of the use of records of non-conviction by the RCMP? Thank you.

HON. LOUIS SEBERT: Mr. Speaker, as I mentioned already, I believe that these types of checks, this enhanced record as it could be called, are essential in certain circumstances dealing with the vulnerable populations or children. I am always willing to consult, but I am not just going to go forward with the position that this should be changed. Thank you, Mr. Speaker.