



House of Commons  
CANADA

# **Standing Committee on Access to Information, Privacy and Ethics**

---

ETHI • NUMBER 003 • 2nd SESSION • 40th PARLIAMENT

---

**EVIDENCE**

**Wednesday, February 11, 2009**

—  
**Chair**

**Mr. Paul Szabo**

Also available on the Parliament of Canada Web Site at the following address:

**<http://www.parl.gc.ca>**

## Standing Committee on Access to Information, Privacy and Ethics

Wednesday, February 11, 2009

• (1530)

[English]

**The Chair (Mr. Paul Szabo (Mississauga South, Lib.)):** This is meeting number three of the Standing Committee on Access to Information, Privacy and Ethics. We have a number of orders of the day. We're going to deal with the supplementary estimates (B) that have been referred to our committee; we also have a motion from Madame Freeman that we will deal with; and then the last order of the day will be, if it's still the will of the committee, to move in camera to have a discussion with Mr. Walsh, the law clerk of Parliament. We'll address that later.

If it's acceptable, Madame Freeman has given proper notice, and it's pre-circulated.

Madame Freeman, I understand all the members have the motion, so I won't read it into the record. Is it your intent to move the motion now? Okay, it is so moved.

We don't need a seconder, exactly, but perhaps you'd like to make a brief statement about your motion.

[Translation]

**Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ):** Thank you, Mr. Chair.

I would like to thank the members of the committee for allowing me to move my motion now.

The Access to Information Act has been around for 25 years and has been reviewed a number of times. In 2000, a working group that included the president of the Treasury Board and the Minister of Justice was set up. In November 2001, there was the Bryden committee. In 2005, our committee asked the Information Commissioner, John Reid, to draft a bill. The bill was drafted, but then there was an election, which put an end to that. Private members have also introduced bills.

The Access to Information Act has been studied so many times that we already have all of the reports we need. We know that Mr. Marleau came out and said that the act was a disaster and that he was going to put forward something new in May.

With this motion, I want the committee to ask the government to draft a bill that brings the Access to Information Act into line with what is actually going on because after 25 years, the act is behind the times.

• (1535)

[English]

**The Chair:** Is there any discussion?

*Oui.*

[Translation]

**Mrs. Carole Freeman:** Mr. Chair, the motion has been moved twice in the past. This is not the first time. It has already been passed, but each time, elections intervened. We put forward a similar proposal on November 3, 2005, and it was passed on September 27, 2006.

[English]

**The Chair:** Thank you kindly.

Mr. Siksay, please.

**Mr. Bill Siksay (Burnaby—Douglas, NDP):** Thank you, Chair.

I want to say very simply that I think new access to information legislation is very important and I strongly support Madame Freeman's motion.

**The Chair:** Okay. Seeing no further interventions....

Oh, there is. Mr. Poilievre, I apologize.

[Translation]

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** Thank you, Mr. Chair.

I would like to thank Mrs. Freeman for being so passionate about the Access to Information Act. She is very passionate about this issue and knows a lot about it. Unfortunately, I do not agree with her motion. I do not disagree with the underlying principle, but I cannot support it for practical reasons.

March 31 will be here before we know it, and it is not realistic to think that a bill like this can be introduced in two months. Maybe we could reconsider the deadlines. If we were to pass this motion, no government on earth would be able to produce a bill that big by March 31, which is what Mrs. Freeman wants. That is the problem with this motion.

I understand the urgency behind these reforms. We have been talking about this for a long time. I can see that many of the members are very passionate about this issue. I understand why they are moving this motion, but we will make more progress if we are more realistic about the dates.

[English]

**The Chair:** Madame Freeman.

[*Translation*]

**Mrs. Carole Freeman:** I would like to thank Mr. Poilievre for his comments.

He agrees that this act needs to be completely revamped. His only concern is the timeline. However, I would ask my distinguished colleague to bear in mind that we have asked for a bill like this a number of times. In fact, Commissioner Reid already submitted a bill. Most of the work has already been done. This is a very important file, changes have been requested repeatedly, and a bill has already been submitted, so my proposal is totally realistic.

[*English*]

**The Chair:** Mr. Dechert, please.

**Mr. Bob Dechert (Mississauga—Erindale, CPC):** Thank you, Mr. Chair.

I'd just like to reiterate Mr. Poilievre's concerns. I think we all know the circumstances and needs of our economy right now and the need to pass the budget and all the budget implementation acts that go along with it. I would suggest that we as a Parliament should make that our priority for the next 60 days. We have to do some hard work to make sure all that legislation is passed and those funds start to flow to our economy.

I think this is something that's very important, but perhaps we can put it second to the economy and then come back to it when we have the budget implementation act fully passed and implemented.

• (1540)

**The Chair:** Mr. Woodworth.

**Mr. Stephen Woodworth (Kitchener Centre, CPC):** Thank you very much.

There are several difficulties that I see with this, notwithstanding the fact that the Information Commissioner may already have tabled a bill. There are, first of all, the obvious problems regarding the time limit that is inserted here. Mr. Poilievre was being generous in talking about two months. In fact, it's under six weeks, or about six weeks, and although I know things move at quite a speed in the House, it does seem to me to be unrealistic to expect the government to prepare an appropriate response.

It has always been my view that the more important something is, the more carefully the groundwork should be laid. It could be that the members of this committee don't attach that much importance to this matter, although I rather suspect the opposite. But if in fact the members of this committee do attach importance to this subject, I suggest that we really ought to deal with it in a more thorough way.

I'm also a bit concerned in that, speaking as a member of the committee for today at least, I haven't seen the bill that my honourable friend opposite has mentioned as having been tabled, so I don't have the details of that. I notice the wording of this motion doesn't refer to that bill, by the way; it just talks about the work of the Information Commissioner. Again, speaking as someone who is only a member for the day, I find that to be somewhat vague, and I'm not sure what anyone would make of it if this motion were entered into the record.

Those are my comments. I'm not sure, particularly in light of the economic circumstances we're facing today, why we would want to try to rush the government into this when we may be able to get farther with a more considered approach.

**The Chair:** Thank you.

I think the member is quite right. There isn't a bill, but there is the work, and it refers to the work, which was fairly extensive. In fact, we had an unofficial access bill, chaired by former member John Bryden. We used to meet in this room regularly and met with Mr. Reid.

I think the motion is clear. The member has made it clear that there's an urgency here, and members have had an opportunity to express their concerns. Are there any new interventions?

Mr. Poilievre.

I'm sorry, I did have Madame Freeman first. Would you like to wait to hear Mr. Poilievre's final intervention?

[*Translation*]

**Mrs. Carole Freeman:** I just want to respond to Mr. Woodworth's comments. He said that he was not aware of Commissioner John Reid's work, to which I referred.

That is exactly what I wanted to bring up. There have been so many studies, reports and committees, and so much work. So many of our parliamentary colleagues have worked on this, so many people have been involved. Commissioner Reid, who was in the position before Mr. Marleau, drafted a bill. So much work has been done. Everything is in place. We cannot just start over. We have to consider what has already been done. We know what does not work. We have been working on this for years. Now we have to stop studying the issue and take action. We have all of the information, the reports, the committees, the bills. The work has been done. We cannot start over just because we have new committee members. We cannot go back to the beginning. We have to respect the work that other people have done, and we can ask people to summarize certain parts if need be.

I read the Bryden committee report and the bill. The work has, for the most part, been done. The work has been done, the data are available, everything is ready. This is not really a big job because everything is in place. We just have to see what Mr. Marleau has to say. All he will say is that things are worse now than they were before. I think we need to face the facts.

[*English*]

**The Chair:** Mr. Poilievre, do you want to yield to Ms. Block?

**Mr. Pierre Poilievre:** I would like to speak, but she has a point of information.

**Mrs. Kelly Block (Saskatoon—Rosetown—Biggar, CPC):** I wonder if we could have access to the report that Ms. Freeman is referring to. I haven't seen that report. As a new member, I would appreciate the opportunity to see that.

•(1545)

**The Chair:** I'm not sure if it's restricted simply to some specific report. I think it's the whole body of work. It is a very complex area, and of course the departmental officials are aware and have all of this.

The member raises a good question. Unfortunately we do have a motion before us. The member has the right to move it. If the committee members feel that they don't have the information they need to make an informed decision, I think that's part of the decision. I don't think the committee is in a position to be able to provide any additional information to the members at this time in order to discharge this motion today. I appreciate your predicament.

Mr. Poilievre, please.

**Mr. Pierre Poilievre:** Before I begin my main intervention,  
[*Translation*]

Mr. Chair, with respect to Mrs. Block's comments, I know you consider yourself something of an expert on Parliament. I just want to know if you can comment on what I am about to say, perhaps in consultation with the clerk.

If a member refers to a document, is she required to submit it to the committee, or is that a rule that applies exclusively to the House?  
[*English*]

**The Chair:** The motion is in order in its present form in that it's making a request of the government to bring forth a piece of legislation on access and makes a passing reference to the work of a former Information Commissioner who has made a lot of input and recommendations to the government in a variety of reports.

The gist or the thrust of the motion is that the member would like this committee to indicate to the government that we would encourage them or would like them to present a bill to the House by a certain date. The motion is very clear, and for any member who feels that they are not in a position to make such a commitment, based on not having certain information or wanting to have further consideration, that has to be taken into account.

If a matter is defeated, it can come back again another time and we learn from the experience. If it's passed and the government can't do it, or doesn't do it, or whatever, we can't insist that the government do anything. Our motions should be received by the minister and by the House such that they consider the advisability and take into account our view that there should be such and such, and by such and such a date. This is not binding on the government.

**Mr. Pierre Poilievre:** And I understand that. I was actually referring to John Bryden's report. I understand reference was made to it.

**The Chair:** He had a private member's bill in the last Parliament he was here, and it rewrote the entire Access to Information Act. It is on the parliamentary record. It's available to all members.

**Mr. Pierre Poilievre:** Thank you for the clarification.

So to my intervention, then, Mr. Chair, I would propose a friendly amendment, which would replace "March 31, 2009" with "by the end of the year". I think that is more realistic and in keeping with our objectives. Earlier on, we had interventions that pointed to the fact

that we are in unprecedented times. We are working to tackle the global economic recession, and therefore Parliament and all parties are really seized with that issue. Understandably, all other subjects have taken a secondary importance, and I know that colleagues would agree with me that it would take some more time to produce a bill of that size. Thus I would simply suggest that we adjust the timeframe to better reflect the amount of time such a body of work would take.

Also, in constructing such a piece of legislation, the government would want to hear input from this committee and other stakeholders. If we impose a timeframe that is too short, I worry that this committee might be cut out of the consultation process. I worry that other interested stakeholders—I speak of groups representing labour, groups representing women or accountability, as well as our constituents—might not have the ability to contribute in a way that we would want to see them contribute.

This simple change would go a long way to making this motion more realistic, and therefore I would first ask Ms. Freeman to accept it as a friendly amendment. Should she so refuse, I would respectfully ask the committee to consider it an amendment to the main motion.

Thank you very much, Mr. Chair.

•(1550)

**The Chair:** Thank you.

In the rules in the Standing Orders and all the rules that guide members, notwithstanding the fact that it happens often at committees, there is really no such thing as a friendly amendment. In fact, let's just deal with it as an amendment to replace the words "March 31," with the words "the end of". That is an amendment to Madam Freeman's motion.

Mr. Siksay, did you have anything further to add?

**Mr. Bill Siksay:** Mr. Chair, I just want to say that I support the original motion and the timeline there. I find it very hard to believe that there isn't a desk somewhere on the government side of things where there's a file that says Access to Information Act and that all it needs is the dust blown off it and for it to be hustled into the House.

I'm sure we all agree that there are other priorities of government right now with regard to the economic crisis and the budget, which are very important, but they're not stopping the government from introducing other legislation—and other very important legislation.

This is legislation that Canadians have waited years for. I think there's unanimity among all of those who are interested in concerns about access to information that this legislation needs to be reviewed. There is some very specific private members' legislation already on the table, and I'm sure that Mr. Bryden's bill or Pat Martin's bill from the last Parliament, if the government needs something quickly, would be available to do the job.

So I think the motion as it stands lights the necessary fire under the government, and if the government is at all interested in doing it, they can meet that deadline.

**The Chair:** We have two more persons who would like to speak. If we can limit things to new points, that will be helpful.

Mr. Woodworth and then Mr. Dechert.

**Mr. Stephen Woodworth:** Thank you.

I suppose that what I want to say is in response to what I heard earlier. I hope that makes it new.

First of all, with a great deal of timidity, I want to suggest that although the chair's parliamentary experience is far greater than mine, I don't regard this reference to the work of the Information Commissioner and the motion to be simply a passing reference. I think the recommendation specifically directs the government to use that information in this new bill.

It would concern me, as a committee member, to be voting on that, notwithstanding the fact that there are members here who have been involved in this committee before. If they have information that's not available to other members, it just seems to me that it would be an odd thing for a committee to not be able to postpone a vote until all committee members were aware of specifically what the motion was in fact attempting to achieve.

Second, I heard reference from Ms. Freeman earlier to an act or a bill that was already prepared. I thought she was talking about something that was part of the work of the Information Commissioner, Mr. John Reid, and I think I have since heard that this is a bill by a Mr. Bryden or by someone else. Maybe there are two bills, I don't know. It just shows me, at least, that anyone who perhaps hasn't been involved in this committee for a long time, such as me, is apt to be a little uncertain about the scope of this motion.

Last, I have heard the chair say that this is a complex area, and I do accept his expertise in coming to that conclusion. I have heard Ms. Freeman say that there have been many studies and many previous delays in this, which suggests to me that the issue may not be quite so clear-cut as has been portrayed.

I am concerned, as a member today for this committee, that in fact there may not be the unanimity that Mr. Siksay has referred to, and that in fact what may be happening here is an effort to move things in one direction against the perhaps countervailing opinion, which has resulted in delays in studies in the past. I just don't think that's the way Parliament should operate. I think there should be an opportunity for consultation and for hearing all sides rather than trying to rush through or steamroll through one side of any particular debate.

Thank you for indulging me.

•(1555)

**The Chair:** Mr. Dechert, please.

**Mr. Bob Dechert:** Thank you, Mr. Chair.

Just briefly, I don't want to reiterate what Mr. Woodworth said, as he's made most of the points that I intended to make, but as a new member of the committee and a new member of Parliament, I think it's only reasonable that we have time to consider this at greater length and have access to the report and the suggested legislation.

Again, given the very serious economic situation facing our nation and the fact that every party leader has said it has to be the priority of all parliamentarians, that's what Canadians are watching and that's what they want us to do.

I think Mr. Poilievre's amendment is very reasonable. We're not leaving it open-ended; we're just asking for an addition of an extra few months so that we can focus on other priorities and then move to this, because it is important.

Thank you.

**The Chair:** Finally, Madame Freeman, briefly.

[*Translation*]

**Mrs. Carole Freeman:** I would like to remind my distinguished colleagues that I am a new member of the committee. I wanted to point that out because, when I was appointed to the committee, I read up on the act to learn about its background, and I also read up on the work that has been done over the years. This is not privileged or secret information; it is public information.

As a parliamentarian, it was my duty to find out what work had been done. The act needs to be revamped, and the work has already been done several times. Bills have been introduced, and all of the problems have been dealt with. All of our colleagues have worked on this. The work has been done, and the reports are available. It is up to you to read them. They make for excellent bedtime reading; they are very interesting. The work has already been done, and we cannot keep starting over.

[*English*]

**The Chair:** Even the simplest things....

Mr. Poilievre.

**Mr. Pierre Poilievre:** I think I can help resolve this disagreement by offering to Ms. Freeman that if there were perhaps a middle ground....

[*Translation*]

I do not understand. She picked March 31; I suggested the end of the year. Maybe we could compromise and pick a date somewhere in the middle?

[*English*]

**The Chair:** Interesting. I would have thought a compromise might be October.

In any event, I have a feeling there is some interest in reflecting the urgency that the member has in presenting her motion. She feels strongly about it. It's her right to do this. She's asking this committee whether they share her concern about the needs to address this legislation, and on a timely basis in her view.

This is the problem with motions. They come from individual members. If you don't do your homework really well, do a little consultation with your colleagues, and you don't provide the information, chances are you may not earn the votes you need to get it through. But that's up to the committee. We learn from these things. And no matter how this gets disposed of today, there is no prohibition from the matter coming up again.

I think we should move forward. We have other witnesses.

First of all, I would like to put the amendment of Mr. Poilievre that we replace the words "March 31," by the words "the end of". So it would read, "introduce in the House by the end of 2009", etc. I'd like to put the vote on Mr. Poilievre's amendment, if that's acceptable.

•(1600)

**Mr. Pierre Poilievre:** I think Mr. Wrzesnewskyj has a question.

**Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.):** Following the various discussions I thought there was the potential for an agreement, and perhaps saving a bit of time, for the end of May.

**Mr. Pierre Poilievre:** The chair requested October.

**The Chair:** Well, the chair was making a comment, not a motion.

We do have a motion on the floor, and the motion—

**Mrs. Carole Freeman:** Why don't we vote on this one? And we'll come back.

**The Chair:** We'll move forward.

There doesn't seem to be time for a reasonable consideration of any further amendments, so we'll vote on the motion of Mr. Poilievre that it be amended to “the end of” 2009.

(Amendment negated)

**The Chair:** I'll now put the question on the motion—

**Mr. Pierre Poilievre:** Chair, on the main motion, would there be...?

[Translation]

Earlier, Mrs. Freeman said that she would consider another date if this one were to be rejected.

**Mrs. Carole Freeman:** We could spend the whole day on this.

**Mr. Pierre Poilievre:** That is not necessary, but—

[English]

**The Chair:** We have translators, and members have to understand that we have to have one speaker at a time and be recognized from the floor.

Unless I hear another amendment, I'm going to move forward with the vote on the main motion.

Mr. Poilievre has an amendment.

[Translation]

**Mr. Pierre Poilievre:** I have two concerns about the motion. First of all, the date is not realistic.

[English]

Nor is it realistic to suggest that the views of the former Information Commissioner are the final position on the issue. I mean, we had contradictory testimony from Auditor General Sheila Fraser on the subject of access to information.

As such, if you're going to call on the government to introduce legislation to update the Access to Information Act because one former commissioner wanted changes made, then you have to keep in mind the views of another officer of Parliament, in this case probably the most prominent one, the Auditor General. She had a serious disagreement with Mr. Reid about the question of draft audits and whether they should be susceptible to access.

So to make this proposal more realistic for the government and to increase the possibility of support, we would add, after “Information Commissioner Mr. John Reid”, the phrase, “while taking into

consideration the cautions on the subject made by Auditor General Sheila Fraser”.

**The Chair:** I think the motion is in order.

I want to encourage members not to be too struck by the language, as if there's somehow exclusivity. It is a recommendation that has specific reference to the Reid work, but it says “drawing” on the work. It doesn't say “drawing exclusively” or “only limited to”, etc.

I suspect we could come up with lists of a large number of knowledgeable people who have had opinions. The government would definitely be taking into account all credible sources of input to this. My concern is that we could be here for a very long time if we start to get into other parties. Once you start making a list, somebody must be left off of it. So we either have a comprehensive list or no list.

**An hon. member:** It lists the Information Commissioner.

**The Chair:** I understand that, but the wording is “drawing” on work; it doesn't say exclusively.

But the motion is in order. The member has put this motion before the committee, with some explanation. I think the reasons were well explained, that there were other views such as those of the Auditor General, and certainly we would be familiar with those.

So the amendment posed by Mr. Poilievre, to add the part about the Auditor General's cautions, is in order. I would think members might like to deal with that now.

•(1605)

**Mr. Stephen Woodworth:** Am I allowed to speak to it?

**The Chair:** Of course, Mr. Woodworth, if there's any additional information that we don't have, or opinion—please.

**Mr. Stephen Woodworth:** Thank you very much.

I understand the intent of the motion. It is to in fact encourage some consultation in the process of implementing this recommendation, if the government chooses to do so. That, of course, again engages us in the issue of the time required to implement this recommendation, if the government chooses to do so.

I have heard members say that there is some urgency about this. At the moment, however, I am left with the sense that there is impatience. I have not been told of anything that would suggest that this is urgently required by the end of March, or that such consultations as with the Auditor General could not be given time to occur. I would be grateful to hear some discussion about why this is suddenly urgent, or in fact if it is simply a question of impatience rather than urgency.

**The Chair:** Madame Freeman.

[Translation]

**Mrs. Carole Freeman:** Mr. Woodworth, I would remind you that the urgency of the matter was first noted by your party, which made a campaign promise about it in 2006. Your party promised Access to Information Act reforms. Your party is the one that said this was urgent.

I am not an impatient person, but I would sure like to know why you have not yet done your homework. This was one of your campaign issues in 2006. Now here we are in Ottawa in 2009. Listen! This was in your election campaign; this was Mr. Harper's issue.

[English]

**The Chair:** Mr. Dechert.

**Mr. Bob Dechert:** Mr. Chairman, thank you.

I want to thank the honourable member, Madame Freeman, for wanting to assist us in carrying out the Conservative Party election platform. I'm sure that will come up again in other discussions.

But I wanted to respond directly to your point on the wording "drawing on the work of the Information Commissioner Mr. John Reid" and the fact you pointed out that it doesn't say "exclusively". My understanding of interpretation is that if you refer to something specifically then that necessarily suggests you're excluding other things you didn't specifically refer to. So the preferable way to word that motion would be to remove the words "drawing on the work of the Information Commissioner", because that leads people to the conclusion that that is all you want to have in the legislation that would be proposed. I disagree with that interpretation and I think we have to be careful in the way we word these things. Obviously lots of other views need to be taken into account in proposing any kind of new legislation like this.

• (1610)

**The Chair:** Thank you.

Mr. Poilievre.

[Translation]

**Mr. Pierre Poilievre:** Unfortunately, my friend Mrs. Freeman is no longer here.

**Mrs. Carole Freeman:** I am still here.

**Mr. Pierre Poilievre:** I really do care, you see.

**Mrs. Carole Freeman:** Me too.

**Mr. Pierre Poilievre:** What lovely things to say.

The reason I mentioned her name is that I wanted to respond to a number of her comments. She mentioned campaign promises our party made during the 2006 election. She was right: we did promise to revamp the Access to Information Act. I think she will agree that we did so with the Accountability Act. Several Bloc Québécois members were on the special committee dedicated to reforming access to information.

The same thing happened with the New Democrats. Pat Martin made a significant contribution. Our friend, Mr. Sauvageau, who is no longer with us, also made a huge contribution. There have indeed been changes since the 2006 election. We have to recognize that some work has been done, and we have to figure out if there is any need to do more. Mentioning just one of the experts in the motion makes it unbalanced and does not reflect the scope of the debate we have had on this issue in Canada.

What I am trying to do is mention another officer of Parliament, the Auditor General, because she warned us about a number of Mr. Reid's suggestions. The two experts did not agree on the issue.

[English]

For example, Mr. Reid wanted to expose draft audits to access to information, and Ms. Fraser said that would cause the integrity of internal auditing systems to be questioned. I just worry that if we put forward a motion naming only one expert to the exclusion of others, we might fail to capture in this motion the breadth of the recommendation we seek to put forward to the government.

The chair has correctly pointed out that motions are recommendations. That does not mean that their words are devoid of meaning. Of course those words have meaning, or else we needn't pass any motions at all. Therefore, I am seeking to get the wording right by putting forward Ms. Fraser's name.

I have heard another suggestion from Mr. Dechert that could perhaps resolve this whole debate. I don't know if he will be seeking the floor to introduce an overriding amendment, but if he would be prepared to do that, I would be prepared to consider supporting it. There is a way that perhaps we can avoid disagreement over who's named and who isn't, and whose feelings are hurt because they were left out. I don't think our committee wants to be in the business of hurting feelings.

Thank you.

• (1615)

**The Chair:** Mr. Wrzesnewskyj.

**Mr. Borys Wrzesnewskyj:** Thank you, Chair.

The Conservative Party of Canada, for the longest time, spoke of greater transparency with a great passion. It's unfortunate, because what we've seen over the last number of years is the exact opposite when it comes to access to information. It's not serving Canadians well. I know that many are perturbed by another one of these broken promises by the Conservative Party of Canada.

Even though this filibustering that we're bearing witness to today in this committee on this motion began with a preamble of how our colleagues across the table are in support of this particular motion, the fact that this motion, which should have been easily dealt with, has not been indicates that there is no real intent to see this type of act be strengthened. It's especially perturbing that we're filibustering on a day the committee is to take a look at the supplementary estimates.

**The Chair:** Mr. Wrzesnewskyj, we really have to be relevant to the motion before us. We do have an amendment, and I think we're getting into speeches on matters that are way beyond...and of a partisan interest. I don't think it's in the best interest of the committee to pursue this further, because it's simply going to ping-pong across the table. I don't think we should go there.

Unless you have anything very relevant and specific to the amendment before us or the motion that we are seeking to have passed or amended here, I would like to move forward. I don't want to impute motives to anybody here. We can't do that in the House, and therefore we can't do that in committee, notwithstanding our strong feelings on certain things. I'd like to leave it right there, okay?



Mr. Dechert is on the list, so I'm going to go to him.

**Mr. Bob Dechert:** Thank you, Mr. Chair.

Mr. Poilievre said he might be willing to entertain an amendment to his amendment—I guess we'll call it a friendly amendment, for lack of a better term.

**The Chair:** If you're interested in making it, Mr. Poilievre can simply withdraw his amendment—if that's his wish—and then you can move your amendment, and that will make it a lot simpler.

**Mr. Pierre Poilievre:** If I am assured that—

**The Chair:** Yes, he has the floor.

**Mr. Pierre Poilievre:** Okay, I will withdraw it.

(Amendment withdrawn)

**The Chair:** The amendment by Mr. Poilievre is withdrawn, and now I recognize Mr. Dechert, who has, I believe, an amendment.

**Mr. Bob Dechert:** I'd like to propose that the wording of the motion be amended to delete the words “drawing on the work of the Information Commissioner Mr. John Reid and that,” and we would simply retain the balance of it. This is not suggested in any way from a motive of not wanting to introduce legislation to modernize the Access to Information Act. Obviously we think this is very important, and we intend to do it. As I said earlier, referring to one specific report could be interpreted as in fact limiting the scope of the legislation.

**The Chair:** Mr. Dechert, thank you kindly.

The amendment is in order. We've had quite a bit of debate around this issue of whether it's a list and whether or not it's restrictive, and so on. I think everybody understands, and your motion quite frankly eliminates that discussion totally, or the need to have that discussion. I think it's quite evident.

As a consequence, because I am cognizant that we do have witnesses waiting for us and other work to do, I suggest that we deal with Mr. Dechert's amendment to the motion now.

You've heard it; it is basically to delete, after “Information Act”, the comma, and “drawing on the work of the Information Commissioner Mr. John Reid and that”. So it's simply to delete the reference.

●(1620)

**Mr. Stephen Woodworth:** As a point of order, I don't know for certain where the extent of your powers lie, but is it within the purview of the chair to prevent me from speaking to a new amendment that's on the floor? I would like to speak to it, if I'm permitted to do so.

**The Chair:** As you probably know, when we have matters before the House, the Speaker often will indicate, “I've heard enough on this subject; everybody knows what we're talking about and it's very clear.” Where it is clear—and I don't think you can sharpen this pencil any further—I'm not sure whether further interventions are going to be helpful, unless there is an error. But this is to deal with a problem we went around the horn with several speakers about, whether there's a list or not a list, and whether it's exclusive, and so on. Those points have been made.

The chair has the authority, once the arguments have been made and repetition starts to come in, to suspend debate and put the question. If you're suggesting to me that you have something new to help the members make a decision on this, please go ahead and make your intervention.

**Mr. Stephen Woodworth:** Thank you very much.

The legal principle involved is sometimes referred to as *expressio unius est exclusio alterius*. It is in fact the case that when we refer to one item, we are implicitly excluding others. I think this committee is in danger already, by reason of having inserted an artificial and unrealistic time limit, of being perceived at least as steamrolling something through. It will only add to that perception if we are referring to one person rather than the other. So I hope the committee might consider at least reducing the perception that I think is already going to exist about this motion.

Thank you.

**The Chair:** There are no further speakers on the list, so I want to put the question now on Mr. Dechert's amendment to effectively eliminate the phrase with regard to Mr. Reid. Does everyone understand the amendment and the intent of the amendment? Okay.

All those in favour of the amendment by Mr. Dechert? All those opposed? It is a tie, so I'm going to stay with the motion, then, as proposed.

(Amendment negated)

**Mr. Pierre Poilievre:** Chair, I think there had been agreement to accept at least two months, to the end of May, and I would put forward that motion. There had been an exchange that seemed to indicate agreement on that front.

**The Chair:** There is an amendment by Mr. Poilievre to change the word “March” to “May”. It's pretty straightforward.

(Amendment agreed to)

●(1625)

**The Chair:** I'll now put the motion as amended.

In favour? Opposed? We are tied.

The chair remains consistent. I will go with the mover of the motion. It carries.

(Motion as amended agreed to)

**The Chair:** I would then call our witnesses, please.

We're going to move on now to the Office of the Privacy Commissioner, with Mr. Tom Pulcine, director general and chief financial officer, corporate services branch; and Lisa Campbell, acting general counsel, legal services, policy and parliamentary affairs branch, with regard to the supplementary estimates (B).

Mr. Pulcine and Ms. Campbell, thank you very much for being with us on very short notice. As you know, today the House passed a motion, with unanimous consent, that the supplementaries are deemed to have been reported by all committees as of five o'clock today. That sort of preempts our opportunity to do this, but we want to quickly look at them and have your input for the members' information and questioning. It would be our intent, still, to report them tomorrow morning as is, or as amended if the committee so wishes.

Having said that, I understand that you probably have a couple of opening comments. Then we'll get to the members' questions. Please proceed.

**Mr. Tom Pulcine (Director General and Chief Financial Officer, Corporate Services Branch, Office of the Privacy Commissioner of Canada):** I'm the director general of corporate services and the chief financial officer with the Office of the Privacy Commissioner. With me today is Lisa Campbell, general counsel for the OPC. The Privacy Commissioner apologizes for not being able to attend today.

We are here to discuss with you our supplementary estimates (B) for 2008-09. The amount requested is just over \$3 million. Before responding to your questions, I thought I could provide a bit of background with respect to our request.

Our office appeared before the House of Commons Advisory Panel on the Funding and Oversight of Officers of Parliament in June 2008, some seven months ago, to present a business case requesting additional funding. The key elements of our business case were as follows: to eliminate the backlog of privacy investigations by 2010; to create the knowledge, expertise, and capacity to assess and investigate the impact of technology and the Internet on privacy rights; to increase our capacity to work with our colleagues in other countries to address global privacy issues; to develop more public education materials and strategies that target specific groups most in need of information about privacy issues, for example, youth, small and medium-sized businesses, and the disadvantaged; to ensure that the OPC has the internal capacity to support all the different business lines as well as to promote good management, accountability, and performance measurement; and finally, to meet its obligations under new legislation, including the Access to Information Act, the Privacy Act, the Federal Accountability Act, and the Proceeds of Crime (Money Laundering) and the Terrorist Financing Act.

The advisory panel endorsed our business case as presented last June. We subsequently submitted a Treasury Board submission that was accepted by the board in July 2008 and then was added to the supplementary estimates, which you have before you today.

**The Chair:** The amount of vote 45b is \$3,071,000. The members had a circular from the clerk on the supplementaries as well as some other information for their interest. At this point, do the members have any questions on the vote for our witnesses?

Mr. Wrzesnewskij.

**Mr. Borys Wrzesnewskij:** Thank you.

Commissioner, you referenced that there's an increasing backlog because of the changes that have been brought in, the fact that you now cover complaints against crown corporations, foundations, etc.

In this material you provided you show employee numbers, etc., but there's no hard numbers about the backlog.

Could you provide this committee with a table, perhaps over the last five years, so we can see how those backlog numbers have been changing? And perhaps you could give us an idea of how many complaints are backlogged at the present time .

**Mr. Tom Pulcine:** Sure, we can do both. We can get you that table. We don't have it with us today, but we certainly can undertake to get that table to show you that information over the last five years.

The backlog as it stands at the end of January is 373 files under the Privacy Act and 322 under PIPEDA. The backlog we reported in April was substantially higher than that. As well, the backlog we're forecasting for the end of March is going to be lower than the two numbers I just gave you. In fact, we are forecasting a reduction of our backlog since the beginning of the year—in the case of the Privacy Act of some 40%, and in the case of PIPEDA some 60%—based on the resources included in the supplementary estimates and other initiatives to support the reduction of the backlog.

• (1630)

**Mr. Borys Wrzesnewskij:** It also references that sometimes mediation and conciliation don't work and it requires actual court cases being started up. How many of those do you have ongoing?

[Translation]

**Mrs. Lisa Campbell (Acting General Counsel, Legal Services, Policy and Parliamentary Affairs Branch, Office of the Privacy Commissioner of Canada):** Good morning, everyone. I am Lisa Campbell, General Counsel at the Office of the Privacy Commissioner of Canada.

[English]

I can tell you that at the moment we have six active cases under PIPEDA. However, they are quite complex. They are spanning several jurisdictions in Canada, and we also have one issue in the United States. Although they are not numerous, they're quite active.

The other issue is that many of our litigation cases, like civil litigation, generally settle before a hearing. Not many of them actually proceed to the full hearing. Many of them will file an application, the respondents will come to an agreement, and the matter will be settled.

**Mr. Borys Wrzesnewskij:** How often in those sorts of circumstances might a government department, as opposed to a crown corporation or a foundation, be involved?

**Mrs. Lisa Campbell:** That's a really good question. The power to go to court is much broader under PIPEDA or the private sector legislation. There is a more restricted capacity to go to court under the Privacy Act. Further down the road when we talk about Privacy Act reform, one of the things we've recommended is that the Privacy Act expand those powers to go to court. Most of our ongoing litigation deals with the private sector and bringing them into compliance with the legislation.

I should say that our approach is also as an ombudsman. We try to resolve matters, where possible.

**Mr. Borys Wrzesnewskij:** At a future date could we be provided with some hard numbers on the litigation costs as well?. They were referenced in the report, and it would be helpful to have an idea of that.

Following along that line, in regard to government departments, how often do you have complaints, for instance, that might stem from actions by the RCMP?

**Mrs. Lisa Campbell:** I think Mr. Pulcine and I can both speak to this. It's fair to say that we do receive a number of complaints involving the RCMP and a number of complaints involving Correctional Service, for the reasons you might expect. They're often the same types of complaints. It's people who are in difficulty with the justice system who seek access to their personal files.

**Mr. Borys Wrzesnewskij:** I would like a better understanding of how you would proceed in that type of situation, what the costs might be. For instance, I have a document here. It's a briefing note to the commissioner. An access request was made for this document. The names of the various parties were removed, quite rightfully; however, on the second page of the document at the bottom, where the document reference number is, you actually have the name of a person. This is a case that, by the way, did not proceed—a criminal case—and it had tremendous implications. The name at the bottom is Mr. Casey.

How often have you run across this type of situation, where an access to information document was released, some names appeared to be whited out, yet the name of one individual, for some strange reason, was not whited out, resulting in tremendous damages to this particular member of Parliament's reputation?

**Mrs. Lisa Campbell:** I couldn't give you an exact number, sir, but there are a number of cases where there are complaints of improper collection or disclosure of personal information by government departments or agencies.

**Mr. Borys Wrzesnewskij:** Would the cost of handling those types of complaints be any different from others? If you have numbers that would show the various government departments.... You've indicated there are especially troubling higher numbers of complaints around the RCMP and the Correctional Service. Could we perhaps get a breakdown of where most of these complaints are coming from, so we have an idea of where the costs are in fact being incurred, by which government department's actions?

•(1635)

**Mrs. Lisa Campbell:** We do report in that fashion. In fact, in our annual report to Parliament, tabled quite recently, we break down complaints by departments and agencies. So that information is

available. I would be happy to provide it on our existing caseload, if you're interested.

**Mr. Borys Wrzesnewskij:** Thank you, Madame Campbell.

**Mrs. Lisa Campbell:** Thank you.

**The Chair:** Mr. Siksay, please.

**Mr. Bill Siksay:** Thank you, Chair.

And thank you for being with us this afternoon.

As a new member of the committee, I'm struggling. The learning curve is slightly steep.

I wanted to ask Mr. Pulcine this. You mentioned at the beginning of your remarks the process you go through when you're seeking your budget. I wonder if you could go over that again just in general terms to let us know what that process is.

**Mr. Tom Pulcine:** Sure.

In the case of an officer of Parliament, I think in 2005 they put in place what's called a House of Commons Advisory Panel on the Funding and Oversight of Officers of Parliament to allow an officer of Parliament not to have to interact exclusively with the government with respect to a funding request.

So in the normal course of business, and what we've done for the business case I referred to that we presented in June 2008.... We had developed that business case over a number of months. We consulted with Treasury Board Secretariat as well as others with respect to that business case. We sought their input. They modified our views with respect to certain aspects of it. Ultimately then, we went before the parliamentary panel—I think certain members of this committee were on the panel in June 2008. That panel then heard from the officer of Parliament—in our case the Privacy Commissioner—and the Treasury Board Secretariat had an opportunity to present input into their deliberations.

After presenting our business case in June 2008, for example, the Treasury Board Secretariat fully supported our business case after recognizing that they did have input and did modify our demands slightly, especially in terms of the timing. That parliamentary panel then gave consideration to it. They then expressed their views through the Speaker of the House, who sat as the chair of that panel. They expressed their views to the ministers of the board directly.

Now Treasury Board ministers have received the view with respect to the parliamentary panel. We then have to go through the normal process of all government departments and agencies and submit a Treasury Board submission. We then turn that business case, as presented to the panel, into a Treasury Board submission. That Treasury Board submission then goes through to the secretariat and they will present it, like all other Treasury Board submissions, to the Treasury Board.

In this case the Treasury Board heard our submission in July and they approved it. It then was inserted into the estimates process. Depending on the time of year, it's either inserted into the supplementary estimates process, which is what the situation was here, or if the funding request was such that it didn't have to get consideration in the supplementary process, then you would modify our reference levels and you would be considering it as part of the main estimates process.

**Mr. Bill Siksay:** What are the points in that process where it can be changed? Can it be changed after you've met with the parliamentary group?

**Mr. Tom Pulcine:** Theoretically I guess the answer to that question is yes. At that point, presumably, we've got the views of the parliamentary panel. But Treasury Board Secretariat has the right to modify that submission as we drafted it and asked for it to be presented. It has to be signed off by a minister—in our case our minister of record is the Minister of Justice. So theoretically it could get adjusted as it went, before it got to the ministers of the board for consideration.

**Mr. Bill Siksay:** Have you ever seen that happen, where it has been changed at that point in the process?

**Mr. Tom Pulcine:** Since 2005, we've gone to the panel twice with respect to an increase in our budget. Both times it was with Treasury Board Secretariat support, both times the panel recommended it to the ministers, and both times it was successful.

**Mr. Bill Siksay:** Is this new process a permanent process now, or is it still a pilot process?

**Mr. Tom Pulcine:** It was identified as a pilot and it still is a pilot, to my knowledge.

**Mr. Bill Siksay:** Thank you.

Thank you, Chair.

**The Chair:** I was asked to reaffirm that I will continue to serve on it, so yes, it's still going on.

Madame Thi Lac, please.

[*Translation*]

**Mrs. Ève-Mary Thaï Thi Lac (Saint-Hyacinthe—Bagot, BQ):** Thank you for meeting with us.

You said that you needed supplementary appropriations for new programs. Are there some sectors that have a more pressing need than others?

• (1640)

**Mrs. Lisa Campbell:** Thank you. That is a very good question.

I would say yes. We identified the backlog my colleague referred to, and we are doing three things.

First, we are using the resources to handle the backlog. Second, we are using a brand-new complaints sorting process, meaning that we start by trying mediation, then take the matter to court only when the parties cannot achieve resolution. Third, we are training the 20 new investigators we hired.

The other important aspect is our ability to work with technology. Privacy violations are happening on line more and more, and they

tend to involve young people. Everyone working in this area thinks that it is very important to have an on-line presence.

We also want a dialogue with Canadians. There is a huge gulf between adults and young people. The latter tend to share a lot of personal information, especially on the Internet. Conventional ways of reaching the public no longer work. Speeches and media interviews are conventional. We are using contests to build a presence among young people on YouTube. We just launched a video contest for young people. We have received videos from high school students across Canada. In the videos, they talk about what privacy means to them, particularly on social networks.

**Mrs. Ève-Mary Thaï Thi Lac:** You have mentioned some of the proposed solutions to deal with the backlog. Do you have a target date for eliminating the backlog and another date as of which, thanks to the new process, there will no longer be a backlog?

**Mrs. Lisa Campbell:** Yes, our target date is 2010. As my colleague said, we hope that we will have reduced the backlog considerably by the end of March. Then, with the new process in place, there will be a lot of mediation right from the start. The new investigators will perform triage, just like in health care, so that serious cases can be dealt with one way, and other cases can be dealt with another way.

In our comments on legislative reform, we mentioned that we cannot pick and choose which complaints we take. We have to take all of them, which creates problems internally.

**Mrs. Ève-Mary Thaï Thi Lac:** Your explanation about specific issues resulting from the backlog was clear and concise. You also explained why the new processes would eliminate the backlog. If we were to refuse to give you the supplementary appropriations, what would be the primary consequences?

**Mrs. Lisa Campbell:** The most significant consequences?

**Mrs. Ève-Mary Thaï Thi Lac:** I want to know about the biggest impact our refusal would have on the backlog.

**Mrs. Lisa Campbell:** I will answer, but I also want to give my colleague a chance to speak to this.

From my point of view, it would have an impact on everything we have identified as important to Canadians. That is clear from the surveys. We are not the only ones who think this. There would be nobody to deal with identity theft, the cross-border transfer of personal information, and other important issues like that.

[*English*]

**Mr. Tom Pulcine:** The significant progress that's been made to date would stop and an increased level of backlog would occur again when they could add. A lot of progress has been made, and that would all stop.

**The Chair:** Thank you.

Mr. Poilievre, go ahead, please.

[*Translation*]

**Mr. Pierre Poilievre:** Thank you for being here. You mentioned earlier that there were additional expenses related to the implementation of the Federal Accountability Act. To my knowledge, that legislation was implemented in 2006. That was almost three years ago.

Haven't you made appropriate adjustments over the past three years to get ready for these changes?

● (1645)

[English]

**Mr. Tom Pulcine:** The predominant change with respect to the Federal Accountability Act was the establishment of an ATIP office for the very first time. We were subject to our own act as well as being subject to the Access to Information Act. There was also some concern about the increased coverage of the Privacy Act that would impact on the number of complaints that we would have received. The internal audit program was established as well. An internal audit function was also tied to the Federal Accountability Act.

In the case of the implementation of the last one, it was over three years, and we're in the final stages of implementing that this year. We did not need resources until the current year.

In the case of the establishment of an access to information and privacy office, ATIP office, we were able to do it. This year we required the resources that are now requested in the supplementary estimates. Last year we were able to absorb them internally.

[Translation]

**Mr. Pierre Poilievre:** You mentioned a contest for young people to create a video to demonstrate the importance of this issue. Is that right?

**Mrs. Lisa Campbell:** Yes, it was one of several initiatives we launched.

[English]

It's part of a broad-based approach that we're taking to reach out to young Canadians, and part of a recognition that young Canadians' view of privacy is very different from that of older Canadians, which is not to say it is better or worse but simply that it is very important to understand what their approach is and what the impact on them is. There have been a number of cases that you may have heard about in which young Canadians have been denied jobs or been denied the capacity to travel because of information they have made public without realizing the possible consequences.

**Mr. Pierre Poilievre:** Under which section of your act are you given the responsibility for this sort of initiative?

**Mrs. Lisa Campbell:** Our legislative responsibility is under PIPEDA. The private sector legislation requires us not only to ensure compliance with the law but also to raise awareness about privacy issues across the entire population. There's actually a legislative mandate to do that, so this is part of that outreach and public education, and quite frankly, it also fits well with the ombudsman role. If you're trying to resolve disputes, you don't want to use compliance activities most of the time. You save those for the worst cases. Most of your efforts are directed at bringing people into compliance with the law because they want to, because they think it is good business practice. But it's not just business; it's also individuals.

**Mr. Pierre Poilievre:** We're always trying to save some money for taxpayers, and I'm wondering if you can point to some potential savings within your organization.

**Mr. Tom Pulcine:** The history of the organization over the last four or five years has been one of going back to the Radwanski

scandal of 2003. There has been a significant amount of effort over the last number of years to rebuild the office. A lot of resources have gone to that. At the same time as that was taking place in 2003, the legislation, PIPEDA, was not fully funded in the office. That legislation came into force in January 2000 in stages, with full implementation on January 1, 2004. That scandal took place in June 2003, so the resource base for the organization was not stable.

The business case reflected in the supplementary estimates here today I would think of as kind of the stabilization of the organization. I think the organization, in terms of managing resources, had to get there first before even being able to start considering where to cut or to reallocate. Over the last few years the organization wasn't healthy as it is today. It is only getting there now.

It is a fair question, and it's a question that is probably about two years premature—or maybe one year. We've had that conversation at the management table of the organization. We're at the point where the organization is going to be faced with choices.

● (1650)

**Mr. Pierre Poilievre:** I'm afraid I don't quite understand the answer. You said that because of the spending scandal that occurred now about five and a half years ago, you've not been capable of finding cost savings over the last half decade. Is it perhaps not time to say that yes, there was a spending scandal in 2003, but that doesn't stop us from imposing new spending discipline today?

**Mr. Tom Pulcine:** The point I was trying to make is that the organization with respect to the two pieces of legislation, specifically PIPEDA, had not yet matured in terms of the implementation of that legislation. There was no certainty that the resource bases that were there at that timeframe could support that act. So it's only, I think, at this stage, with the two business cases we did—the one in 2005 and the one in 2008—that the organization is stabilizing. Have there been reallocations during that timeframe? I think the answer to that question would be yes, but I'm not sure.

Lisa, do you want to add more to that?

**Mrs. Lisa Campbell:** It was just to elaborate on what Mr. Pulcine said, which is that this new piece of legislation didn't come with full funding for what it asked the office to do. In other words, it asked the office to regulate all of the private sector in Canada except where there was substantially similar legislation. We had to see which provinces would enact legislation, and only three did. So we have to be there in every other province and territory to cover the private sector as its personal information-handling practices evolve.

So it's actually quite a large mandate, as well as the mandate I talked about to do outreach.

**The Chair:** Thank you kindly.

Ms. Simson, please.

**Mrs. Michelle Simson (Scarborough Southwest, Lib.):** Thank you.

I just have a quick question. You elaborated on the new appropriations being used to eliminate backlog, which is easy to understand—the public outreach, which I would totally support. Can you just give me a bit of a breakdown as to what the function of the internal audit covers? “Audit” is a word you can use in various ways.

**Mr. Tom Pulcine:** Sure.

The internal audit is the policy that was revamped because of the Federal Accountability Act, and with that, all departments and agencies had to put in place an internal audit program. Internal audit, by definition, is a process where one looks at its internal operations. You study yourself and just find out if everything is working fine or whether improvements are required.

As part of our obligation to respond to that policy, we're asking for additional resources, with the support of Treasury Board Secretariat, to put in place an internal audit program. With that we have to set up an advisory committee. The majority of the members must be external to the organization. As part of that process, you would do a risk-based audit plan in which you would assess the risks of your organization and decide where you think an internal audit is appropriate. Basically having considered that audit plan, that committee would then make recommendations to the commissioner and then she would presumably approve certain audits that would take place. You would contract out those audits and then deal with the results of them.

**The Chair:** Thank you.

Mr. Nadeau.

[*Translation*]

**Mr. Richard Nadeau (Gatineau, BQ):** Thank you, Mr. Chair.

Mrs. Campbell, you said that the information technology world—emails, electronics, and so on—is enormous, that it is here to stay, and that some people might violate other people's privacy. You are asking for appropriations for this year, and I understand that. However, I get the sense that, in the short, medium and long terms, there will be more and more privacy violations. You mentioned \$376,000 for access to information and \$322,000 for privacy. Those numbers will surely go up.

What do you plan to do?

**Mrs. Lisa Campbell:** Are you asking about the number of complaints we receive?

**Mr. Richard Nadeau:** Yes.

**Mrs. Lisa Campbell:** Currently, we get about 75 per month, and they are about evenly divided between the two acts. I would have to check with my colleagues to find out if that number has gone up.

•(1655)

[*English*]

**Mr. Tom Pulcine:** There's been a little bit of an increase with respect to PIPEDA this year, over the 12-month period, but for the most part it's stabilized—and likewise for both acts.

[*Translation*]

**Mrs. Lisa Campbell:** I would say that complaints have become more complex, primarily due to the new act governing the private sector. Recently, the Federal Court of Appeal ruled on a case in which a U.S.-based company gained access to a Canadian woman's personal information. The court ruled that, even though the company was located in the United States, we had a legal obligation to investigate the matter.

Cases are becoming more complex and have a lot to do with technological change and what is going on on line. We are required to investigate. It is true that the number of cases has gone up, but the real issue is that the cases are becoming more complex.

**Mr. Richard Nadeau:** I understand. We could be dealing with some huge issues in the future. We are not here to make predictions, but I get the sense that the amount of money you are asking for today could easily go up in the future.

**Mrs. Lisa Campbell:** Not necessarily, if the legislative amendments we have asked for are adopted. Earlier, I said that we wanted to work with our international colleagues. That would be a big help. We also asked for the power to sort through complaints and dismiss some of them if we have already ruled on the issue, for example.

Right now, we do not have much control over what we accept and what we dismiss. We do not necessarily need more money; we need more tools.

**Mr. Richard Nadeau:** I think we understand each other. Thank you very much.

[*English*]

**The Chair:** *Merci*, colleagues.

**Mr. Borys Wrzesnewskij:** On a point of clarification, there was a commitment to provide the committee with some information. Could we get a commitment on a date when that information will be provided?

**The Chair:** Is that on the five-year numbers, etc?

Actually, the committee is already in receipt of substantial statistical material from our review of the Privacy Act in the last Parliament, which we've rolled forward, and all members are going to get all of that information. So I think we have it already, and all honourable members will be getting all of the exhibits and all of the testimony, etc., on that area, where we are going to continue our work. It was the wish of the committee that we complete our work on privacy, so the information is there. We'll have a quick look at it.

Maybe the clerk or our researcher could check Mr. Wrzesnewskij's request. I believe the history on the backlogs and staffing, the human resources issue particularly, is there. There are graphs and the whole bit, so I think we're in pretty good shape.

**Mr. Borys Wrzesnewskij:** Just as a quick second item, I referenced a document in my questioning, a briefing note to the Commissioner of the RCMP, and it would be proper for me to table this particular note with the committee.

**The Chair:** All right. We'll have that circulated to the committee members when it's appropriately translated.

Thank you, Mr. Clerk.

Mr. Pulcine and Madam Campbell, thank you kindly for attending on such short notice and being responsive to the questions of the members.

We'll get more opportunities, and indeed, we have already decided to have sessions with—

**Mr. Pierre Poilievre:** Chair, I do believe there are more questions to ask.

**The Chair:** No.

**Mr. Pierre Poilievre:** Yes, in fact there are.

**The Chair:** We have no more members on the list.

**Mr. Stephen Woodworth:** I didn't know there was a deadline. I'm sorry, I had my hand up a few minutes ago.

**The Chair:** I think we've indicated to members that if they'd like to speak on a matter, they should get the attention of the clerk and have their name on the list. When the list is complete—

**Mr. Pierre Poilievre:** Can we not use the system we'd agreed upon?

**The Chair:** We did, but if people have not indicated that they wanted to speak—

**Mr. Pierre Poilievre:** Well, he's indicated it. So....

**The Chair:** Well, he has now, that's fine.

But I think for all honourable members, we understand that we have witnesses here and that if members have questions for the witnesses, they should be sure to get the attention of the clerk to have their name on the list to speak in the appropriate order.

Okay, Mr. Woodworth.

• (1700)

**Mr. Stephen Woodworth:** Just so I understand the procedure in the event that I come back to this committee, are you saying that we must at the outset announce our intention to ask a question?

**The Chair:** At the outset?

**Mr. Stephen Woodworth:** At the outset. I just want to know, because a few minutes ago, I did get the attention of the clerk and I did indicate my intention to ask a question while someone else was speaking. But if the idea is at the outset—

**The Chair:** The normal practice is for a member just to hold up their hand and get the attention of the clerk.

**Mr. Stephen Woodworth:** Which is what I did.

**The Chair:** Let's put it down to confusion, but carry on, please.

**Mr. Stephen Woodworth:** Thank you.

I have some interest in the issue of the audit function for which the supplementary estimates money, or part of it, is being allocated. I know that in today's environment the question of measuring results is very important, and of course the Auditor General from time to time wants to do that very thing and cannot accomplish that function unless the department involved has measures in place and information gathering.

I understood from some of the earlier answers that this initiative has been in the works for three years, and it's now in the final year, and consequently additional funding is required. I heard some

comment about the process being to appoint an advisory committee, unless I misheard that, and prepare a risk-based audit plan. So I just wanted to get a little more detail about that. Some of the questions I would have about it are whether that advisory committee is already in place, and has the risk-based audit plan already been prepared? How much of this allocation is addressing that particular issue? Can you, without too many words and without taking too much of our time today, tell me what it is that the audit will be measuring in general terms? I would be grateful.

Thank you.

**Mr. Tom Pulcine:** It will take me a second to find the exact number in terms of the dollar value for the audit, but I do have the number with me. As I flip through this, I'll try to respond to the other elements of your question.

The policy requires organizations, departments, and agencies to put in place an audit committee. That audit committee is what you reference as an advisory committee. That actually might have been the word I said earlier. The audit committee has to be independent of the organization itself, so the policy says that the audit committee must have as majority members people who are external to the organization. Internal audit by definition is a management function, so it's a committee then, even though it's made up of external members, who will in fact be providing advice, in this case, to the commissioner who is responsible for the organization. I might have said "advisory" as opposed to "audit" committee.

You asked as well, is the risk-based audit plan put together? It's currently drafted. It was a process we contracted out. We hired a consulting firm, a professional audit firm, to do that piece of work. That audit plan is going to be presented to the committee this month, two weeks from now.

Another element of your question was, have the audit committee members been selected? They have been. Their names are Laurel Murray, who is a CA, as well Jocelyne Côté-O'Hara, who are both independent, don't work for the federal public service.

In terms of the amount, just give me a second, I'll try to find it.

**Mrs. Lisa Campbell:** While Mr. Pulcine is looking at that, I can say that I had input into the work that they were doing.

One of the goals of the committee was to try to identify areas that needed audit immediately in the organization. For example, things like backlog; where do we need to allocate resources to ensure that we can create efficiencies so that we're giving service to the public in a timely manner? That's one of the main goals of the committee as well, and to identify future areas of need, for example on the technology side, as I pointed out.

**Mr. Tom Pulcine:** I have found the number. To support that program when it's fully implemented, it will be \$140,000 in salary and \$200,000 in other operating expenses, so approximately \$340,000 in total.

• (1705)

**Mr. Stephen Woodworth:** Thank you.

I've heard that the measurement will be at least of timeliness and backlog issues. Are there quality measurements that are possible in this area, and what would they be or how would one articulate them?

**Mr. Tom Pulcine:** The preparation on the risk-based audit plan is about an organization measuring its risk, and part of that consideration is stuff that obviously the organization feels is important to its operation, its core functions. So things like investigations and inquiries will be subject to an internal audit over the course of two or three years. Using that—we'll use it as an example, though it's not the only example—you will look at the efficiencies of those operations as well.

So I guess the short answer to your question is yes.

**Mr. Stephen Woodworth:** All right. I will wait to hear further details as they develop. Thank you very much.

Thank you, Mr. Chair.

**The Chair:** Mr. Poilievre, *s'il vous plaît*.

**Mr. Pierre Poilievre:** Can you describe some of your other promotional activities, particularly those targeted towards young people?

**Mrs. Lisa Campbell:** We do a lot of outreach. In the legal shop, for example, we now have under way a legal essay contest. We've asked law schools across Canada to submit essays on areas of one of our four policy priorities. The policy priorities are genetic privacy, national security, information technology, and identity management. One of the things we've found, for example, when recruiting lawyers to work, is that this is a new area of law; there aren't many people trained in this area. There are more and more starting, but it's still so new that we need to reach that demographic.

To reach youth, we have a youth website now. We have the video competition that we mentioned to raise awareness in high schools. We also do a lot of public speaking and targeted outreach to youth. We have promotional materials that are designed just for them, explaining in accessible, plain language the implications for them of the things they do online, such as participating in social networks, that sort of thing.

**Mr. Pierre Poilievre:** Is the YouTube video contest completed now?

**Mrs. Lisa Campbell:** Yes, in fact the winners are announced on our website. And it's not a YouTube video contest; it's a video contest in itself. It was targeted at high schools. High school students produced and made their own, which will appear on our website.

**Mr. Pierre Poilievre:** Okay, and I presume the winners for the time being have to be kept private.

**Mrs. Lisa Campbell:** I think they are actually on our website—with their consent.

**Mr. Pierre Poilievre:** Oh good, with their consent. I just wanted to make sure.

**Mrs. Lisa Campbell:** We looked after that.

**Mr. Pierre Poilievre:** How many schools participated?

**Mrs. Lisa Campbell:** I don't have the numbers, although I can give that to you. It wasn't as many as we'd hoped for, but there were quite a few.

**Mr. Pierre Poilievre:** How much did the program cost?

**Mrs. Lisa Campbell:** That I also don't have the number for, but I can get it to you if you're interested.

•(1710)

**Mr. Pierre Poilievre:** Yes, if you wouldn't mind.

How do you ascertain whether you're getting value for money and promoting awareness? The reason I ask is that I find the term “promoting awareness” always finds its way into the mission statement of every organization. It's the most often used and the least possibly calculated objective of any organization. So how do you do it?

**Mrs. Lisa Campbell:** That's an excellent point, and I'm glad you raised it.

I mentioned our ombudsman role earlier, and we take the view that the best way to get compliance with the legislation is through people knowing about it, agreeing with it, and conducting themselves in accordance with it. To that end, we say that it's the responsibility not only of organizations but also of individuals to act responsibly with how they handle their personal information and give it out. They should be aware of their rights and be aware of the implications when they give out information.

So promoting awareness is part of what we do for individuals and also organizations, and we can measure it directly through things like the complaints we receive. If there's a given area, for example, where there are a lot of complaints, then we'll target that area, perhaps, for raising awareness about people's rights and obligations. A good example is giving out driver's licences to retailers. More and more retailers are looking for your driver's licence as a way of preventing fraud, they say. We ask retailers to do that only when there's a demonstrable case of fraud or if they need it for a valid business purpose. We also ask consumers to check why the driver's licence is wanted and what will be done with it. Is it for target marketing? What are the implications of this?

We also measure it through surveys. We can tell from our surveys that the level of awareness of Canadians, and also concern about certain issues, changes over time and often it's in direct result to some outreach that we've done.

So we do try to measure its worth, but it's a big part of what we do as an ombudsman.

**Mr. Pierre Poilievre:** How many privacy complaints do you get a year—not against you, not against your organization, but against...?

**Mrs. Lisa Campbell:** I mentioned earlier the total of, at the moment, 75 per month, divided between the two acts. If you multiply that by 12, that sort of gives you our total. I would need a calculator here.

**Mr. Pierre Poilievre:** Is there a way that you can establish a ratio to find out what it costs to process the average complaint?

**Mrs. Lisa Campbell:** Yes. We do look at that from a salary figure. It's difficult to separate out all of the institutional costs, but we do have an average cost.

Tom.

**Mr. Tom Pulcine:** I don't have the figure here, but to answer your question, we could do it.



**Mrs. Lisa Campbell:** One of the things we're trying to do with this new process—reducing the amount of paper, reducing the treatment of files—is what you've seen hospitals do and what the courts have done when they've had a backlog, and that is not treat all the complaints the same way. You do a real triage so that you can group them. If you've already issued a finding on a given question, you may be able to deal with it summarily. If it's more complex, it goes into a different stream. You really try to give the complaints the treatment they deserve in terms of importance and national scope.

**The Chair:** Last question, Mr. Poilievre.

**Mr. Pierre Poilievre:** Now, your principal recourse, as I understand it, if you find a complaint to be valid and you find the group or individual against whom the complaint was lodged intransigent in addressing it, is to take it to Federal Court. Is that right?

**Mrs. Lisa Campbell:** Yes, that's right.

**Mr. Pierre Poilievre:** How many times have you taken such a matter to court in the last year?

**Mrs. Lisa Campbell:** In the last year, we initiated court applications in about a dozen, but many of those settled before an actual hearing.

I should say that it's primarily under the private sector legislation that there's a much broader capacity to go to court, which doesn't exist under the public sector legislation. So we have six or seven active cases at the moment.

**Mr. Pierre Poilievre:** Thank you very much. I appreciate it.

**The Chair:** Mr. Dechert, please.

**Mr. Bob Dechert:** Thank you, Mr. Chair.

Thank you very much for your very detailed report.

You've indicated that your office requires additional funding to deliver programs in light of recent legislation, for example, the Federal Accountability Act. I was wondering if you could expand on the programs you intend to implement with the additional financing. Perhaps you could tell us where you are in the development of these programs and what additional staffing might be required for that program development.

**Mr. Tom Pulcine:** I'll take a crack at the staffing aspect first. Lisa might want to add to the programs aspect.

In terms of the staffing, the numbers are indicated in the handout. The organization, in the supplementary estimates, requested an additional 18 FTEs, or people. That meant we wanted to grow the organization this year to be an organization of 158. In fact, our actual population has surpassed that. There's additional growth next year as well.

We were able to do some anticipatory staffing. In fact, to deal with issues like the backlog, we've hired more investigators and brought them on board sooner, recognizing that there will be natural turnover and we'll lose them.

So in terms of the staff, to answer that question, this year we wanted to get to 158 and we actually surpassed that target. I think that's extremely good news, and it's not the news we would have had six or eight months ago.

**Mr. Bob Dechert:** Is that with respect to the Federal Accountability Act solely?

**Mr. Tom Pulcine:** No, sorry, that was for the whole office.

**Mr. Bob Dechert:** Okay.

And could you just tell us about the programs you intend to implement?

**Mr. Tom Pulcine:** In terms of the Federal Accountability Act, the resources requested here are very small; it's just the setting up of the internal audit policy—we responded to that question earlier—as well as setting up an ATIP office. That's the extent of the new resources we've requested under the Federal Accountability Act.

There is a potential for more complaints because of the increased coverage of the Privacy Act, but we did not seek additional resources through this to deal with that.

**Mr. Bob Dechert:** Thank you.

**The Chair:** Thank you.

Mr. Poilievre.

● (1715)

**Mr. Pierre Poilievre:** You've given us a very good and detailed report here. Where do I find the costs that you've attributed to setting up the access to information operation in your bureau?

**Mr. Tom Pulcine:** I don't think it's contained in one of the handouts, but I can answer that question. To set up an ATIP office, it is going to cost \$455,000.

**Mr. Pierre Poilievre:** How many ATIP requests has your office received since falling under the act?

**Mr. Tom Pulcine:** I don't have the number with me.

**Mrs. Lisa Campbell:** For complaints against our office, I believe it's been under 12 or so for the moment.

**Mr. Tom Pulcine:** Did you ask about complaints or just access requests?

**Mr. Pierre Poilievre:** Access requests.

**Mr. Tom Pulcine:** I don't have that number with me.

**Mrs. Lisa Campbell:** I should explain as well that in addition to creating the office, when there are privacy complaints against our organization, we don't handle them ourselves, because of conflict of interest reasons. They're handled by an external body.

**Mr. Pierre Poilievre:** Right. My question, though, is that \$500,000 seems like a lot of money, and I'm just wondering how many access requests you've dealt with. What are taxpayers getting for \$500,000?

**Mr. Tom Pulcine:** I don't have the number with me. I can get it for you.

**Mr. Pierre Poilievre:** The other aspect of the Accountability Act that added costs to your office was what?

**Mr. Tom Pulcine:** Internal audit.

**Mr. Pierre Poilievre:** Internal audit. And how many auditors have you hired?

**Mr. Tom Pulcine:** Our intent is just to hire people to oversee the function and to contract out the audits.

**Mr. Pierre Poilievre:** And all of the additional funds you're seeking in that line relate to the outsourcing of that work?

**Mr. Tom Pulcine:** For the outsourcing and the support of the audit committee, it is \$200,000.

**Mr. Pierre Poilievre:** And the rest is...? Or is that all?

**Mr. Tom Pulcine:** There are the two salary resources to oversee the function.

**Mr. Pierre Poilievre:** Okay. And how many audits will they produce?

**Mr. Tom Pulcine:** We suspect that it will probably be three a year.

**Mr. Pierre Poilievre:** Three audits a year. So it works out to something in the neighbourhood of...

**Mr. Tom Pulcine:** That would be \$150,000.

**Mr. Pierre Poilievre:** Per audit?

**Mr. Tom Pulcine:** Yes, \$150,000 per audit, just doing the math. No, I'm sorry, it's about \$110,000.

**Mr. Pierre Poilievre:** That would be \$110,000 per audit?

**Mr. Tom Pulcine:** Yes, \$110,000 to \$115,000 per audit.

**Mr. Pierre Poilievre:** All right. Based on your knowledge of the subject, would that accord with the cost across government of carrying out an internal audit?

**Mr. Tom Pulcine:** The model that we applied in respect to the business case and the resources required was given to us by the Treasury Board Secretariat and the Comptroller General's office—

**Mr. Pierre Poilievre:** Okay, good.

**Mr. Tom Pulcine:** So in terms of doing the calculations, it was quite a straightforward calculation. You just took what the template said for an organization this size, indicating what was expected of you. This is what you're expected to have in terms of an audit committee and the costs associated with the audit committee, and this is what is expected of you from the audits.

So to respond to your question, it was a model that the Office of the Comptroller General and the Treasury Board Secretariat presumably felt was the best practice—

**Mr. Pierre Poilievre:** It applies across the public service.

**Mr. Tom Pulcine:** Yes, as it applies across the public service.

**Mr. Pierre Poilievre:** Okay, great, excellent.

How have you found the function so far of the Accountability Act. Has it been a functional document to deal with?

We hear a lot of public criticism of it, that it's bogged people down with regulation, and so on. I don't accept that criticism, but what are your views? How has it affected the operation of the Privacy Commissioner's office?

**Mr. Tom Pulcine:** I'm sure the Privacy Commissioner would be very supportive of the concept of the extension of the Access to Information Act, as well as the Privacy Act. From that perspective, it's a very positive sign. Likewise with the internal audit, which I think been received quite positively.

So the elements that touch the Office of the Privacy Commissioner, I think, are being perceived quite positively.

**Mr. Pierre Poilievre:** You don't feel as a public servant that you've been encumbered in your capacity to do your job by the provisions in the Accountability Act?

• (1720)

**Mr. Tom Pulcine:** No, no.

**Mr. Pierre Poilievre:** Great, and that's the response I hear from most people.

Thank you.

**The Chair:** This is one of the better reviews I can remember in 15 years of supplementary estimates. I think you did a very good job in giving us opportunities to educate ourselves. I think we have nine new members on this committee out of the 11.

I think there's a comfort level, and we do have our scheduled meetings with all three commissioners, when we return after our break week, to build on the dialogue that we've had here. I think it's been very helpful and I appreciate....

Yes, Mr. Poilievre.

**Mr. Pierre Poilievre:** The witnesses agreed to share with us in writing the information for the questions that they didn't have answers for on the spot. Would it be possible to get your agreement to perhaps send us a letter in the foreseeable future with some of those answers?

**Mr. Tom Pulcine:** Sure. I think we can work with the clerk to ensure that we respond to all the different—

**The Chair:** Sure. That would be helpful.

This is what I'd like to do while there's not a lot of disruption and now that we've basically done our due diligence, as it were, on the supplementary estimates (B). There are a couple of routine motions that each committee must address. There are two questions. The first one is, shall vote 45b carry? That is, shall the appropriation of the \$3,071,000 be appropriated under supplementary estimates (B)?

JUSTICE

Ministry Summary

Vote 45b—Office of the Privacy Commissioner of Canada – Program expenditures.....\$3,071,389

(Vote 45b agreed to)

**The Chair:** Shall I report the supplementary estimates (B) to the House?

**Some hon. members:** Agreed.

**The Chair:** It is agreed. We'll do that tomorrow, along with our report on the disposition of the Freeman motion, which was carried as amended.

All right, seeing the clock, and seeing Mr. Walsh sitting here, I am in the hands of the committee. Just so everybody understands how it could work now and in the future, technically we have a scheduled time for this room. If this room were booked for another group at 5:30, we would have to close down the meeting. We cannot encroach on other's time, but we do have a little bit of time left in this meeting, and Mr. Walsh is here.

I'd like to hear from him a little bit. The committee actually goes until somebody moves a motion for adjournment. It is not automatic just because of the general scheduled time. It really requires an adjournment motion.

I'm going to excuse the witnesses and I'm going to ask Mr. Walsh to approach the table. I am going to suspend so that the meeting can continue in camera.

*[Proceedings continue in camera]*

---





**Published under the authority of the Speaker of the House of Commons**

**Publié en conformité de l'autorité du Président de la Chambre des communes**

**Also available on the Parliament of Canada Web Site at the following address:  
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :  
<http://www.parl.gc.ca>**

---

**The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.**

**Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.**