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Chair

Mr. Tom Wappel

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• (1530)

[English]

The Chair (Mr. Tom Wappel (Scarborough Southwest, Lib.)): We have quorum. We like to start on time if our witnesses are kind enough to appear on time.

Pursuant to Standing Order 81(4), we're discussing the main estimates for 2006-07—in particular, vote 45, concerning the Office of the Privacy Commissioner under the rubric “Justice”, which was referred to the committee on Tuesday, April 25, 2006.

We have with us today, from the Office of the Privacy Commissioner of Canada, the Privacy Commissioner herself, Jennifer Stoddart. While I usually introduce people, I'm going to refrain from doing that and allow Jennifer Stoddart to introduce the people who are with her.

Ms. Stoddart, I understand that you have an opening statement, so by all means carry on, and then, naturally, as I'm sure you're used to, we'll go to questions after that.

Ms. Jennifer Stoddart (Privacy Commissioner, Office of the Privacy Commissioner of Canada): Thank you very much, Mr. Chairman and honourable members, for being here to hear our presentation on our budget.

I would like to present the director of investigations, Mr. Wayne Watson; and Tom Pulcine, who is the director of corporate services, and thus, a specialist in budget matters.

Mr. Chairman, I have an opening statement that's a little over 10 minutes in length. May I proceed with that?

The Chair: Yes, you might as well and then get it over with faster.

Ms. Jennifer Stoddart: I'm very happy to be here. I'm going to run through the history behind today's session, because it's rather surprising to note that in fact the money was recommended to us by a parliamentary panel just about a year ago, and in fact, we're here one year later on the main estimates for the same amount.

I'll be referring to the report on plans and priorities, which you have.

[Translation]

In both versions—French and English—this starts on page 3.

[English]

The details of how our money is spent are in that book.

We have, as you will have noticed, a 36% increase in our budget. This is due to several months of work, effort, and energy in

preparing a comprehensive business plan. This plan, developed about two years ago, was developed with the assistance of an independent consultant and was based on an in-depth analysis of our situation.

We also consulted with the Treasury Board Secretariat and compared ourselves to several agencies with similar mandates, to draw on their best practices and experience. We looked at the needs of the organization as a whole and of individual branches and took into consideration our unique role as the Office of the Privacy Commissioner of Canada.

I'll remind you that we have a mandate to ensure compliance with two statutes. One is the Privacy Act, which governs the public sector; and the other one is the Personal Information Protection and Electronic Documents Act, which covers the private sector.

I understand that this committee was recently briefed by Treasury Board officials on the new funding mechanism for agents of Parliament. As I said, a year ago we had the opportunity to present our business case and our request for funding to this new panel. We are pleased that this panel and the Treasury Board Secretariat came to the same conclusion and recommended granting our request for the permanent funding necessary to carry out our mandate and our plan.

This plan places increased emphasis on investigations, education, and prevention in both the public and private sector. That adequate level of permanent funding recommended last year is reflected in the main estimates that are before you. We think they are absolutely crucial to fulfilling our mandate to protect the privacy rights of Canadians.

• (1535)

[Translation]

I should like briefly to explain the mission of the Office of the Privacy Commissioner of Canada.

Parliament has signaled the relevance and importance of privacy with the enactment of privacy laws and with the creation of the Office of the Privacy Commissioner of Canada. Privacy is a right seen by many as fundamental to other rights, including the right to autonomy, dignity and integrity of the person. The Office of the Privacy Commissioner of Canada protects and promotes the privacy rights of individuals on behalf of parliamentarians. That is our mission and we take it very seriously.

Increasingly, there are pressing and complex issues putting Canadians privacy at risk—the practice of sharing more and more personal information in the name of national security, personal data flowing around the globe, the use of technologies such as global positioning systems, biometrics, radio frequency identification devices and the potential of publicly available personal information being used by invasive and malevolent purposes.

I will continue with an explanation of the various aspects of our mandate.

My Office oversees compliance with the two federal privacy laws I just mentioned. We act as an independent ombudsman, and are probably best-known for our role as a complaints investigator. However, our responsibilities go far beyond reacting to complaints about possible privacy breaches. We use several other complementary powers in large part aimed at preventing such breaches. We are an investigator but we are also an auditor; a public educator and advocate, a researcher, and an expert privacy advisor.

As an auditor, in both the public and private sectors, we conduct audits and reviews, and verify compliance with privacy laws. We also work to educate governments, departments and businesses about the importance of protecting privacy and about their legal obligations to do so. We help the public better understand their privacy rights and act as their advocate when necessary. We conduct research on emerging privacy issues and use that expertise to advise Parliament, government and businesses. And, finally, we challenge the application and interpretation of the laws, and analyze the legal and policy implications of government proposals.

[English]

Privacy issues increasingly do not recognize national borders. Our mandate of protecting Canadians' privacy rights requires that we work more closely with our international colleagues to explore common approaches to the protection of personal information. I'm the chair of an Organisation for Economic Co-operation and Development—the organization known as the OECD—multinational group that is examining ways to foster international cooperation and facilitate the cross-border enforcement of privacy laws. We are also participating in efforts by the Asia-Pacific Economic Cooperation, APEC, to develop privacy guidelines. We will continue to work with our international colleagues to develop harmonized approaches, to share knowledge, and to build effective relationships. To that end, we will be hosting the international conference of data protection and privacy commissioners in September 2007.

I know many members of this committee have heard me outline our various mandates before. I'm doing so again today because I want to stress that we're using our permanent funding, which is the subject of our appearance today, to fulfill activities that are within

our mandate. Our permanent funding is imperative in order to carry out the duties and responsibilities entrusted to us by Parliament.

I'd like to briefly recap the history of our financial situation, Mr. Chairman, because it's a bit unusual.

I am appearing here today with my staff to respond to any queries you might have about the new level of funding proposed in this year's main estimates. Before this, the level of permanent funding under the Privacy Act was made many years ago, possibly before 2000, maybe in 1997. The PIPEDA funding, which represents close to two-thirds of our annual budget, had been approved in 2001 for three years only and was renewed through supplementary estimates for the following two years as an interim solution.

We needed experience and time to evaluate the appropriate level of resources before making a long-term funding request and commitment. The resource levels in the main estimates now include the necessary funding for the Privacy Act and a renewal and an increase in funding for PIPEDA. We believe this permanent funding is adequate and necessary for the stability of our office.

I would like to now move to some of the recent actions of the office in order to improve the accountability of the OPC.

In the last few years, we have pursued an ambitious agenda to correct any deficiencies in the management of the organization. Audits and evaluations of our office by the Public Service Commission, the Auditor General of Canada, and the Canadian Human Rights Commission have all been positive. We have implemented a thoughtful, systemic process to determine our organizational needs. I believe this office is a stable institution now and is worthy of the trust of Parliament and the Canadians it serves.

Also on the issue of accountability, the proposed Federal Accountability Act, Bill C-2, will make our office subject to both the Access to Information Act and the Privacy Act for the first time. We support the spirit of this initiative, and this is a welcome step. But it will certainly have a further impact on our resources, and this is being examined at the present time.

I'd like to tell you about our priorities for this fiscal year.

Our top priority is still clearing a backlog of complaints. We are streamlining our investigation approach and building a larger investigation team, but we are faced with the challenges of recruitment, training, and an increasingly complex privacy landscape.

On the audit side, we are intensifying our activities to encourage greater compliance and to proactively assist in the development of a robust privacy management regime in both the public and the private sectors. For example, we recently completed an audit of the Canadian Border Services Agency, and we've launched two major private sector audits.

We've been initiating a number of more proactive communication efforts in order to meet our public education mandate.

We're also preparing the next international data protection and privacy commissioners conference.

In the meantime, our research branch is supporting independent privacy research projects on topics such as workplace privacy and health care privacy and initiating both internal and external research into emerging issues and trends to help citizens and policy-makers understand current challenges. With the issues becoming increasingly more complex and technology-driven, it is important that in addition to undertaking our own research, we draw on outside expertise.

• (1540)

The policy and legal services branch, of course, assists us in becoming more proactive and through OPC-led initiatives, notably in the courts, affecting systemic change in information-handling practices.

Last year, my office began taking a stronger stance with respect to recommendations made to private sector organizations in my letters of finding at the conclusion of an investigation. We began telling organizations that are the subject of well-founded complaints to implement our recommendations or we would take the matter forward to Federal Court. Unfortunately, there are no sanctions under the Privacy Act, which is one of the reasons it needs an overhaul. It's unacceptable that the private sector is held to a higher standard for privacy protection than the federal government. I think we should be an example and I refer you to a paper that we did, at the request of this committee, which we tabled with you in June. We look forward to presenting it to you at a further date.

• (1545)

[Translation]

In conclusion, the goal of our Office is to implement our business case within the next two years. At that point, we will need to take another look at our activities and funding needs. I believe we need to constantly challenge ourselves to find better ways to carry out our

mandate and get the job done. And the privacy environment is constantly changing; we need to adapt with it. And our privacy laws need to keep up with the times.

We hope you will agree with the parliamentary panel's recommendation of last year. The increased permanent funding is necessary to ensure that we can effectively protect and promote privacy—the services we offer to Canadians on behalf of parliamentarians.

We want to do the best we can in carrying out the responsibilities that have been entrusted to us. And we need to have the tools to do our job of protecting Canadians' right to privacy.

This Mr. Chairman, brings to an end my preliminary remarks.

[English]

I would be very happy to take the questions you may have on our budget and our functioning.

The Chair: Thank you very much, Madam Commissioner.

As usual, we'll begin with a seven-minute round, and we'll start with Mr. Peterson.

Hon. Jim Peterson (Willowdale, Lib.): Thank you, Mr. Chair, and thank you, witnesses.

We agree with you that not having sanctions under the Privacy Act is wrong, and I'd like to see amendments as quickly as possible.

You've talked about one of your big problems being your backlog of complaints. How big is that backlog in terms of numbers and time to resolve it?

Ms. Jennifer Stoddart: May I ask the director of investigations, whom I brought in case you had questions about this, to answer that question, honourable member?

Hon. Jim Peterson: Absolutely, yes.

Mr. Wayne Watson (Director General, Investigation and Inquiries Branch, Office of the Privacy Commissioner of Canada): Mr. Chairman, at this point today, I can tell you that we have 691 investigations in abeyance. We've opened 1,609 investigations, and we were able to close, last year, 1,287 investigations.

The backlog we recognize as a definite problem. We are revisiting the way we do our investigations. We are looking at different processes to see how we can reduce the time delays as far as administrative as well as operational processes are concerned. We have hired, so far, five new investigators, and I'm expecting to be able to hire seven more within the next few months. And I'm hoping that within the next 24 to 30 months our backlog should be reduced considerably.

Hon. Jim Peterson: Did you say you get about 1,000 complaints a year?

Mr. Wayne Watson: Yes, sir. Last year, I can tell you, we received 1,609 complaints that became investigations.

Hon. Jim Peterson: Can you give me some idea of where most of those complaints come from? What's the nature of them?

Mr. Wayne Watson: I can tell you—and I'm talking about in 2005—1,200 of those complaints were under the Privacy Act and 400 from the private sector under the PIPEDA.

Hon. Jim Peterson: Can you give me an example of what the complaints would be and where the alleged violations took place?

Mr. Wayne Watson: Most of them concern time limits, how long it takes a department or an organization to give the service to the individual asking for their personal information. Many of them also concern their refusing access to individuals to their personal information. We have also—

Hon. Jim Peterson: Which institutions are the big offenders?

Mr. Wayne Watson: The greatest number of complaints does not necessarily mean the biggest offenders, but right now we know that the organizations with the greatest number of complaints are the RCMP, the CRA, and I believe the next one is Canada Border Services Agency. The reason is simply that these organizations have the greatest amount of personal information, so it is normal that we'd have the largest number of people asking for their personal information from these organizations.

Hon. Jim Peterson: Thank you.

[Translation]

Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ): As you already mentioned, in your office budget, planned and unplanned spending to cover Bill C-2, are not included. In other words, they are not part of your current forecasts. However, we know that this bill will create additional work for your office.

I should like to know whether or not you have already assessed somewhat the amount of work and of spending that this is going to necessitate?

• (1550)

Ms. Jennifer Stoddart: We are in the process of attempting this exercise with a lawyer and an accountant. So, we have not yet finished this estimate but we must remember that a great number of organizations are involved. Just before coming here, I did ask what the number was but they are still in the process of figuring it out.

Given the number of organizations that we are going to cover through the Privacy Act and which will file complaints with our services, and in view of the impact of access to information on our services, we can imagine that the number of inquiries and requests for information on our cases will be significant. It might even be quite substantial.

Mrs. Carole Lavallée: Regardless of the fact that there are several other organizations, what procedure do you follow to assess them? Do you set a percentage to each of the organizations? How does this work exactly?

Ms. Jennifer Stoddart: In order to assess the costs?

Mrs. Carole Lavallée: In order to assess how much this is going to cost you? What are your parameters?

Ms. Jennifer Stoddart: Perhaps the Director General of Corporate Services could tell us exactly what are the parameters. I assume that we are considering what the other organizations are doing.

[English]

Mr. Tom Pulcine (Director General, Corporate Services and Comptroller, Office of the Privacy Commissioner of Canada): Wayne, you could help me out here. With respect to Bill C-2, we've been trying to understand the new organizations clearly. The very first step is to determine whether the new organization covered by the Privacy Act is in fact already covered by PIPEDA, because if it is covered by PIPEDA, it would have no impact in terms of our resources.

The second thing we're looking at is the type of organization it is. We look at whether it's an organization that, first of all, has a large volume of employees, because presumably there's a correlation between the number of employees and the number of complaints we could possibly have. The other aspect of the organization profile we look at is the extent to which they are resource-intense with respect to personal information. If they are, once again they're deemed likely to have an impact larger than an organization that doesn't have very much personal information.

[Translation]

Mr. Wayne Watson: With your permission, Mr. Chairman, I might add something there.

Historically, we have noticed that when organizations become subject to this legislation, a long learning curve is necessary to implement the policies in order to protect their employees and their clients' information.

During that period, at the very beginning, we expect to receive a great number of requests and inquiries from the employees and the clients, because they will have found out that they can file complaints under this legislation. However, over time, when organizations get used to deal with this legislation, we expect that the number of requests from clients and employees will diminish.

Mrs. Carole Lavallée: If I understand correctly, these are the parameters which you set to assess your next budget: a training period, and an implementation period. Then, with regard to each of these organizations, your formula is based on the number of employees. Did I understand correctly or are there other parameters?

Mr. Wayne Watson: There is the number of employees and the number of personal information they can gather about the people with whom they are dealing. The potential clientele will give us an idea of the number of privacy cases and files.

Mrs. Carole Lavallée: Do we still have some time left, Mr. Chairman?

[English]

The Chair: You have three minutes.

[Translation]

Mrs. Carole Lavallée: Do you want to start or shall I continue?

Mr. Jean-Yves Laforest (Saint-Maurice—Champlain, BQ): I will speak later.

Mrs. Carole Lavallée: The next answer will probably be easier.

The documents provided by our clerk indicate that as listed on your office website “Proactive disclosure sections“, your office accumulated \$74,728.88 in travel expenses and \$32,416 in hospitality expenses in the 2005-2006 fiscal year.

Can you detail for the committee the specifics of who is travelling and for what purpose?

Ms. Jennifer Stoddart: In the 2005-2006 fiscal year?

Mrs. Carole Lavallée: Exactly, the spending which in 2005-2006 cost \$74,728.88 in travel expenses and \$32,416 in hospitality expenses. Do you have any specifics with regard to those trips or activities?

• (1555)

Ms. Jennifer Stoddart: Yes. You're talking about the travelling done by the Office senior management such as myself and the...

Mrs. Carole Lavallée: By officials of the Office but there may also be other people.

Ms. Jennifer Stoddart: We are travelling to make presentations. Soon I will do so within Canada and outside of Canada.

Within Canada, we respond as much as possible to the invitations we receive for presentations and to speak at seminars, for instance in the IT sector, to people working in the access to information sector and who have to know how to protect privacy and we also attend symposiums and conventions organized by our provincial counterparts.

This year, I went to Quebec city, to attend the annual symposium representing people who work in the field of access to information and privacy within the Quebec government.

So we deal with this kind of activity all across Canada. Sometimes, we visit the offices of our counterparts and universities with research chairs. This covers about the full spectrum of these activities.

With regard to travelling outside of Canada, we offer our participation to organizations I already mentioned, namely the Organization for Economic Cooperation and Development (OECD) and also the Asia-Pacific Economic Cooperation. The latter deals with the Pacific coast of Canada and the assistant commissioner attends these meetings.

Personally, I deal with the OECD, which is always outside of Canada. This is just an example. We also receiving invitations to go to Washington to make the Americans better aware of our concerns and legislation. In fact, they do not have any framework legislation on the protection of personal information in the private sector and usually they have very little information about Canada.

We also go to Mexico. I am not absolutely sure that we went there during the last fiscal year but this is just an example—

Mrs. Carole Lavallée: [*Inaudible ???*] as an example.

Ms. Jennifer Stoddart: At the request of our Mexican counterparts, I went to Mexico with the British Columbia commissioner in order to give some training on the protection of personal information to the new agency which is being set up.

These are just a few example as to why and how we travel.

[*English*]

The Chair: Okay, thank you.

Merci, madame Lavallée.

I have two points, colleagues. The BlackBerrys are interfering with the microphones, so if anybody has a BlackBerry on the table, I would appreciate your taking it off the table.

Secondly—we'll go to Mr. Martin next, but before we go to Mr. Martin, on Madame Lavallée's point—the figures Madame Lavallée was quoting come from a section of your website entitled “Proactive Disclosure”. I was just wondering whether you could tell us what proactive disclosure means?

Ms. Jennifer Stoddart: Proactive disclosure refers to Treasury Board Secretariat guidelines that have been in force since December 2003, which require that travel and hospitality expenses of anyone at the executive level or above be posted to the website. We have posted all those expenses since then, and you can see them.

The Chair: I guess we can take it, then, considering that you have 80-plus employees in 2005-06, that the total travel budget of your office and your total hospitality expenses were more than what's actually posted.

Ms. Jennifer Stoddart: You're right, Mr. Chairman, because notably the investigation branch travels widely across Canada in the course of investigations.

The Chair: So then, are you able to give us the total travel expenses and total hospitality expenses for your entire office for 2005-06?

Ms. Jennifer Stoddart: I believe Mr. Pulcine is, for last year.

Mr. Tom Pulcine: The travel expenses for 2005-06 were \$285,000. For last year, I don't have it broken down between domestic and foreign. I have our forecast for 2006-07 broken down by domestic and foreign, if you want that.

The Chair: Yes, and hospitality?

Mr. Tom Pulcine: In terms of hospitality, bear with me for a moment.

I'm trying to find whether I have last year's with me.

• (1600)

The Chair: If you don't have it, we won't waste anybody's time. You can always send it to us.

Mr. Tom Pulcine: I have the forecast.

The Chair: Well, Mr. Pulcine, just look up the figures for us, if you don't mind, and when you get them, we can be precise about it. Or if you happen to find them while someone else is answering, you could interject.

Mr. Tom Pulcine: I will.

The Chair: Thank you.

We'll go to Mr. Martin.

Mr. Pat Martin (Winnipeg Centre, NDP): Thank you, Madam Stoddart, for being here, and welcome.

I have two lines of questioning, first of all dealing with some specific items in budget lines; and second, I have a more general question about the cost implications of a piece of legislation that is coming before the House.

But on the specifics, in this very helpful breakdown of contracts, I guess under the category of contracts over \$10,000—and you've broken it down by quarters—I notice that a lot of them are simply management consulting as the category, an awful lot of them, and a lot of those are just under \$25,000. I know that's the magic cut-off for whether something has to be tendered or whether you can go sole source.

I'd like your comments on what types of things.... I think it's an awful lot of outside management consulting, and no coincidence that they're all just under \$25,000, except for one, which jumps off the page, and that's Wilson, Young Events and the Intertask Group of Companies for \$744,000.

I have questions about what management consulting means and why we have to go outside for all those things. And what in heaven's name would Wilson, Young have done for us for \$744,000?

Ms. Jennifer Stoddart: Mr. Chairman, I'd be happy to answer those.

The office has needed, and continues to need less, a certain amount of what's called management consulting. These are often either facilitators or people specialized in human resources issues, in management development issues. As you know, the office had severe reconstruction challenges. These people are helping us set up processes and management structures for the first time, often to facilitate meetings, to set our yearly priorities, and things like that. So a good part of these are for doing that.

Others are helping us fill the vacancies we have in our permanent staffing levels. It's a challenge. I can go into this at some point, but it's a real challenge, even when you have the money, to hire the appropriate people in this particular historical context in the Public Service of Canada.

Some of them, for example, I can see, are accountants or people who help with writing documents for public distribution.

That's an overview, honourable member. Let me go on, then, to the \$700,000. That is the result of a public tender process that was put on MERX, the government contracting site. The person who won it was awarded that contract for the organization of the international conference that we are hosting in September 2007, to which I made reference as our major public education event for this year.

Mr. Pat Martin: That's three-quarters of a million dollars.

Ms. Jennifer Stoddart: Yes.

Mr. Tom Pulcine: Let me add to that. What you're seeing there is the contract value. We anticipate there will be registration fees for participants in the conference, which would reduce the overall cost of that contract from \$750,000 or thereabouts, by \$500,000, to approximately \$250,000. The plan calls for approximately \$500,000 worth of revenue—

Mr. Pat Martin: Okay. That answers my question. I'm always shocked at what things cost, so don't judge by my reaction.

I'm interested too in a bill that was just introduced in the House of Commons that may have serious implications for the Office of the Privacy Commissioner. It's Bill C-31, dealing with the new voter registration cards, whereby the date of birth will go on the permanent voters lists. A lot of people are reacting negatively to this already. They feel that, seeing as voters lists are given out to every candidate in every election, you will now know the name, address, phone number, and date of birth of every person on the voters lists.

Does this cross any lines that your office deals with on a regular basis, or does it cause you concern? Can you anticipate a volume of complaints stemming from something like that?

• (1605)

Ms. Jennifer Stoddart: There's possibly a volume of complaints. There's also possibly a lot more public education to be done about the importance of protection of personal information and treating it as an important thing, so that there aren't leaks and there isn't misuse in all the various structures in which ordinary people would now have access to people's birthdays—don't leave it lying around, make sure the right person gets it, and so on.

Mr. Pat Martin: I had 460 volunteers in my election campaign, and every one of them was given copies of the permanent voters list so they could sit in front of a phone and phone voters. It would now say name, address, phone number, and date of birth. Doesn't this open the door for that kind of personal information being very widely spread?

Ms. Jennifer Stoddart: It does. I appeared before a committee last spring, and I said that if you move to this kind of step, you have to make sure you think it's absolutely necessary. I haven't been called to appear on that particular bill, but I can say that if and when it is passed into law, I would certainly want to cooperate with the director general of elections in order to try to see how we could make sure that the 450 people who work for you, as for other honourable members, are very clear with the message that this is a sacred trust. Other people's personal information, in the context of elections in a democracy, is very important, and you have to treat this information seriously.

Mr. Pat Martin: Okay. Thank you.

The Chair: Thank you, Mr. Martin.

Mr. Tilson, please go ahead.

Mr. David Tilson (Dufferin—Caledon, CPC): Thank you, Mr. Chairman.

I will continue with the management consulting question Mr. Martin started. For the first six months of this fiscal year the commission is spending \$1 million, and for the final quarter of the last fiscal year it was \$400,000. Is that right?

Ms. Jennifer Stoddart: Yes. I don't have the figures before me, Mr. Chairman, but I think this year it's probably because we have, after public tender, awarded that contract to the winner.

Mr. David Tilson: Oh, no, that's not.... I must confess I have the same reaction as Mr. Martin does. I just don't understand the list. If you go down the list, for a lot of them it just says....

For example, here's Nordicity Group Limited, management consulting, \$25,000. I don't mean to pick on that company, but there are other groups, and it just says management consulting, management consulting, management consulting.

The Chair: Mr. Tilson, excuse me; it won't come off your time. For the purposes of the record, what list are you referring to?

Mr. David Tilson: It's from their website. I took the advice of the Ethics Commissioner and looked at the website. Remember that?

I'm gradually learning what you're supposed to do in this place. I looked at the website. That's how I get my information—which I still find unacceptable.

The Chair: Just so the record is clear, you're referring to documents on the Privacy Commissioner's website. Okay.

Mr. David Tilson: Why are we doing all that? I'm really repeating Mr. Martin's question, and I have the same concern—I mean, it's \$1 million just for six months. Then as I said, in the fourth quarter of the last fiscal year it was \$400,000. On almost every item it says "management consulting"; it doesn't say what it's for. I'm ignoring the \$700,000 item; I'm just looking at all these others. When you start adding up \$25,000 here, \$25,000 there—

Mr. Jason Kenney (Calgary Southeast, CPC): Sooner or later it's real money.

Mr. David Tilson: Well, you get dizzy.

Ms. Jennifer Stoddart: Well, I'll try to explain this again.

First of all, we have in fact an enhanced budget since April 1, although—

• (1610)

Mr. David Tilson: What's an enhanced budget?

Ms. Jennifer Stoddart: Well, I'm looking for the correct word. We were given the money that was approved by the parliamentary panel last fall, which is the money that is now in the main estimates, so we are spending at an increased level because, for example, we are supposed to be hiring 25 new employees this year.

Mr. David Tilson: I don't want to talk about that. I want to know why we're spending \$1 million in the first six months of this fiscal year. That's all I want to know.

The Chair: On management fees.

Mr. David Tilson: On management fees.

Ms. Jennifer Stoddart: If I may continue, Mr. Chairman, in order to fulfill the objectives that we put forward and for which we were given an increased level of funding, we have to have people to do this. There is a great difficulty now in hiring—

Mr. David Tilson: Excuse me, Commissioner, to have people do what?

Ms. Jennifer Stoddart: It's, for example, to finish carrying out our reorganization in terms of management structures and personnel policies. We have to have what's called a whole suite of personnel policies that were not there. So each of these policies, be it be work at home or using the office computers and so on, has to be developed. Some of them are for an accountant to help corporate services. They're all for different things, because we don't have the employees and we can't hire them fast enough to be able to do them through the employees.

Mr. David Tilson: Don't misunderstand me; I respect the work that you do. But I just look at a budget of over \$16 million, and at management consultant, \$1 million for the first six months of this fiscal year. You're saying, well, we had to retain management consultants because we didn't have the staff. I don't know where else you can go on that. Is that your answer? Is that why we have the \$1 million?

Ms. Jennifer Stoddart: Maybe the director of corporate services can add something to that.

Mr. Tom Pulcine: I've looked at the blues for the Ethics Commissioner's presentation, and I recognize that there's a reference to their website for additional information.

Unlike the Ethics Commissioner—

Mr. David Tilson: I shouldn't have looked at the website?

Mr. Tom Pulcine: No, in our case, what you're seeing in terms of proactive disclosure as related to contracting is a Treasury Board policy that indicates that we're supposed to proactively disclose all contracts issued over \$10,000, so that's the result of what you're looking at.

In theory, the office has an operating budget for salaries for 2006-07 of close to \$10 million and has an "other" operating budget of \$4.8 million.

Mr. David Tilson: Mr. Pulcine, I'm only trying to find out what we're getting for \$1 million for the first six months of this fiscal year. That's all I'm asking.

Mr. Tom Pulcine: Theoretically, we could be proactively disclosing contracts up to \$4.8 million. So the question in some ways is bigger than the \$1 million question.

The Chair: I'm sorry, Mr. Pulcine, I don't quite understand your answer there. If you have to disclose all contracts over \$10,000, then you have to disclose all contracts over \$10,000, period.

Mr. Tom Pulcine: That's right.

The Chair: So what do you mean by \$4.8 million?

Mr. Tom Pulcine: Our budget has an “other” operating component of \$4.8 million, most of which will be subject to proactive disclosure. Included in there would be travel, hospitality, and contracts awarded over \$10,000. For example—

Mr. David Tilson: I want to interrupt. I will be asking you questions on travel. Right now I'm on management consulting and trying to figure out what we're getting for \$1 million. That's all I'm asking.

The Chair: Mr. Tilson's time is up, but what is the answer to the question? What did you get for the \$1 million contract or \$1 million in contracts, whatever it is?

Ms. Jennifer Stoddart: Would the chairman like us to go over the disclosure of contracts for the second quarter? Would he like us to go down the list, and for all of those that are management consulting, say what in fact it was?

•(1615)

The Chair: Perhaps we can do it this way. I believe Mr. Tilson specifically mentioned a \$1 million figure for the first six months. Can you look at that \$1 million for the first six months and tell us any that are over \$100,000 and what you're getting for it?

Ms. Jennifer Stoddart: The only ones I see, Mr. Chairman, that are over \$100,000—and there are two of them—

Mr. David Tilson: Mr. Chairman, since I started this, I don't even care about that. I could just pin the tail on the donkey. I could go down the list and just pick any one, and that would satisfy me. Let's just do that.

The Chair: Okay.

Mr. David Tilson: Let's do it. Nicholson Associates Inc., for \$24,717; what's that?

Ms. Jennifer Stoddart: We just have to find it.

The Chair: We'll deal with that one, Mr. Tilson; then we'll go to the next question and others can step up—

Mr. David Tilson: Thank you. I appreciate the leniency you've given me, Mr. Chairman.

Ms. Jennifer Stoddart: Neither of us can give you that answer right now. There are many we can. But we could get it back to you.

There are some, for example, that we could. I'll cite the most recent one: Gowling Lafleur Henderson. This is for services in relation to the audit, I'm told.

The Chair: They're lawyers, aren't they, not auditors?

Ms. Jennifer Stoddart: Yes.

The Chair: What services would they have provided?

Mr. Tom Pulcine: I don't have the full details. What I understand is that they were on a contract that was let for the purpose of one of the audits being conducted by our audit review branch.

The Chair: Oh, by your own audit review branch?

Mr. Tom Pulcine: That's right.

The Chair: Oh, I see. On what; was it on yourselves?

Ms. Jennifer Stoddart: No, it was on another organization, and we needed some help. I think this is in conjunction with powers that we are exercising for the first time.

For example, we could go down—

The Chair: No, I don't want to take any more time from the opportunity of members to ask questions. If they want to pursue this, they can, but they may have other things they want to ask, and we'll go from there.

Mr. Dhaliwal, do you have anything right now, or do you want to get freshened up on the—

Mr. Sukh Dhaliwal (Newton—North Delta, Lib.): No, that's okay. I just got here, and I'm new on the committee as well.

I was going through the report from when this panel appeared before the committee last year as well, and there was something like 38% increase in funds. With that increase in funds, did the efficiency of the department increase when it comes to the backlog, or it is still staying the same?

Ms. Jennifer Stoddart: We have plans for improving the efficiency with the new resources.

Mr. Chairman, may I ask the director of investigations to talk to the honourable member about that?

The Chair: Please, yes.

Mr. Wayne Watson: As I mentioned earlier, we've hired recently five new investigators, and I'm in the staffing process for seven more. We're reviewing the 691 cases, I believe it is, in the backlog one by one to determine in what way we could prioritize them. We're looking at reviewing all our administrative processes to streamline them, as well as certain operational processes that we believe can be streamlined so as to reduce the delays and reduce the backlog, period.

Mr. Sukh Dhaliwal: The other thing is, I was going through your priorities, which say, “Build organizational capacity; hire and integrate new staff, engage and train existing staff.”

When it comes to hiring staff, how many members do you have now and how many are you planning? What will be the increase in staff?

Ms. Jennifer Stoddart: We have 100 employees now, and we plan to be at 124 at the end of this fiscal year.

Mr. Sukh Dhaliwal: You say “Develop results-based systems and baselines”. What do you mean by that?

Ms. Jennifer Stoddart: That means making a clear distinction from where you start, and evaluate the progress by results you can measure.

Mr. Sukh Dhaliwal: If you were to look at previous years, what were your guidelines to measure, what were the baselines you had, and how would you measure the successes of the department?

•(1620)

Ms. Jennifer Stoddart: That is the system we're trying to develop, a performance evaluation system for all the different activities we carry out.

Mr. Sukh Dhaliwal: So there's nothing in place at this point in time?

Ms. Jennifer Stoddart: We have something perhaps two-thirds developed. We're two-thirds of the way through that process now.

Mr. Sukh Dhaliwal: Okay. Thank you, Mr. Chair—unless Mr. Peterson has any questions.

The Chair: On that point, Madam Commissioner, you were appointed on December 1, 2003. When did you put this system in place to develop programs or develop whatever it was you said earlier?

Ms. Jennifer Stoddart: A results-based management system?

The Chair: Yes.

Ms. Jennifer Stoddart: We've only started to work on it, I believe, in this fiscal year.

The Chair: What month?

Ms. Jennifer Stoddart: It was April, perhaps.

The Chair: Of 2006?

Ms. Jennifer Stoddart: That's right.

The Chair: What did you do for the previous three years?

Ms. Jennifer Stoddart: Well, that's an excellent question, honourable chairman.

When I inherited this office, the employees had no objectives and had no yearly evaluations. I don't know whether you remember the situation of the Office of the Privacy Commissioner. It's been a very long and slow process to go from that situation, where there were no standards and where there was no objective evaluation.

To begin with the employees themselves, we moved through that and have it, I think, very well established. The employees are happy with it and participate in it. We're now moving to the second phase, which is the evaluation of our activities as an organization.

The Chair: Thank you.

Mr. Stanton, followed by Monsieur Laforest.

Mr. Bruce Stanton (Simcoe North, CPC): Thank you, Mr. Chair.

I want to take you back to the question of the conference that's coming up in September 2007. I think I followed most of the dialogue when Mr. Martin first raised it. If I understand it correctly, the contractor—it was an open bidding process—came in at around \$750,000 for this conference.

Tell me again what the recoveries would be on that.

Ms. Jennifer Stoddart: May I ask the director of corporate services?

Mr. Tom Pulcine: The current forecast is \$500,000.

Mr. Bruce Stanton: Where does that show up? Obviously it's going to be in the next fiscal year, then. Would there be a \$500,000 recovery coming back into the next fiscal year, since it's going to be September 2007?

Mr. Tom Pulcine: In terms of the net cost to the Crown, it won't be the \$750,000; it would be the \$250,000, over this fiscal year and the next fiscal year.

For what you were looking at, in terms of proactive disclosure we have to disclose the contract value. The contract value at its upper limit is \$748,000 or \$750,000.

Mr. Bruce Stanton: All right.

Madam Commissioner, in your opening remarks you mentioned that approximately two-thirds of the operating costs of the office relates to investigations—I'll say to the activities relating to PIPEDA—and the other third to the Privacy Act. I believe that was the quotation, if I have it correctly. At the same time, I heard that relative to the 1,600-odd files or investigations that were opened up, 1,200 were on the Privacy Act side, but only 400 on PIPEDA. The cost of the operation seems to be disproportionate to the investigations.

Could you speak to that, or help me understand why it is?

Ms. Jennifer Stoddart: Yes. Perhaps the first figure you were quoting is an overall figure. The investigations are a particular phenomenon. There are many more Privacy Act investigations, because of the way the Privacy Act is written, than there are PIPEDA investigations.

If the chair allows, I'll let the director of investigations continue.

Mr. Wayne Watson: One of the reasons is that, for the Privacy Act, most of the respondents are here in Ottawa. The federal organizations are here. It's an act that has been in force since 1983, so the investigators, as well as our legal department, have a lot of case law they can follow. Investigations don't require as much—I don't want to use the word “effort”—expense, let's say.

Under PIPEDA, most of our respondents are outside Ottawa, so investigation entails a certain amount of travel. Since it's a relatively new act, we are more in need of legal opinions, from outside counsel often, and so the expenses are a little higher.

It's the same thing with the training. The training for investigators under PIPEDA is more expensive than under the Privacy Act. All of this makes the PIPEDA investigations somewhat more expensive to conduct.

• (1625)

Mr. Bruce Stanton: I didn't notice—perhaps it's there—in section III of the report on plans and priorities a breakout of how you apportion the financial impact within your office between the two boundaries, one being the Privacy Act and the other being PIPEDA. You don't necessarily break it out that way for report purposes?

Ms. Jennifer Stoddart: The director of corporate services, if the chair allows, can add to my answer, but increasingly we find it is more effective to simply put the amounts together, although we can simulate them, because sometimes it's difficult—not in investigations, but in public education activities and so on—to make a very precise breakdown. We did for the purposes of presenting our case for budget increase, but we haven't continued in that document.

Mr. Bruce Stanton: I only raised that point, as a parliamentarian in looking at these issues, because when we look at things on a cost-per-volume or an incremental basis, those numbers become helpful in understanding what in fact the true costs are in relation to the activities of the department.

Do I have any more time, Mr. Chairman?

The Chair: You have 14 seconds.

Mr. Bruce Stanton: Oh, that's very quick.

On the backlog, you mentioned that even this year it appears you added another 300 investigations to the backlog. Is the go-forward plan going to bring that down eventually? I think that question might have been put, but do you see a point in time when there's a program in place to clear that backlog up? If so, how long?

Ms. Jennifer Stoddart: Yes. I'll just tell you about the budget considerations.

When we presented our proposal for a new budget, we calculated that it would take us two years to bring the backlog under control. Therefore, we were given—and this is what I hope you're approving today—four extra person-years to bring the backlog under control. Then we would drop down to a maintenance level.

Mr. Bruce Stanton: So that's four years?

Ms. Jennifer Stoddart: It's around four; it may be 4.4 investigators for two years, and we have a definite plan.

The Chair: Monsieur Laforest, go ahead, *s'il vous plaît*.

[*Translation*]

Mr. Jean-Yves Laforest: Thank you, Mr. Chairman.

The answers given to the questions raised by Mr. Martin and Mr. Tilson do not allow the committee to understand why and how \$1 million was spent on contracts to management consultants. It would be important for your office to provide, later on, an answer to the committee in that respect.

Is your next budget going along the same lines? Are you going to spend as much on contracts? The committee must know in advance your objectives and the reason why you have to contract out management programs. We have to know why you anticipate spending such large amounts.

Ms. Jennifer Stoddart: We give out contracts to management consultants to remedy the deficiencies of our office in terms of knowledge and skills. The term “management consultant” is very broad and includes accountants, experts in personnel management and sometimes even investigators who own a small business. We hire investigators on a contract basis because we cannot hire public servants quickly enough to deal with the backlog in case processing.

To give out contracts instead of hiring employees is not the ideal situation but we have to live with our budget and use our funding the best way possible in order to do our job which is to carry out investigations and reduce delays. If we have to hire people to do so, we will.

Since the limit is set at \$25,000, we will give out contracts for a \$24,000 maximum value, which makes it possible to do more work than with a \$10,000 contract.

•(1630)

Mr. Jean-Yves Laforest: This answers my question.

It is better to give the fullest possible detail than to include everything under a single heading “management contracts”. Such specifics allow us to make the connection between your needs and the work you have to perform with such an amount.

Thank you.

Ms. Jennifer Stoddart: Thank you. This is a suggestion—

[*English*]

We could take to heart, I think, Mr. Chairman, to make things a littler clearer in our web site.

[*Translation*]

The Chair: Are you satisfied, Mr. Laforest?

Mr. Jean-Yves Laforest: Yes, thank you.

[*English*]

The Chair: Mr. Van Kesteren is next, followed by Mr. Martin.

Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC): Thank you, Mr. Chair.

Thank you, Madam Commissioner, for appearing before us.

I'm new here. I had the unique privilege of sitting with you at a dinner, and you introduced your portfolio to me, and I must confess that although I had heard about it, as Mr. Laforest has just said, it is something that has almost some intrigue to it. There seems to be an element of mystery surrounding it.

Forgive me, I'm not trying to be critical. I would just echo what you suggested, that maybe we need a little more clarity on your function, on what exactly you do. You explained to me the differences and how things have changed just in the last ten or fifteen years. I can't imagine how you try to keep up with that and still protect our citizens.

When it gets right down to it, most of this stuff is pretty straightforward. It makes sense: you're protecting privacy. But you have something called a contribution program. That is almost an oxymoron. It almost seems to be something that doesn't fit. When I mention those secret things, this is almost one about which you'd say, hey, what's this all about?

Can you elaborate on this?

Ms. Jennifer Stoddart: Yes, thank you, Mr. Chairman.

This is something that does cause a lot of interrogation: what is our contributions program? Our contributions program is a line item set up by Treasury Board in 2000, and it's for five years. It was renewed in 2005. It is to allow us to run a research grant program. We have been doing that every year since 2004, I believe. We advertise the themes and entertain submissions from people all over Canada and award contracts to a maximum of \$50,000 to groups.

Usually it is to universities, research institutes, or different research units across the country, and sometimes citizens groups or business groups have been awarded contracts too, to do some research that we don't have the expertise to do into different aspects of privacy; for example, the use of RFIDs, or consumer rights, or how to develop a privacy policy in business, or what the impact of electronic health records is, and so on.

We put the links to these studies, when they're completed—people aren't paid until they are completed—on our website so that the Canadian public can consult these research documents.

Mr. Dave Van Kesteren: How much money do you have allocated or budgeted for that?

Ms. Jennifer Stoddart: It was set up at \$500,000 by Treasury Board. This year we are spending \$388,000. I don't think we've spent more than that in a year, because we want to make sure we fund good projects.

Mr. Dave Van Kesteren: How do you determine which institution is going to be awarded? Is there a competition?

Ms. Jennifer Stoddart: Yes. There is an open competition. We list the subjects and we list the criteria, and then there is an internal committee, and I and the two assistant commissioners make the final determination.

Mr. Dave Van Kesteren: Have you had good results? Are you satisfied that we have had good value for our money?

Ms. Jennifer Stoddart: I think so. The Canadian taxpayers get value for their money, because these are often projects done by specialists. We couldn't hire those specialists; they're not on the market, or they would be extremely expensive. Often in universities they get student help, and so on, and they put a lot of new information about privacy before the Canadian public.

•(1635)

Mr. Dave Van Kesteren: You alluded to the fact—and we all know it too—that you inherited somewhat of a mess, let's just say. Are you seeing light at the end of the tunnel? Are things starting to come together? What would be your progress report? Are you saying it's something on which we are going to have some results that are necessary to correct those things?

Ms. Jennifer Stoddart: Yes. I think we're well out of the tunnel. We've had our staffing delegation given back to us by the Public Service Commission, which is a kind of barometer for whether you are good enough to manage your own affairs, which we weren't. We have a clean bill of health every year from the Auditor General. We have been vetted by another agency that controls classifications. The Canadian Human Rights Commission also did an audit on us as to whether we had discriminatory hiring and employment policies, and we have been given good marks by all these agencies. We went before the parliamentary panel last year, and they agreed with our proposed level of funding, I could add.

So the signs are positive, I think.

Mr. Dave Van Kesteren: Thank you.

The Chair: Following up very briefly on Mr. Van Kesteren, do you have a research division within your shop?

Ms. Jennifer Stoddart: Yes, we do.

The Chair: What do they do, if you're giving grants to people to do research?

Ms. Jennifer Stoddart: That's a good question. They do research that is more related to our investigation functions and to issues that come up through the legislative process. These issues are more related to our immediate role, because that is necessary for us to operate.

The research program, called the contributions program, allows people to research things that are very far from our immediate work, but that will eventually be useful. For example, if we move to legislation on RFIDs, radio frequency identification devices—I'm just picking that example out of the air—this would be helpful for policy-makers to understand the implication.

The Chair: I presume those would fall under your rubric of providing information and outreach to the Canadian people about privacy issues?

Ms. Jennifer Stoddart: Yes, exactly.

The Chair: All right, thank you.

Mr. Martin.

Mr. Pat Martin: Thank you.

Not to beat this to death, because I don't blame you for having to outsource so much of this work, but I want to speak to the broader policy here. I've done a bit of math, and if your average civil servant is, say, making \$15,000 a year...or \$50,000 a year—

Some hon. members: Oh, oh!

Mr. David Tilson: You wish.

Mr. Pat Martin: They need better representation if they're making \$15,000, but say it's \$50,000 plus 18% benefits, which would be roughly \$60,000 a year. But with so many of these contracts at \$25,000, this would buy you about five months of full-time work for a full-time civil servant. Do you think you're getting five months' worth of work for these?

My feeling is that Ottawa is just full of these contractors, because they cut a third of the civil service. During the Liberal era, a third of the civil service was gone, but the workload didn't shrink. So now we're contracting out to all these people, sometimes at \$1,500 a day, and \$1,200 to \$1,500 a day is not unusual.

Do you think you're getting five months' full-time work from the many consulting jobs, such as Claude Beaulé or the Nicholson Associates one? We don't even know what it's for, but....

Ms. Jennifer Stoddart: Well, Claude Beaulé, I can tell you, is a computer specialist—

Mr. Pat Martin: I see. I'm not as interested or concerned with the technical ones, because they kept in-house anyway. Do you think it's good value to be contracting all this work out, or would you rather have the in-house, full-time staff to be able to complete this work?

Ms. Jennifer Stoddart: Mr. Chairman, in an ideal world, I would rather have full-time, in-house staff to do all of that, but the reality now in the hiring zone in Ottawa and the public service is that it's very hard to get people for certain categories of work—notably investigators and people who know about information technology and information rights. Of course, Bill C-2's projected coming into force has only heightened that.

We are competing with many organizations, some of which are bigger and can offer the same jobs, which we want to staff, at a higher classification level. Unless we want to lie down on our mandate and not do this work, we fall back on trying to get the service through that.

• (1640)

Mr. Pat Martin: I understand.

Ms. Jennifer Stoddart: Otherwise we would lack salary dollars. It's very unfortunate; I'm the first to deplore it. Certainly some of those are for investigation contracts. We deplore this, but otherwise we would say, well, we don't have full-time employees, so we can't do it.

Mr. Pat Martin: Some of these guys can bill out better than lawyers. A thousand bucks a day means you're getting a couple hundred dollars an hour. I don't think it's a good use of our money.

I will ask one more specific question. I think in Mr. Tilson's example, just by playing pin the tail on the donkey, he arrived at \$24,717 for Nicholson Associates. I know he picked that at random, but I found two more at the exact same price, to the penny — \$24,717—further down on the same page, to Serva Inc. and Copem Consulting, and they're all under the code 0491. Can you tell me how that coincidence would occur? It's so close to \$25,000, the magic figure, but to the penny, it seems unusual.

Ms. Jennifer Stoddart: It's deliberate. As you can see from the pattern, we try to see how much work we can get in an efficient way if we have a known specialist. For example, as you probably know, there are often retired civil servants who have held responsible jobs —

Mr. Pat Martin: They take the package and then they come right back to the government.

Ms. Jennifer Stoddart: —whose track record is known. They are reliable, they're known, and they'll deliver the goods.

Mr. Pat Martin: Yes, for \$1,500 a day instead of \$150.

Can you tell me what code 0491, Serva Inc., Copem Consulting, and Nicholson Associates, is for?

Ms. Jennifer Stoddart: Serva Inc. is a human resources code, so this may have to do with job classification or it may have to do with writing all of the policies that we didn't have in that organization, for example. Maybe it was setting out procedures for dealing with employees. We had many serious problems in our human resources management, so that may be to help.

Again, human resources people are very scarce in Ottawa. They're as scarce as hen's teeth, honestly. Apparently the Public Service Commission can't hire enough human resources specialists, so we're all looking for these same people. It's a real problem.

Mr. Pat Martin: It's a lot more lucrative to be a human resources consultant than it is to be a human resources employee, I guess.

Ms. Jennifer Stoddart: A generation is retiring. I believe Maria Barrados has spoken of this publicly.

The Chair: I'll stop you there, because I do want to give everybody an opportunity.

Did you want a specific written answer to those three contracts, Mr. Martin, what the code means, or anything? Are you all right with the answer?

Mr. Pat Martin: I'll say yes. I'm not going to stay up at night worrying about it. I just find it odd. It's such a coincidence to be the exact same dollar figure, to the penny.

The Chair: Except that the commissioner said it's deliberate.

Mr. Pat Martin: I'm quite satisfied with that.

You identified the one as a human resources consultant. Who is Copem Consulting? What are they doing?

The Chair: Why don't we just get the commissioner to provide us with that information in due course?

Ms. Jennifer Stoddart: Mr. Chairman, I would be happy to provide the committee with the details of all these contracts.

The Chair: Thank you very much. That will save us some time.

Mr. Dhaliwal, followed by Mr. Kenney.

Mr. Sukh Dhaliwal: Thank you, Mr. Chair.

Madam Commissioner, I'm going to pick up a bit on what Mr. Stanton left off on these backlogs. This concept of two-year backlogs is quite new to me, because I come from a private business background, where we do not have any backlogs at all. Does this backlog put additional stress on your office and your employees when you have a situation like this?

Ms. Jennifer Stoddart: Yes.

Mr. Chairman, could I ask the director of that branch to respond?

Mr. Wayne Watson: It definitely causes a lot of stress to the employees as well as to our managers, because we obviously have to field the questions coming from the complainants as to where their complaint has landed, how come it hasn't been investigated, and where we are with it. This adds quite a bit of stress to the managers and to the investigators. Also, the investigators are professionals. They take pride in what they do, and nobody is comfortable with this backlog.

I've only been in this job for a few months now, and we're getting together to put in different strategies to reduce this in a timely fashion. I'm hoping that, within 24 to 30 months, we will be able to reduce, if not eliminate, the backlog that we have right now.

• (1645)

Mr. Sukh Dhaliwal: Madame Commissioner, you said you need four personnel—or was it two?—to clear the backlog.

Ms. Jennifer Stoddart: When we had submitted our calculations last year, we asked for a bit over four person-years for a period of two budgetary years—this year and next year—in order to clear that backlog.

Mr. Sukh Dhaliwal: Why wouldn't you include additional personnel? Now you're going from 100 personnel to 124. Why wouldn't you go with maybe another additional 8 persons to bring that backlog to zero sooner?

Ms. Jennifer Stoddart: We also asked for a higher permanent level of funding for that branch too. I believe it was for four or five permanent investigators, but I'd have to look up the exact number.

There's a rise in the general resource level of the investigative function, and apart from that, there's a two-year special effort to clear the backlog.

Mr. Sukh Dhaliwal: Would you agree to bring the backlog to zero immediately, or would you rather wait for two years? Which option would you prefer if you had to take the functioning of your department as a whole, taking the stress level off the employees and taking the resources that you have to manage those resources in a very efficient way?

Ms. Jennifer Stoddart: As soon as we have the extra people, they are going to attack directly that backlog. In fact, I believe they've already started.

Mr. Sukh Dhaliwal: Thank you, Chair.

The Chair: Good luck on that. We've heard that song from the immigration department for the 18 years that I've been here.

Mr. Kenney.

Mr. Jason Kenney: Thanks, Mr. Chairman.

I've been a member of Parliament for just about ten years. Until today, I had no clue what the Office of the Privacy Commissioner did, and I'm not sure I do yet. I'm wondering about the extent to which that might be the case amongst the general population.

You said earlier in your testimony that the taxpayers of Canada are pleased with what you're doing. Do you have any idea how many taxpayers even know the Office of the Privacy Commissioner exists? Have you ever done any quantitative research on that, any public opinion polling, given that you have this education mandate?

Ms. Jennifer Stoddart: We do public opinion polling. We wondered if we should ask that question, but we were told by the experts that it wasn't worth it because the public usually doesn't recognize organizations like ours.

Mr. Jason Kenney: So you would accept, then, that the vast majority of the Canadian public doesn't really have a clue what you do or that you even exist.

Ms. Jennifer Stoddart: No, I don't accept it, because as I said, we have a more aggressive public education program. We have become, in this fiscal year, much more proactive. My aim is certainly to make us known, but at the time I asked that question, we were trying to get the office together and we didn't have a lot of resources for public education.

Mr. Jason Kenney: You do 1,600 cases, apparently. Do you know how many of those are redundant? How many come from the same complainant? Or are they all pretty much individual and separate complaints?

Ms. Jennifer Stoddart: Mr. Chairman, may I again ask the director of investigations?

Mr. Wayne Watson: There are cases, but I couldn't tell you exactly how many. I can confirm that over the years we have had individuals make numerous—

Mr. Jason Kenney: Let's say all 1,600 are unique complainants. I've done a little math here, like Mr. Martin. Those 1,600 cases constitute 0.005% of Canadians, or half a thousandth of a percent of Canadians, yet you're proposing a budget of \$16.5 million for next year. If you divide the number of investigations that you have—your principal legislative mandate—into that \$16.5 million budget, that amounts to \$10,300.75. If you just do it in terms of the \$10.1 million figure that you propose for investigations, that's \$6,300 per case. Do you think that's value for the taxpayers' money?

Ms. Jennifer Stoddart: Actually, I hadn't quite done those figures recently, but if this is of any comfort, Mr. Kenney, twenty years ago I was in an organization operating provincially in a similar style, and the cost was \$4,000 almost twenty years ago. So if that's the figure, then it's pretty economical, because I would think that the cost has risen quite a bit in twenty years.

I will say that one of our concerns is trying to more efficiently manage particularly the complaints under the Privacy Act. We talk about this in our paper asking for reform of the Privacy Act, because we don't have the powers to deal with complaints that are perhaps not in the general interest of the Canadian public, as we should. We have very clear ideas about how this process could be streamlined. Within the law that we have now, we are trying to take a more aggressive approach to handling these complaints.

• (1650)

Mr. Jason Kenney: In terms of personal anecdotal reference points, ten years ago I was CEO of an NGO with a budget of about \$4 million, and we had about ninety employees. I see here that you're planning to spend \$16.5 million next year, plus another couple of million in costs received, without charge, for 143 employees. That's about \$81,000 per employee. We're talking about \$10 million in salaries and benefits for 124 staff in the current year, and that's \$81,000.

I have a hard time understanding why that's necessary to handle a caseload of 1,600 files and to do some education. I just don't understand the empire-building that appears to be going on here in moving, from 2005 to 2007, from 80 to 143 employees.

Ms. Jennifer Stoddart: Mr. Chairman, perhaps I could remind the honourable member that we have a mandate that is multifaceted. We don't just do investigations. Investigations are perhaps the one single most important line item, but we do audits and reviews. We evaluate privacy impact assessments for the various departments and organizations in the federal government. We do research. We do public education. We have a website now that has a million visits a year, which is up sharply from what it was a couple of years ago. We cooperate internationally because of the increasing acuity of the issues of Canadians' data flowing across borders and increasingly being beyond their control. We litigate cases before the Federal Court.

Mr. Jason Kenney: Madam Commissioner, I gather that all of those statutory functions existed eighteen months ago, when you were operating with 80 employees. Why do you need an additional 63 employees and an additional \$7 million to do the same functions?

Ms. Jennifer Stoddart: Perhaps I could refer the honourable member to the beginning of the report on plans and priorities, where we put forth the case of the urgent need for increased funds in the face of the advances in privacy technology, in the face of the threats to Canadians because of increasingly privacy-invasive practices; because of the need to inform Canadians of their privacy rights, and because of the need to help the federal government develop privacy-respectful practices in dealing with citizens' information. All that is resumed here, and all that was put before the parliamentary panel last year in some detail.

The Chair: You're already a minute and a half over.

Committee members, as your chair—don't shoot the messenger—I would remind you that we have three people on the list for the third round. That would be approximately 15 minutes, which would take us to about 5:10.

There was some hope amongst committee members that we might be able to finish the review and, indeed, conclude the report upon which we have been working. If this committee decides that it wants to report anything specific on any of the estimates that we've heard, we have to do that today, because it has to be in by the 10th, or it's automatically deemed to have been reported back as accepted if we choose to do nothing.

I'm just reminding you of all that, given that we have only 35 minutes left. Right now, as far as I'm concerned, we can go until 5:30—put up your hand if you want to—but I'm just bringing to your attention what it was hoped that we might be able to accomplish.

So we have Mr. Peterson, Mr. Wallace, and Mr. Tilson.

Hon. Jim Peterson: Mr. Watson, you said the biggest offender in terms of complaints was the RCMP. Could you give me an example of what type of precise complaint there would be against the RCMP?

Mr. Wayne Watson: Well, it's not only the RCMP, but the other federal departments. The biggest complaint is the time it takes for them to respond within time limits for requests for access, to requests for—

• (1655)

Hon. Jim Peterson: Requests for what, specifically?

Mr. Wayne Watson: If someone wanted from the RCMP all the personal information that their organization has on them, then

according to the act, the RCMP have 30 days to provide this information.

Hon. Jim Peterson: So if the person doesn't get it within 30 days, they complain to you. What do you do?

Mr. Wayne Watson: Normally we will contact the department and use as much influence as possible to get them to provide the information to the individual. Oftentimes we'll not only mediate it, we will put the necessary pressure on the department to—

Hon. Jim Peterson: How long does it take for one person to phone the RCMP and say it's been 30 or 60 or 70 days and they haven't responded?

Mr. Wayne Watson: Sometimes we have to do it five, seven, or ten times during the year, Mr. Chairman. It's simply a question of resourcing.

Hon. Jim Peterson: For that one individual not getting the information? This means you need more power to discipline these agencies and make them abide by the law.

Ms. Jennifer Stoddart: May I answer?

Yes, honourable member, and this is what we set out in the report this committee asked us to draw up on the reforms of the Privacy Act.

Hon. Jim Peterson: In terms of the “me first” sanctions?

Ms. Jennifer Stoddart: Yes. I don't think many of the government departments listen to us as they should, because we basically can't go anywhere with any sanctions.

Hon. Jim Peterson: I've forgotten your report. Did you tell us the type of sanctions that you wanted?

Ms. Jennifer Stoddart: We suggested that we should look at the sanctions in PIPEDA, the private sector commercial law. Citizens should be able to go to court, and if they don't have the satisfaction that they want from the federal government—

Hon. Jim Peterson: Why couldn't you go to court on their behalf?

Ms. Jennifer Stoddart: We could go to court on their behalf, yes. Either one works, according to the model that is in PIPEDA. PIPEDA allows for both.

Hon. Jim Peterson: If you could get the attention of these offending bodies more quickly, you would need less employees.

Ms. Jennifer Stoddart: Perhaps, yes.

Hon. Jim Peterson: Colleagues, there's an onus on us to get this bloody law amended quickly so that the Privacy Commissioner is listened to.

Ms. Jennifer Stoddart: If it were self-enforcing a lot more, we wouldn't have 1,200 complaints from people.

Hon. Jim Peterson: What do you mean by self-enforcing?

Ms. Jennifer Stoddart: Self-enforcing means that the departments put more resources into enforcing this law, into taking this more seriously, because there are some consequences.

Hon. Jim Peterson: You mean the RCMP and the CRA.

Ms. Jennifer Stoddart: There's a whole range of them. It's written up in our annual report.

There was a case that went to the Federal Court of Appeal this year, the Murdoch case, which interested some members of Parliament. I think it was a situation involving the RCMP. Mr. Murdoch said he must surely be able to get damages for what happened to him because the Privacy Commissioner said it was a problem. The courts said he couldn't because there was nothing they could give him, even though there was a privacy violation. That's an example we use in our report to you about the need for reform of the Privacy Act.

Hon. Jim Peterson: Thank you.

The Chair: Thank you, Mr. Peterson.

Mr. Wallace.

Mr. Mike Wallace (Burlington, CPC): Thank you, Mr. Chairman. I'll try to be fairly quick.

I want to be clear. What we're approving tonight, if it goes through, is really this year's budget, or what you've been operating under since April 1, 2006. Is that correct? It goes to the end of March 2007. In that, you are looking for going from 80 people to 124. Is that accurate?

Mme Jennifer Stoddart: Yes, it is.

Mr. Mike Wallace: How many have you hired again? Could you tell me again?

Ms. Jennifer Stoddart: We've hired 20 and we have about 12 competitions ongoing right now.

Mr. Mike Wallace: I think we heard from the Information Commissioner that accommodation was an issue, meaning places to put people. Is that an issue for you?

Ms. Jennifer Stoddart: No, it isn't. We got onto that very early, and I think we can accommodate in creative ways.

Mr. Mike Wallace: Did you have an idea that you needed that kind of number and needed space prior to asking for the money?

Ms. Jennifer Stoddart: No.

Mr. Mike Wallace: Was it at the same time? Was it afterwards?

Ms. Jennifer Stoddart: No, I think it was on April 1, when it was confirmed that we did have that money.

Mr. Mike Wallace: That's good.

So you were at about \$1 million last fiscal year. Your office is about \$1 million lower than that of the Information Commissioner. You then went—and I'm just talking about operating here, not the employee benefit part—from about \$4 million to \$14 million. You added about \$10 million to your budget for this year. Is that accurate?

• (1700)

Ms. Jennifer Stoddart: No, it isn't. It's hard to understand our situation. We went from about \$10 million to about \$16 million.

Mr. Mike Wallace: When I see "Main Estimates 2005-2006" and then go to "Office of the Privacy Commissioner of Canada –

Program expenditures" and they're at \$4 million, does that not include salaries?

Ms. Jennifer Stoddart: Can I ask the director of corporate services?

Mr. Mike Wallace: Sure. This is right out of the estimates.

Mr. Tom Pulcine: If you look at the RPP, which is—

Mr. Mike Wallace: I took a look at it. It's the same stuff as what's out of this book right here.

Mr. Tom Pulcine: On page 27 of the RPP, I think the number you're referring to is \$4.6 million, which was allocated to the Office of the Privacy Commissioner as part of the main estimates. The Office of the Privacy Commissioner was further allocated \$7.135 million for the supplementary estimates, for a total budget last year of some \$11.7 million, identified as total planned spending. The numbers that you want to compare are that \$11.788 million and the \$16.298 million.

Mr. Mike Wallace: And that's the \$4 million extra.

The Chair: Excuse me, Mr. Pulcine, but the question was whether that \$4 million was all salaries.

Mr. Tom Pulcine: Sorry, sir. All of those numbers that I just quoted are a combination of salary and non-salary.

Mr. Mike Wallace: If I look on page 17-3 of this book, which is what we had sent to us, under Justice, and then under the voted part under "Ministry Summary", maybe I'm misunderstanding what the vote means, but it shows program expenditures for 2005-06 at \$3.925 million, and then it goes to, in 2006-07, \$14.4 million. What's the difference? What am I misunderstanding?

Mr. Tom Pulcine: I'm sorry to keep bringing you back to the table on page 27, but the number you just quoted is there, \$3,925,000. Once again, the odd situation that the Office of the Privacy Commissioner found itself in last year and for the previous three fiscal years was that it was getting only the money for the Privacy Act under main estimates. It then had to come back—

Mr. Mike Wallace: So it's a combination.

Mr. Tom Pulcine: —to Parliament to get supplementary estimates.

Mr. Mike Wallace: I fully understand that. Thank you very much.

So we're having no issue in terms of hiring. We're still hiring people, but using contractors because we still don't have enough people. Is that what you're telling me?

Mr. Tom Pulcine: Yes.

Mr. Mike Wallace: There was an article in the *National Post* this November 3 that talked about our Privacy Act. Did you see it?

Ms. Jennifer Stoddart: Yes, I saw a version of it on a BlackBerry.

Mr. Mike Wallace: Oh, you didn't read it.

Ms. Jennifer Stoddart: I was at a conference.

Mr. Mike Wallace: You were at a conference.

It says we're number two in the world in terms of privacy protection. I wouldn't mind your comment on what the article had to say. Did you get a chance to read it?

Ms. Jennifer Stoddart: Yes, well, I'm familiar with it because at the conference, it was announced that it was based on a text from a Washington think tank called EPIC, which rated a certain number of countries.

Our second place is largely due to our constitutional protections, the new law, PIPEDA, the government's privacy impact assessment program, and so on—and the fact that on an international scale we don't have national ID cards yet. We don't have a lot of video surveillance like Britain, and we don't have a lot of monitoring. We don't have one—

Mr. Mike Wallace: We're still pretty good compared to some of the others, would you not agree?

Ms. Jennifer Stoddart: Yes.

Mr. Mike Wallace: Can I have one more question?

The Chair: That's it.

Mr. Mike Wallace: Oh, come on, one more quickly, please.

Are you coming back for another couple of hundred thousand dollars in supplementaries? Did I read that correctly somewhere?

Ms. Jennifer Stoddart: No, not that we've defined. We are doing an exercise as to the implications of Bill C-2, the Federal Accountability Act, as are all agencies and government departments at the request of Treasury Board. But we've just started that analysis.

Mr. Tom Pulcine: Although having said that, there may be some technical adjustments that all departments and agencies will get through the supplementary estimates process, such as collective bargaining settlements, etc., that were not known at the time of the main estimates. So it's not necessarily stuff that we would demand.

Mr. Mike Wallace: Okay, it's something that is automatically required. Thank you very much.

Thank you, Mr. Chairman.

The Chair: Right now we have Mr. Tilson and Mr. Van Kesteren.

Mr. Tilson.

Mr. David Tilson: Mr. Chairman, thank you.

I'd like to return to a topic raised by Madame Lavallée, and that has to do with travel and hospitality.

In 2003, which I think is when you started, there was \$54.22, and in 2004 this jumped to \$67,278.72—and that was for yourself, Ms. Black, and Mr. D'Aoust. In 2005 it jumped to \$99,534.49, and then for the first six months of 2006 it was \$72,744.10. There's been an increase in hospitality spending of about 20% from 2005 to 2006.

What do you attribute this public expense to?

• (1705)

Ms. Jennifer Stoddart: Mr. Chairman, to give the honourable member an accurate answer, I'd have to go over all the hospitality figures. The honourable member should know that, as I remember, in hospitality there are also things like muffins and coffee for staff meetings, and so on. It's not just what we would traditionally think of as hospitality. Hospitality also covers the dinners of the advisory

committee that now come twice a year. It's been expanded. I don't think that there's a huge increase other than that in our practices, but I would have to analyze it in order to see what the—

Mr. David Tilson: I guess I'm concerned, and some other committee members, because your predecessor—

Ms. Jennifer Stoddart: Rightly so, yes.

Mr. David Tilson: —got into trouble. So naturally, as politicians—and this isn't a slight against you—we're a little nervous about those sorts of expenses.

I would appreciate the analysis of the line items for the 2006 hospitality, if you can get it.

Ms. Jennifer Stoddart: For hospitality?

Mr. David Tilson: I don't know if, through the chair, you could send it here

The Chair: For hospitality, or travel, or both?

Mr. David Tilson: The travel and hospitality, yes. The figures I read out were both those figures.

The Chair: Yes, you did do that.

Mr. David Tilson: Madam Commissioner, the line items for the 2006 hospitality include, as you indicated, the External Advisory Committee dinner. It includes a dinner for the director of the American Civil Liberties Union. It includes a farewell dinner for the Commissioner of Official Languages. In your elaboration, what I'd appreciate is that you tell us how those expenses fit in with your mandate to protect the public from improper disclosure of private information.

I'd like to turn to a comment that was raised by Mr. Wallace. It had to do with the *National Post* article, which places you second.

It was interesting. There was a comment made by Professor Michael Geist. He says, "I think [this report] says far more about how badly privacy is protected worldwide than about how well Canada is doing." That's an interesting observation, although he is part of your advisory committee, and it's an impressive list of people. You have everybody from Perrin Beatty to Ed Broadbent to a former Supreme Court justice. It's quite an impressive list.

My question has to do with those people. Are they paid?

Ms. Jennifer Stoddart: Yes, they are, honourable member, yes.

Mr. David Tilson: What are they paid?

Ms. Jennifer Stoddart: They have a per diem of \$250 a day.

Mr. David Tilson: How often do they meet?

Ms. Jennifer Stoddart: Twice a year.

Mr. David Tilson: What do they do?

Ms. Jennifer Stoddart: They advise us on our ongoing objectives, on policy positions, on our education program, and so on. They serve as advisers. We phone many of them up on different issues when we need advice.

Mr. David Tilson: And not necessarily as a group, but as individuals, perhaps, in their own individual expertise?

Ms. Jennifer Stoddart: Yes. Sometimes we consult them informally, yes.

Mr. David Tilson: Do I have time for a final question, Mr. Chairman?

The Chair: You do. You have ten seconds.

• (1710)

Mr. David Tilson: Ten seconds. It's probably impossible.

The issue of lawsuits brought in Federal Court with respect to dissatisfied complaints was raised. You indicated in your annual report that there are numerous unsatisfied complaints—James R. Gairdner v. Jennifer Stoddart et al, Gauthier v. the Privacy Commissioner, etc. What law firm do you retain to defend those claims?

Ms. Jennifer Stoddart: We use our own staff.

Mr. David Tilson: So you don't hire an external law firm.

Ms. Jennifer Stoddart: No, and in many of the cases, we hire a Mr. Steve Welchner.

Mr. David Tilson: Does he act for you in all of those?

Ms. Jennifer Stoddart: He acts in many of those, maybe not all of them.

Mr. David Tilson: How do you select the law firm?

Ms. Jennifer Stoddart: It's by their knowledge and familiarity with legal privacy issues.

Mr. David Tilson: Okay. Thank you.

The Chair: Is Mr. Welchner from a firm, or a sole practitioner?

Ms. Jennifer Stoddart: I believe he's a sole practitioner.

The Chair: Thank you.

Mr. Van Kesteren.

Mr. Dave Van Kesteren: Thank you, Mr. Chair.

I wasn't going to ask a question, but then Mr. Peterson got my mind going. You suggested that we need to prompt the government to enact some legislation to solve some of these problems.

The first thing that came to my mind is how many of these complaints... For instance, if somebody were involved in terrorist activities, do you have any safeguards, for somebody like that, to approach the RCMP and retain some of that information from them? What kinds of safeguards do we have in place for those sorts of things?

Ms. Jennifer Stoddart: Exemptions have always been in the Privacy Act for matters of national security. If the RCMP can't give out the information—let's say there's a person with some national security information on his or her file who requested it, and the RCMP gives it out partially but not completely, and then he or she

complains to us—we have special investigators with a very high level of security clearance who can look at those files to determine whether or not the RCMP's stance is warranted and whether these are matters concerning national security.

Mr. Dave Van Kesteren: We see this sort of thing happening in different circumstances. Could you have somebody in the prison system maybe start to play around and bog down the government? Is that possible?

Ms. Jennifer Stoddart: It's not only very possible, it's a reality. This comes back to my previous remarks. We would like, in the reform of the Privacy Act, to be given more discretion in handling complaints.

Worldwide, many of what are called data protection commissioners don't have to deal with every complaint. I think increasingly this is important, because the privacy issues that affect us all are general, they're systemic, they're increasingly now international because of the Internet. I don't think having to spend taxpayers' resources on every single privacy issue is a good way to spend our money.

Mr. Dave Van Kesteren: Finally—and I don't want to point any fingers—is there possibly someone in the media who...? I guess there's no limit. Somebody could access your commission over and over again. It runs contrary to basically what the act is there for. Are there people using millions of taxpayers' dollars on frivolous requests that they may deem as very worthwhile? Is that happening?

Ms. Jennifer Stoddart: Do you mean in privacy requests, or in access to information?

Mr. Dave Van Kesteren: Does it happen that there might be, let's say, a reporter who just constantly bombarded you with requests and clogged up the system?

Ms. Jennifer Stoddart: The standard for things being frivolous and vexatious in law is very high, so merely being bombarded is not a reason not to service the requests now.

Mr. Dave Van Kesteren: You have some safeguards.

Ms. Jennifer Stoddart: Yes.

Mr. Dave Van Kesteren: You have some safeguards and you have some ideas for those other issues and those other areas of concern, such as the prison system that I mentioned or something like that.

Ms. Jennifer Stoddart: Yes. If there were a reform, I would think standards for use of discretion would be important, so that we don't get the system clogged by those who come back time and time again—on the same issue.

Mr. Dave Van Kesteren: Good. Thank you.

The Chair: I have three brief questions.

Has the Auditor General had any concerns about your financial statements in any year that you're aware of?

Ms. Jennifer Stoddart: No major concerns, no, but I think perhaps there have been some comments or suggestions. I'll ask the....

•(1715)

Mr. Tom Pulcine: For the last three fiscal years the Auditor General has done an audit on the financial statements and has provided a clean opinion each of those three years.

The Chair: Thank you.

When will your financial statements for 2005-06 be made public?

Mr. Tom Pulcine: I think they already are.

The Chair: Are they? Okay.

Mr. Tom Pulcine: I need to confirm that. I know the Auditor General signed off on them about a month or two ago, which then allows us to publish them on our website. We can certainly make a copy available.

The Chair: If you were number two, who is number one? I didn't read the article.

Mr. David Tilson: It's Germany.

Ms. Jennifer Stoddart: Germany is.

The Chair: Germany. Thank you.

Finally—and I don't need an oral answer, but perhaps you would be so kind as to provide a written answer in due course—the Ethics Commissioner broke down for us employee salaries and benefits by category, the number of people in the category, etc. I'd appreciate your taking a look at that and providing this committee with your employee salaries and benefits, using the same sort of breakdown system as the Ethics Commissioner did.

Thank you very much. Thank you, colleagues. I want to thank the Privacy Commissioner and her officials for coming today. We very much appreciate it.

I'm going to suspend for about a minute and a half so that we can go in camera, and then we'll discuss what we're going to do from here on in.

Thank you very much.

[Proceedings continue in camera]

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