

ORAL QUESTION—JULIE GREEN, MLA YELLOWKNIFE CENTRE

QUESTION 553-18(2): RECORDS OF NON-CONVICTION

February 9, 2017

MS. GREEN: Mahsi, Mr. Speaker. Mr. Speaker, my questions are for the Minister of Justice. In response to my questions on the topic of records of non-conviction in November, the Minister said that criminal records checks are intended to protect vulnerable groups and "essential in certain circumstances dealing with vulnerable populations or children." To be clear, does the Minister really believe that the police should be making any records public which do not deal with a conviction for a criminal offence but disclose only that a person has been in contact with the police or Justice system? Mahsi, Mr. Speaker.

MR. SPEAKER: Masi. Minister of Justice.

HON. LOUIS SEBERT: Thank you, Mr. Speaker. It's important to remember that there are two types of criminal record checks. There's the standard criminal record check and a vulnerable sector check. A criminal record check verifies whether an individual has a criminal record. That's the standard record we often see in court with convictions. A vulnerable sector check verifies whether someone has a criminal record as well as any record suspensions, which means pardons, for sexual offences and includes local police records for information relevant to the situation.

Now if a vulnerable sector check is requested, there's a procedure. They simply cannot be asked for arbitrarily. The initial decision to request is made by the hiring organization. If they determine the position is one of trust or authority over children or vulnerable persons, they can request that an applicant for the position obtain a vulnerable sector check. The applicant then applies to the local police service where they live. The applicant will have to provide certain information, including the description of the position, the name of the organization, and details regarding children or vulnerable persons. The police then will use this information to determine if the position meets the legal requirement to conduct a vulnerable sector check.

So only in those circumstances will a vulnerable sector check be provided to the applicant, who will then have the option of providing that to the potential employer. Thank you, Mr. Speaker.

MS. GREEN: Thanks to the Minister for that answer. The Canadian Civil Liberties Association research says that there's no evidence that these checks reduce the risk of crime or violent offences. So 17 years on, perhaps it's time to test the assumptions behind them. Will the Minister agree that an evaluation of the effectiveness of these checks should now take place?

HON. LOUIS SEBERT: Yes, I understand that the Ontario Civil Liberties Association has produced a paper and I have had the opportunity of reading that paper. It may be

time to look at these vulnerable record checks; however, I still think they have considerable value.

MS. GREEN: Thanks to the Minister for that response. I'm going to ask a follow-up question, and that is: in what circumstances are they valuable if they are revealing information that is not a conviction but only that a person has had some kind of contact with the justice system or the police?

HON. LOUIS SEBERT: When the relevant legislation came into effect in the year 2000 it was thought some additional protection was needed for vulnerable groups and children, and that was the reason that vulnerable record checks are permitted. As I say, it must be established that the position is one of trust over children or a vulnerable group; therefore, I suggest that the number of vulnerable record checks should be very limited and limited only to those occasions where required.

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

MS. GREEN: Mahsi, Mr. Speaker. Finally, Mr. Speaker, I asked the Minister whether he would consult with his federal and provincial counterparts and he said, and I quote, "I'm always willing to consult." So can the Minister state his commitment to suggest that an evaluation of the application of the Criminal Records Act be placed on the agenda of the next FPT Justice Ministers' meeting? Thank you, Mr. Speaker.

HON. LOUIS SEBERT: No, Mr. Speaker, I'm not going to make that kind of commitment. I do realize this is a live issue. As I say, I did take the time of reading the excellent paper provided or prepared by the Ontario Civil Liberties Association and I understand that discussions regarding this matter are taking place in the Justice Departments of Ontario and federally. I will not put it on the next FTP. I don't know if I would have the power to do so unilaterally in any case; however, I will discuss this matter with my federal and provincial counterparts.