



House of Commons  
CANADA

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

---

ETHI • NUMBER 026 • 1st SESSION • 38th PARLIAMENT

---

**EVIDENCE**

**Tuesday, May 31, 2005**

—  
**Chair**

**Mr. David Chatters**

All parliamentary publications are available on the  
"Parliamentary Internet Parlementaire" at the following address:

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

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

Tuesday, May 31, 2005

• (0905)

[English]

**The Acting Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):** I call the meeting to order. This is the Standing Committee on Access to Information, Privacy and Ethics. The orders of the day is, pursuant to Standing Order 81(4), main estimates 2005-06, vote 45, Office of the Privacy Commissioner of Canada, under Justice, referred to the committee on Friday, February 25.

We have before us Jennifer Stoddart, Privacy Commissioner, and Tom Pulcine, director general, corporate services.

We'll start, Commissioner, by having you make an opening statement. I will tell you that we have some future business to discuss at the end of the meeting. Unless someone strongly objects, I'm suggesting that this portion of the meeting, which would be in private session, start at 10:30.

We welcome you. Thank you for coming. Please begin your presentation.

**Ms. Jennifer Stoddart (Privacy Commissioner, Office of the Privacy Commissioner of Canada):** Thank you very much, Mr. Chair, honourable members, *honorables députés*.

I have quite a complete opening statement coming to you. In this budgetary cycle, we attempted to deal with many of the questions that came out during the previous cycle. We tried to give you the widest picture possible of our operations.

[Translation]

We want to give you quite a comprehensive presentation. I will start with a formal statement, and then I will answer your questions.

I will begin with an overview of the current resource base for our office and then bring clarity and precision about our multi-faceted mandate which contributes to our uniqueness as an officer of Parliament. I will close by sharing some insights on the current privacy landscape and public environment in which we operate and provide a rationale for why a case for permanent funding for the office is required.

Before addressing our main estimates, I would like to congratulate the committee on its comprehensive report, which we received 10 days ago, I believe.

[English]

We are very happy to receive the report of this committee that came out several weeks ago. You would no doubt like to come back to that.

I would go immediately to the question on how our office is funded. As I've mentioned in previous appearances, we currently negotiate our budget with the Treasury Board Secretariat, which then makes a recommendation to the Treasury Board ministers, somewhat like a department does.

Our office's total operating budget in the past has been \$11.3 million to fulfill responsibilities under two acts, the Privacy Act and the PIPEDA. Funding of \$4.7 million for requirements under the Privacy Act is funded through the main estimates. That is the present exercise. Funding of \$6.6 million for the PIPEDA has been funded in the past through supplementary estimates, which are recurring in our case.

This is a very unusual funding situation. The last time I was here, it was difficult to understand. In your report on funding for officers of Parliament, this committee has acknowledged and summarized the situation for further clarity.

I've drawn up a financial table, and I've distributed it to members of the committee. It roughly shows the source of funding that we have under the two acts, the Privacy Act and the PIPEDA.

Although we've received funding under these two acts in the past, from a management and operational perspective we don't separate resource allocation under each act as a matter of daily administration. We manage from one funding source, which is allocated in support of planned strategic outcomes to fulfill the requirements under both acts. This is done through the normal business planning process, and it provides for flexibility to address emerging issues.

That explains our rather unusual funding situation.

I'd like to go now, Mr. Chair, to our multi-faceted mandate.

Our office is unique in relation to other officers of Parliament in that, as an oversight agency of Parliament, it has responsibility for two acts. I believe all the other agents of Parliament have responsibility only for one act. The Privacy Act applies to federal institutions. The PIPEDA governs personal information management in commercial activities in the private sector across Canada, unless a province has substantially similar legislation. Contrary to other officers of Parliament, we are the only officer that has a broad private sector mandate.

Given the authority provided to us, we have a multi-faceted mandate to ensure that the federal government departments and agencies in the public sector and companies in the private sector are held accountable for personal information handling practices and that the public is informed about their privacy rights.

As an independent ombudsman, we are both an investigator and an auditor with full powers to conduct follow-up audits on well-founded cases and to monitor compliance under both acts.

We're also a public educator and advocate with a responsibility to both sensitize businesses about their obligations under the PIPEDA and to engage the public in a greater understanding of their information protection rights.

We're a researcher and an expert adviser to Parliament, government, and businesses on issues of personal information protection.

Finally, we're a legal adviser involved in litigation concerning the application and interpretation of the two privacy laws in fine-tuning procedures to deal with cross-jurisdictional complaints. We also analyze the legal and policy implications of bills and government proposals.

That is an overview of our mandate, which, as you see, is very broad and varied.

• (0910)

[*Translation*]

I would like now to discuss how the OPC spent its budget allocation. When we look at the office's total operating budget, approximately two-thirds of the budget is allocated to assessing and investigating compliance with privacy obligations. This includes responding to inquiries, investigating complaints, carrying out audits and the provision of legal interpretation and support.

In 2004-2005, the OPC closed 2,400 complaints under the Privacy Act and 379 complaints under PIPEDA. The majority of complaints are filed against organizations in the banking, telecommunications and broadcasting sectors. It is important to note that we have had great success as an ombudsman in the first four years of PIPEDA's enforcement, with a significant number of organizations responding to our recommendations, in the cases we were able to audit.

The office also carried out in 2004-2005 a scoping review of the Canadian Border Services Agency's multiple programs and information management activities. The exercise was undertaken in order to identify the areas where the impact on individual privacy of Canadians is deemed to be the highest and to direct audit resources accordingly for detailed examination and audit by our office this year.

To address our role as public educator and advocate, we have allocated a total of 21 per cent of our operating budget to privacy education activities aimed at promoting and protecting privacy rights and obligations.

Many small and medium-sized organizations sought advice from the office with the full implementation of PIPEDA. This has required a strong emphasis by our office on communications outreach to the business community across Canada through speaking engagements, media relations activities and distribution of print and online educational materials and guidance tools to explain and clarify the impact of the act. Our website provides indicators of our success with up to 94,000 visits being recorded monthly. This represents a 40 per cent increase over the last six months. We will be placing greater emphasis in the next two years on targeted efforts to reach Canadians to improve their understanding of their rights, which will likely result in an increase in the number of complaints our office receives.

Staying on top of emerging and ongoing privacy issues, including the challenges of new technologies, is an important part of our mandate and accounts for 13 per cent of our operating budget. Our efforts on this front are reflected in the 11 appearances we have made in 2004-2005 before the House and Senate committees, the various consultations we have conducted with key stakeholders on the analysis of key issues, on the policies and positions developed to advance the protection of privacy rights, and in the 20 speeches and presentations we have made on issues ranging from the privacy implications of DNA data banks, e-government, public safety and national security measures, to provision of passenger data and privacy laws and health information.

In 2004, our office launched a Contributions Program to support the development of a national privacy research capacity to advance knowledge and policy development in the areas of privacy and data protection. We will be continuing with the program in 2005.

Finally, an important aspect of our office's operations has been to resolve outstanding legacy issues to support the organization in meeting its responsibilities to be a well-managed and efficient agency.

On the human resources side, the classification review of positions within our office by the Public Service Human Resources Management Agency are now completed. As for the audits of our financial statements, the Auditor General of Canada completed the audit and confirmed, and I quote “[...] in all significant respects, the transactions have been in accordance with the Financial Administration Act and regulations and the Privacy Act.”

The Public Service Commission is currently reviewing our revised human resources practices in order to ascertain if any steps still need to be taken before reinstating our staffing delegation.

• (0915)

[*English*]

So that is an overview of our operations and the revisions of our practices by various central agencies.

I would like to mention now some of the challenges in our privacy landscape. Many external factors impact on our day-to-day operations. Today's privacy environment is, as you know, infinitely more complex and knows no borders. Privacy rights are increasingly being eroded with incremental advances in technology, the growth of commercial interests in exploiting personal data, and government responses to concerns about public safety.

Canadians are becoming more aware of the consequences of their privacy rights and are beginning to challenge assumptions about security and technology and their sometimes adverse impacts on the protection of personal information.

A recent survey commissioned by our office, which will be released publicly this summer, reveals that Canadians' opinions on privacy issues is maturing and that the public has a high sense of the erosion of the protection of their personal information. In fact, 70% of the study respondents believe they have less protection of their personal information today than 10 years ago.

Privacy concerns by the public are high in both government and the private sector and there is a broad consensus that strong laws are crucial to protect Canadians' privacy and their personal information. Nine in ten Canadians see a need for ongoing updating of privacy legislation to keep pace with changing technologies and emerging threats.

In the public sector our office is calling for a reform of the Privacy Act, which has not been amended in any significant way since it was passed in 1983. The act does not provide the Government of Canada and the Canadian public with adequate standards to protect privacy rights, and it needs to be modernized to deal with transborder data flows, to impose responsibilities on data users, and to ensure adequate protection of personal information when it is transferred or disclosed to other jurisdictions.

There is, in fact, a pervasive belief by those surveyed by our office that personal information is flowing freely to other countries, particularly the United States, and there is an extremely high concern about cross-border transfer of personal information. The Government of Canada has been relatively silent on the issue of outsourcing of personal information and slow to respond to concerns concerning the Patriot Act and the privacy implications of the cross-border transfer of personal information.

Our office has made a number of proactive suggestions for the development of a more robust and integrated privacy management framework to mitigate privacy risks associated with the handling of personal information. We have urged the government to move forward decisively to adopt a vigorous set of measures and policies to protect personal information. I am happy to say that the President of the Treasury Board, the Honourable Mr. Alcock, responded to us just last week on these topics.

Our office routinely received complaints of privacy violations in the public sector, and it's faced with departments and agencies mistakenly citing the Privacy Act as an obstacle to legitimate government business. The Privacy Act is often cited as a hindrance to information sharing between agencies, to disclosure of public interest information—for example, the release of sex offenders into the communities—and to the effective fight against money laundering and other activities of organized crime. There is and will continue to be a compelling need to bring the Privacy Act in line with the privacy standards Canadians are accustomed to in the private sector.

I turn now to some of the issues in the private sector. Privacy issues in the private sector are no less challenging. Recent investigations by our office point to the need for improvements in business information handling practices. Canadians demand nothing less and will continue to lodge complaints with our office if businesses do not fully conform with their obligations under PIPEDA. Efforts to seek private sector compliance with the principles of consent, appropriate safeguards, and limited disclosure and use of personal information as well as accountability will continue to occupy the attention of our office and the concern of Canadians. There is still a formidable task ahead of us to educate businesses to their obligations and citizens to their privacy rights.

PIPEDA and similar provincial legislation have provided for a respectable, though clearly far from perfect, set of standards for the protection of personal information in Canada. Issues of appropriate notification of customers in the context of a privacy breach also need to be examined.

●(0920)

In addition, appropriate models of oversight for our office, whether they be the ombudsman model under which we operate or an order-making power model, will likely be discussed as Parliament moves to a legislative review of PIPEDA.

[*Translation*]

I come now to the arguments in favour of permanent funding. In an environment where privacy rights are continuously under threat, the Office of the Privacy Commissioner needs to be funded adequately across its entire operations to address the multitude of emerging privacy issues in the public and private sectors.

The office is not currently adequately resourced to fully exercise its powers and responsibilities under the two acts. Without adequate funding, we cannot: reinforce our audit and review functions to effectively address systemic issues of compliance under both privacy laws; strengthen our capacity to monitor, research and respond to emerging issues of technology and privacy; proactively conduct outreach and public education efforts to influence change so policies and programs are viewed through a privacy lens; continue to carry out our investigations and resolve the increasing level of complaints under both acts; and continue to provide specialized legal and strategic advice and strengthen established approaches and procedures to deal with cross-jurisdictional complaints.

To this end, our office's priority in the last few months has been to complete a review of our business processes across our entire operations. This has included establishing workload indicators and reviewing the legislative requirements as well as external and internal factors impacting on our operations. We are also nearing completion of a benchmarking exercise which should put the office in a position to make a formal submission this summer to the Treasury Board Secretariat to stabilize our resource base and seek permanent funding for the office.

It is our hope that with adequate permanent funding, we may provide further assurances to Parliament of the effectiveness of our office in ensuring that the personal information protection rights of Canadians are respected in the public and private sectors.

[*English*]

In closing, Mr. Chair, I'd like to indicate that the report of this committee for a new system for funding for officers of Parliament is a very positive step for us. We were very pleased to receive your report, and we would be extremely happy to work with this committee in obtaining our funding within this new framework. We understand from this report that there would be measures put in place for the 2006-07 fiscal year on a trial basis, and that we would be part of the trial. However, as you acknowledge in your report, our long-term financial or permanent needs have not yet been met, so in the interim we are proceeding as planned with our Treasury Board submission, which will be presented to the Treasury Board in the month of August.

This concludes my opening remarks. I would be pleased to respond to your questions.

●(0925)

**The Acting Chair (Mr. David Tilson):** Thank you, Commissioner.

We'll now proceed with questions from committee members. As you know, the first round of questions are seven minutes for each caucus, followed by two three-minute question periods. Hopefully, the questions and answers will be kept concise.

Mr. Hiebert.

**Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC):** Thank you, Chair.

Ms. Stoddart, thank you again for being with us today. It's a pleasure to see you.

I have a couple of questions relating to human resources in your office. Before I get to them, I was wondering if I could make a request of you, or if we could have an undertaking from you, that every time a report is released concerning an investigation your office has done, you will provide our committee clerk with copies for distribution to members. For example, in the past you investigated the CIBC faxing issue. Those kinds of investigations and reports, I think, would be helpful for us to review. If you could provide us in the future with those sorts of things, it would be appreciated.

Would you like to comment on that?

**Ms. Jennifer Stoddart:** Your question is, could we have copies of those reports?

**Mr. Russ Hiebert:** My request is that in the future, when your office does an investigation like this, you provide this committee, through the clerk, copies of the investigation results and conclusions.

**Ms. Jennifer Stoddart:** Yes, certainly, we could do that.

**Mr. Russ Hiebert:** Thank you.

In the report on plans and priorities that you submitted, you highlight the challenges of hiring qualified candidates. I'm just wondering how many vacancies currently exist. What portion of your office does this represent?

**Ms. Jennifer Stoddart:** There are 14 vacancies, and there is an allocation of 100 people. We currently have 86. That is easy to calculate—14%.

**Mr. Russ Hiebert:** With respect to these 14 vacancies, what are you doing to fill these spots? How long do you think it will take to fill them?

**Ms. Jennifer Stoddart:** I would think we could fill these positions within the next few months. Because of the events of previous years and the many exercises we have participated in, in which we have been an object, things have been slowed down. But I would think that within six to eight months all these positions will be filled. The process of hiring, setting up competitions, can be extremely long. We are moving to a much wider area of competition, which is important. We are trying to give everybody a chance at the positions and to bring in new personnel and new ideas.

That's an example of the many facets of the hiring process. It means that it can take a certain time.

**Mr. Russ Hiebert:** In the past, you've commented that your office is experiencing a significant backlog of requests. These 14 vacancies, are they positions that would immediately impact how quickly your office could respond to the backlog, or are they positions that do not deal directly with those areas?

**Ms. Jennifer Stoddart:** Most of the positions do not deal directly with that area. In respect of the backlog, we are doing what's called a business case review, and we have been very intensely involved in it for the last six months. This is to finalize our submission to Treasury Board in August, and it is through this submission that we hope to have resources to put into other areas. A lot of resources, however, will doubtless be put into the investigation and complaint handling area.

● (0930)

**Mr. Russ Hiebert:** The Public Service Commission provided eight recommendations to your office dealing with staffing. I'm wondering if you've had a chance to implement any of these recommendations.

**Ms. Jennifer Stoddart:** Yes. I don't have that particular report with me, but it was integrated into our objectives and our daily operations. It is one of the things that guide us as we move forward in establishing sound administration for the Office of the Privacy Commissioner. I would say all of them are being implemented, and I believe most of them have been implemented already.

**Mr. Russ Hiebert:** Going back to the issue of backlogs, obviously yours is not the only office that deals with backlogs. We've heard from a variety of different commissions that they're experiencing the same thing. Has there been any discussion with these other commissions on how to deal with backlogs? Is a common effort being made to find solutions that other departments or agencies may have come up with, maybe a best practices approach to dealing with backlogs?

**Ms. Jennifer Stoddart:** Yes, there is some dialogue with agencies that have similar types of complaints and whose legislation suggests similar processes, notably the Canadian Human Rights Commission and the Office of the Information Commissioner. So I would say there is an ongoing operational dialogue and exchange of ideas on ways to deal with backlogs.

**Mr. Russ Hiebert:** Can you give us any examples of practical solutions that your offices have discussed among themselves?

**Ms. Jennifer Stoddart:** It is my officials who do this, but I'll give you the example of the role of mediation. Through mediation we try to find rapid, less formal, but satisfactory solutions to complaints on a very practical level rather than forcing them through a long, formal, more legalized process.

**Mr. Russ Hiebert:** Okay. Along these lines—it's of interest to me, with my background in business—what performance measures have you designed for your office to measure the progress in dealing with backlogs or in dealing with your stated priorities?

**Ms. Jennifer Stoddart:** I would say, honourable member, that we're working on refining our performance measures, given the administrative challenges before the office. One thing we have done is establish for this fiscal year a new case tracking system that is just being put into place. It's just now being fully utilized, because you have to feed it with the information in order for it to help you track the cases. We are producing the first set of reports from that, which

allow us to cross-tabulate the type of complaint, the outcome, the area, the treatment times and the sector from which it may come. And we hope with that, for example, to have some insight into ways to make our whole process more efficient.

**The Acting Chair (Mr. David Tilson):** Monsieur Laframboise, go ahead, please.

[*Translation*]

**Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ):** Thank you, Mr. Chairman.

First of all, I would like to thank you very much for being here today, Ms. Stoddart.

My questions will be along the same lines as before. In your statement, you said that in 2004-2005, the OPC closed 2,407 complaints under the Privacy Act. So you closed 2,407 complaint files last year.

We know there are delays. How many cases have been delayed?

**Ms. Jennifer Stoddart:** I brought the figures with me, because I believe you were interested in this question last time. Our backlog for cases under the Privacy Act this month is 557 files. There's a backlog of 118 files having to do with the Personal Information Protection and Electronic Documents Act.

**Mr. Mario Laframboise:** I think you have made a little progress compared to last year. It appears that you are progressing on this front.

**Ms. Jennifer Stoddart:** I do not have last year's figures. However, I would say that there has not been outstanding progress with respect to the delays.

● (0935)

**Mr. Mario Laframboise:** I see.

**Ms. Jennifer Stoddart:** The situation has remained more or less the same, but one of the administrative challenges facing our office is that the last phase of the PIPEDA came into effect in January last year. As a result, there was a sudden increase in new files, and, as expected, this destabilized the process. We transferred some resources from processing complaints under the Privacy Act to processing those under PIPEDA. So it is somewhat difficult to see any stable, long-term trends, but I would not say there has been an outstanding reduction in the delays.

**Mr. Mario Laframboise:** Let's say the situation is more or less the same. I note that your expenditure budget under the Privacy Act is lower than it was in 2004-2005. According to my figures, it has dropped by about \$46,000. This will not help reduce delays. I have difficulty understanding why this is happening, because, according to my interpretation—and please tell me if I'm wrong—you are not asking for any new money for 2005-2006. Your request for new money is for the long term, isn't it?

**Ms. Jennifer Stoddart:** As I said to the committee, we are preparing to submit a major application to Treasury Board to take into account the fact that we had two sources of funding. One was temporary but has been extended for a second time. We also need to take into account the fact that our funding under the Privacy Act, to which you referred, has not been reviewed since 1997-1998. We will request additional funding for the current fiscal year, if possible, but I imagine that the funding will probably be granted for the next fiscal year.

**Mr. Mario Laframboise:** That is what I find somewhat worrying. Why did you not request this funding earlier? Is it because you are behind in your staffing process?

**Ms. Jennifer Stoddart:** We requested the funding as quickly as possible, but please do not underestimate the administrative challenges this office has been facing since the unfortunate events we are familiar with. For example, few directors were in their position all year this year. This gives you some idea of the turnover, of issues associated with the events we have become familiar with and the recommendations of the Public Service Commission and Treasury Board, which are in the report Mr. Hiebert just mentioned. In those circumstances, there are measures to be taken before we can prepare an application in line with Treasury Board requirements. That is what we are doing now.

**Mr. Mario Laframboise:** You have projections to deal with your personnel problems. I remember that, in your 2003-2004 report, you said that these problems would be settled in the course of the summer of last year.

**Ms. Jennifer Stoddart:** Yes.

**Mr. Mario Laframboise:** And lastly, you do not wish to say today when in your opinion all your administrative problems will be settled. Do you have some date in mind?

**Ms. Jennifer Stoddart:** Under the guidance of Mr. Pulcine, who is here with me today, we will be submitting an application to Treasury Board in August. We therefore expect a reply in the fall. I imagine, and I hope, that Treasury Board will look favourably on our new responsibilities, and consider the protection of personal information an important issue, by allowing us to maintain some stability. At present, we are operating from year to year in terms of funding.

**Mr. Mario Laframboise:** Yes, but my question was on staffing. You have to fill 14 per cent of positions. Are you going to end up filling those positions someday? Can you give us a date?

**Ms. Jennifer Stoddart:** I think we should be able to fill those positions by Christmas.

**Mr. Mario Laframboise:** Do you need Treasury Board authorization to fill those positions?

**Ms. Jennifer Stoddart:** Our independent staffing authority has been suspended by the Public Service Commission following the events. We hope to recover that authority in the next few months. This does not prevent us from staffing positions, but slows down the process because we need ongoing consultation and each stage has to receive some approval by the Public Service Commission. However, we do hope to recover full staffing authority, something that will speed up the process.

●(0940)

**Mr. Mario Laframboise:** You are saying that you were unable to staff the vacant positions because of the cumbersome administrative requirements imposed by Treasury Board.

**Ms. Jennifer Stoddart:** Perhaps it is less because of Treasury Board than because of the fact that the process is already quite cumbersome; there are many stages to go through in staffing. Staffing is done in conjunction with the Public Service Commission, something that may add additional stages. That is what slows down the process. It does not prevent us from staffing positions, but there is a marginal effect that slows down the process.

**Mr. Mario Laframboise:** For citizens who...

[English]

**The Acting Chair (Mr. David Tilson):** I know you're just getting warmed up, but we have to go on to Mrs. Jennings.

[Translation]

**Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.):** Thank you for your presentation.

Before I put my question, I would just like to point out that there is a discrepancy between what the document says on page 6 of the French version and what it says on page 5 of the English version. In the first paragraph, which begins “*En 2004-2005, le Commissariat a clos [...]*,” the second sentence reads as follows: “*Les plaintes les plus importantes ont été déposées contre des organismes oeuvrant dans les secteurs bancaires [...]*”

The English version reads as follows:

[English]

“The majority of complaints are filed against organizations in... banking, telecommunications...”

[Translation]

That does not mean the same thing at all because

[English]

the “majority of complaints”, simply refers to the number of complaints as a percentage of the overall, the total, whereas in French,

[Translation]

when it states “*les plaintes les plus importantes*”,

[English]

that refers to the actual nature of the complaints.

So I'd like a clarification as to which version is correct.

**Ms. Jennifer Stoddart:** Thank you, honourable member.

I present my excuse for this. I agree with you that this doesn't seem to say the same thing. Perhaps I could hasten to clarify it.

The majority of complaints, as I remember, are filed against the banking, telecommunications, and broadcasting sectors. Perhaps not surprisingly, given that they're federally regulated, they have a lot of Canadians' personal information. So I would think a—

[Translation]

**Hon. Marlene Jennings:** Therefore, the French version is inaccurate. What it should read is “*la majorité des plaintes ont été déposées contre*”.

**Ms. Jennifer Stoddart:** Or “*la part la plus importante des plaintes*”.

**Hon. Marlene Jennings:** Yes, because the statement “*les plaintes les plus importantes*” refers to the nature of the complaints.

[English]

**Ms. Jennifer Stoddart:** However, I'm not saying that the translation couldn't be more accurate, but at the same time, I think there's a grain of truth in the French version too.

**Hon. Marlene Jennings:** But then you need to change the English version to include that grain of truth.

**Ms. Jennifer Stoddart:** Yes.

**Hon. Marlene Jennings:** I just wanted to clarify that.

**Ms. Jennifer Stoddart:** Some of the most significant complaints come up in those sectors too.

[Translation]

**Hon. Marlene Jennings:** Then, in the same paragraph, you state:

[English]

“It is important to note that we have had great success as an ombudsman...with a significant number of organizations responding to our recommendations”. I would like you to give a few examples to the committee.

As well, you talk about a contribution program that you have set into place. I'd like to know a little bit more about what that is and how many dollars are behind that contribution program, if there are dollars. It's to create a national capacity for research. What is happening with that at this time? It says it will be continued in 2005. I'd like to know why your organization has to do that when the federal government provides millions of dollars to the research councils. Normally, if there's a need for that kind of body of research, it should be those research councils that are putting out a call or a request for proposals for that kind of body. I think it's a wonderful initiative on the part of your agency, but I do think that's what the research councils are there for.

So if there's a need identified by a federal agency, I don't believe you should be using your scarce resources to fill that void; I think it's the research councils that should be fulfilling their mandate. I'd like a little bit more information on that.

You said you would be more than happy to participate in the trial of specific funding models for our parliamentary officers that this committee is recommending the House of Commons undertake. If the House of Commons does indeed implement our recommendations, will that create any kind of difficulty for the funding process that you've already got under way with Treasury Board? We wouldn't want to see a trial project create even more delays for your agency getting appropriate funding.

I think that's all I have for now.

● (0945)

**Ms. Jennifer Stoddart:** Thank you, honourable member. I've noted four questions. I'll start with the first.

I'm struggling to think of a precise example, because this is fairly routine. Over the years in implementing PIPEDA, we have made successive recommendations on the use of personal information in line with PIPEDA principles. When I became privacy commissioner, I asked that we go back and look at whether these recommendations had been implemented, although the people close to the complaint system and who manage it said, yes, it seems to us that banks, telecommunication companies, and so on are implementing these suggestions.

We are presently carrying out a study, and we're just refining it. It suggests that in the majority of cases where we make recommendations, in fact these recommendations are followed up among the major organizations. This is before the last phase, when PIPEDA extended to all small and medium businesses across Canada, unless there was a provincial law.

We're going to continue to refine this study. As PIPEDA comes up for review, it's important to know how effective it is, how useful it is, how we know that people are following it, and so on. The early indicator is that our suggestions about the interpretation of PIPEDA are being followed. If not, the institutions can go to Federal Court, and indeed, some of them have, notably in cases of employer-employee relations.

Secondly, let me deal with the contributions program. The director of administration is probably more familiar with the structure of the contributions program.

Honourable member, when Parliament adopted PIPEDA in 2000, PIPEDA funding was set up for three years, and \$500,000 was earmarked for a contributions program. This was not used for that purpose but was put in the general revenues of the commission, the commissariat. Last year we set up the contributions program, because it seemed that this had been the intention of Parliament in voting a separate amount for a contributions program. Last year—and there are quite a few details on our website—we ran the first competition. We received over 60 applications. There were five winners, and we awarded about \$379,000. This year we've earmarked an initial amount of \$250,000. If we don't spend money in other areas, we will add it to the contribution program. So we are now launching the second phase of the program.

I believe this also answers your third question.

**The Acting Chair (Mr. David Tilson):** Commissioner, we have two more answers to go, and we're way over the seven minutes.

We'll have to answer those in another round, Ms. Jennings.

Mr. Broadbent.

**Hon. Ed Broadbent (Ottawa Centre, NDP):** Thank you very much.

I want to embark on an entirely different line of questioning, if I may. I understand that it's within your mandate to recommend to the government any law that you think might be necessary to protect the privacy of Canadian citizens. There's been an issue that's concerned me for some time, and bear with me, as I just want to put it in perspective.

The Universal Declaration of Human Rights, whose first draft was written by a Canadian, as many of us will know, sets out obligations for the protection and implementation of rights not only by states, but also by individuals or organizations within the state. This is in the opening statement of the declaration.

Article 12 says, "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence"—that's what I wanted to emphasize—"nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks".

The concluding article 30 of the Universal Declaration of Human Rights says, "Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein".

The right I'm concerned about here is the freedom of privacy that I cited earlier. My question to you is in this background.

Some years ago, Princess Diana was being harassed and chased by the media, which may or may not have been a cause of, or contribution to, her death. There is no question that not only she but also many other people in the world who are less well known have the same problems with what I regard as media imposition on their private lives—not their public lives, but their private lives.

At the time she met her death, I was living in British Columbia, where I was witness to an invasion—which is what I would call it—of the then premier's home by media and the police. The one had a legitimate reason to be there, in my view, as they had a search warrant; the other, in my view, did not. When that instance happened, young children were in that home or private residence with their mother and had—which I know from subsequent discussions—what can only be described as a horrific experience for children of their age, with television cameras shooting into their house from all different angles and what I regard as an invasion of privacy.

I'd like your opinion on whether you share my concern about this going on more and more in our lives. More and more of what we thought was private is becoming public, with the distinction now being blurred.

To shorten the argument, I've jotted down a couple of notes here that I would like to get your response to. This is the kind of wording I have: "(a) All persons have the right to privacy while residing in their home, cottage, hotel, or motel. This right to privacy would also include, but not be restricted to, a person's owned or rented automobile, boat, or airplane. (b) No photo, film, or video can be taken or published of an individual in any of the situations outlined in (a) without the expressly stated permission of the individual."

And then in section (c), I went on to talk about sanctions.

These points were just jotted down here quickly, but do you share the concern about privacy? I repeat that I mean in regard to the private media, as well as the CBC, CTV, and newspapers. Do you share this concern?

• (0950)

**Ms. Jennifer Stoddart:** Yes, certainly, I share the concern. The Office of the Privacy Commissioner shares it and is extremely concerned about the lack of privacy protections for Canadians generally in the face of technological advances, in the face of increasingly intrusive practices, and in the face of a huge lag, I think, between concrete privacy protection and the possibility that all this new technology—because most of this is done with new technology—allows it to be carried out.

I've spoken about this many times. This is one of the main drivers of my call for reforming the Privacy Act. The federal Privacy Act dates from another generation, before a lot of this was possible; it was dimly foreseen. I think it is urgent that we move to reform the Privacy Act.

I've pointed out on several occasions that I think this is a concern for Parliament, but it's also a concern for the Canadian provinces. As you know, privacy is a shared jurisdiction. One of the key challenges in protecting privacy is how we enforce it. The federal government, for example, has jurisdiction over the Criminal Code. There are privacy protections that have come out of interpretations by the Supreme Court of Criminal Code provisions. But maybe fortunately, most Canadians don't deal with the Criminal Code in their daily lives.

• (0955)

**Hon. Ed Broadbent:** We could put this in the Criminal Code.

**Ms. Jennifer Stoddart:** You could put it in the Criminal Code, but I submit to you, honourable member, that doesn't go very far towards helping ordinary Canadians deal with the privacy intrusions in their daily lives. I think we have to look at what remedies, what protections, there are in civil law. What remedies are there, and how can you put Canadians in a position so they themselves can enforce their own privacy rights?

There, I think, is where we have to work with provincial governments, because in our shared jurisdiction, many of our privacy rights come under provincial jurisdiction. There are few provinces that have moved to legislate privacy rights in a way that an ordinary citizen, for example, faced with a privacy intrusion, can go to small claims court and say, "What is this? You're video surveying my living room across the fence without my permission as I'm sitting there. I find this unacceptable and I can do something concrete about this".

I think as a society we have to—

**Hon. Ed Broadbent:** Excuse me, can you not—

**Ms. Jennifer Stoddart:** Well, you can in Quebec, if I may use that example. Quebec is one of the few provinces that have enforceable privacy rights—section 5 of the Quebec charter, for example.

There was a recent case before the Quebec Superior Court of a young woman who was subject to video surveillance, without her consent, in a state in which, let's say, she would not normally present herself. The person who took it then put this video surveillance on the web. She went to the Quebec Superior Court, using the Quebec charter, and got \$10,000 in damages. I think that's interesting, because that means you and I and all the ordinary people can take the law and go to a local enforcer and say this is an unacceptable invasion of our privacy rights.

So yes, there are a lot of things we can do federally. I think also we have to move together with the provinces, because this is a shared area of jurisdiction.

**Hon. Ed Broadbent:** Just to be clear on this—

**The Acting Chair (Mr. David Tilson):** We've come to the end of the seven minutes.

**Hon. Ed Broadbent:** Just one little question.

**The Acting Chair (Mr. David Tilson):** Okay.

**Hon. Ed Broadbent:** Thank you.

If I understood you correctly then, if I'm sitting in the backyard on a delightful sunny afternoon, as is my wont from time to time, and I'm smoking a cigar, and a snoopy *Globe and Mail* reporter is on a hill somewhere with a telescopic camera and says "Oh, there's Ed down there having a cigar", and he takes my picture, I can take him to court?

**Ms. Jennifer Stoddart:** Honourable member, the merits of each case may be different. As I understand the rules, your expectation of privacy changes with your situation in society and the context.

**Hon. Ed Broadbent:** Well, I'm in my private home. That's the point here.

**Ms. Jennifer Stoddart:** I think you could certainly take it to a judge. What would the judge say? I mean, one of the things we know is that if you are in public life you have a lowered expectation of privacy. However, if you are in your home, that would mitigate it. So I can't give you an instant answer, but those are certainly factors.

There was a recent decision by the House of Lords in the case of the famous supermodel, Naomi Campbell, in her private life. There's no one better known than a supermodel, I guess. But in her private life, the House of Lords said, no, she shouldn't have been photographed. Her picture should not have been displayed in all the British media as she was leaving a health clinic, in her private existence. That's a decision made last year by the House of Lords.

**The Acting Chair (Mr. David Tilson):** We have concluded the seven-minute rounds and we're now going to proceed with the three-minute rounds.

I have one brief question with respect to the survey that your office took, which is referred to on page 8, I think, of the English report. I get the impression that as a result of this survey you have come to the conclusion that Canadians have an incorrect understanding of their privacy rights. That's the impression I get from listening to what you say and what was written.

If my assumption is correct, what is your office—I have two questions—doing to combat this lack of understanding? On page 5, you say that 21% of your budget goes to public educational

activities, but the survey would indicate that's not working. Could you comment on that as well.

• (1000)

**Ms. Jennifer Stoddart:** Yes. Clearly there's a great interest in citizens' privacy rights, and they're not always perhaps as informed.... Interestingly, I believe our survey says that people think they should have more control over their personal information than they do have under the law.

We have undertaken a major communications strategy survey. I think some members of Parliament of this committee were interviewed in the context of that communications strategy development. We are developing—

**The Acting Chair (Mr. David Tilson):** I acknowledge your report doesn't say precisely that they have an incorrect understanding of their rights, but I get the impression, by looking at pages 8 and 9 specifically of the English translation, that they have an incorrect understanding of their rights. That's why I asked this question. You could look at that. If you're spending 21% of your budget on educational activities, then something's wrong.

**Ms. Jennifer Stoddart:** Mr. Chair, I think informing a country of 36 million on their privacy rights is a major undertaking. It's also a complex area. We would like to be able to spend more money on communication—certainly that's going to be an important part of the submission we make to Treasury Board—because I think people are the best situated to enforce their privacy rights themselves and to participate in society in order to demand privacy protection as a fundamental value of Canadian society.

So we will go forward with that in support of our communication strategy, which we've developed with input from members of this committee, among others. I'd also draw your attention to our website and the huge increase in visits to our website. We continue to invest in the website as we find it's—

**The Acting Chair (Mr. David Tilson):** That's all right, and we're probably taking up enough time from other questions. It's just an issue I observed, that if you're spending 21% and they're not understanding things, maybe something else needs to be tried. It's just an observation.

Maybe we should proceed with Mr. Lee.

**Mr. Derek Lee (Scarborough—Rouge River, Lib.):** Thank you, Mr. Chair.

I'm going to focus on the same area as the chair has just mentioned. I have two documents in front of me. One is the part III estimates, which outline your proposed spending. Then I have another page, which presumably was produced by your office, that says, "The Office of the Privacy Commissioner, Summary of Budget, Fiscal Year 2005-2006".

I notice there's a difference in the privacy education promotion and protection of privacy allocations. In the part III estimates for that program activity, you've outlined \$1.6 million. In the document that you've prepared yourself, the amount is \$2.4 million. It's not explained anywhere why that is. So the amount for promotion and education has gone up substantially. The total amount in the vote for the estimates is about the same, \$11.3 million, but the allocation is different. I wanted to get you to explain that.

Secondly, given the heavy travel and education activities of one of your predecessors, I want to know who has the credit card and I want to know how many out trips are being made by you or your staff in this fiscal year—how many are planned to be made for what we would call education, promotion, and conferences. Hopefully you have some plans. There will be some out trips, and I would like to know how many, who, where, when, what, why, and how, if you can give us that now.

**Ms. Jennifer Stoddart:** Okay, I'm not sure I can give it to you totally accurately, but perhaps in general—and the director of administration may have something to add—I would say that if there is a discrepancy, a difference between the estimates, which were prepared in February, and the amounts you see here, it's because privacy education is a theme that groups different sub-budget items and there may be some difference in the grouping of salaries for how you count education. Is it the people just in communications, the activity in communications, or do you put part of another office that in fact does education under that? Because it's a theme that groups several activities' education, there may be a variance.

●(1005)

**Mr. Derek Lee:** That's a fair enough explanation. I just hope that it's not for the purpose of pumping up the travel budget. I'm not suggesting it is, but given our experience with this agency previously, I have to ask the question.

**Ms. Jennifer Stoddart:** Yes, honourable member, and we—

**Mr. Derek Lee:** Could you get to the second question I asked, on how many out trips or conferences are being planned?

**Ms. Jennifer Stoddart:** On the travel budget, it seems to me we have forecast \$237,000 for travel. I believe that is correct—my director of administration will correct me. Of that, \$100,000 goes to investigators in the course of investigating complaints. A lot of the other travel is spread among the directors, two assistant commissioners, and me. As you know, you will see all my travel expenses on the website, and you will see those for the assistant commissioner.

On our website you also see the forecast of the activities that we will participate in. For example, I can tell you in the month of June I'll be going to Edmonton to participate in the University of Alberta's outreach. I can tell you that right now assistant commissioner Heather Black is in Hong Kong. Our most expensive travel is probably the international travel in conjunction with international committees of which we are a part or at which we represent Canada. Assistant commissioner Heather Black represents Canada at the Asia-Pacific Economic Cooperation, APEC, and in that context she is working on the development of regulations for privacy protection of personal information.

**Mr. Derek Lee:** How does educating people—

**The Acting Chair (Mr. David Tilson):** Our problem is that we are in the three-minute round, and you'll have to wait for the next round.

**Mr. Derek Lee:** Okay, we'll get that later.

**The Acting Chair (Mr. David Tilson):** Mr. Lukiwski, go ahead, please.

**Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC):** Thank you very much.

I want to ask you a few questions regarding identity theft.

As I'm sure you're aware, identity theft is the fastest growing crime in North America. In fact, I've introduced a private member's bill to deal with this, because currently there is no provision in the Canadian Criminal Code to even identify what identity theft is, let alone provide penalties for those who have been caught or have been involved with an identity theft.

Historically, of course, private members' bills have never been too successful, so I'm wondering what your office has been doing, if anything, to try to advance the cause of punishing those who perpetrate identity theft crimes, and more specifically, if you are making any recommendations that could be brought forward similar to what I brought forward in a private member's bill. It might have more chance for success, for example, if it comes through your office.

I have a couple of individual questions, one in relation to identity theft. In some U.S. states, currently there's a provision that if private information on computers owned by a private company has been breached, there is an obligation and a requirement for those companies to inform the individuals whose private information has been violated. Currently in Canada there is no such provision. That's one example of identity theft, and something that should, in my belief, be dealt with.

Credit card theft is also a huge problem. We have a bizarre situation right now in which an individual who perhaps is in possession of literally hundreds of credit cards of other individuals cannot be prosecuted because he or she has not committed a crime with them, but it is apparent, of course, that the individual possesses those cards in order to commit a crime. Yet, because there is no identification in the Criminal Code of identity theft, there is nothing that police or law authorities can do. I'm wondering what your office is doing to suggest remedies for that.

Finally, my last question is, would you be able to provide this committee with the 100 recommendations that your office has suggested as changes to the Privacy Act? I haven't seen a copy of that report and I'd like to see that, if I could.

●(1010)

**Ms. Jennifer Stoddart:** Yes, I could, briefly.

**The Acting Chair (Mr. David Tilson):** It took about two a half minutes and to ask the question, but go ahead.

**Ms. Jennifer Stoddart:** I think there's wide recognition that the current Criminal Code provisions are inadequate to address identity theft. We have been consulted by the Department of Justice, and we are providing ongoing comments on initiatives to changes to the Criminal Code to remedy that and make the identification and prosecution of identity thieves much simpler.

What suggestions do we have? We have a fact sheet on our website where we try to give everyday tips about keeping your personal information safe—habits. Don't throw your credit card slips into garbage cans, and things like that. You can see that on our website. We also participated in the multi-sectorial consortium that organized February as the month against identity theft, with several provincial police forces, the RCMP, several federal offices, and so on.

I'll pass quickly to information on individuals. This is an issue that's come up in a spectacular way in the United States, where they don't have overall privacy legislation like we do in Canada. As a matter of fact, since I've been Privacy Commissioner, in the findings we've made under PIPEDA, when there is a breach of privacy and security we ask the institution responsible for the breach to inform the people involved and report back to us. So that is a matter of policy in our office. You can see that in the conclusions of the findings we have.

Should it be mandatory in all cases? This is something that is going to be discussed in the PIPEDA review. I think it's an excellent idea. There might be some specialist discussion on whether there are breaches that don't pose any threat to the privacy or security of people's personal information and whether you could get bogged down in informing people of routine internal foul-ups. I don't know. I think that's something for the experts. That's just one question I have.

Commissioner Bruce Phillips, who was commissioner for ten years during the 1990s, brought out a formal report on the Privacy Act during the last months of his term in office. That is the last formal report that's been done. We now have a working group with Justice on that, but we don't have a formal report. So I could send the committee the report of Commissioner Phillips, which seems to have been put aside for several years.

**The Acting Chair (Mr. David Tilson):** Thank you. The three-minute rule seems to have disappeared.

Monsieur Laframboise is next, and then Mr. Broadbent.

[*Translation*]

**Mr. Mario Laframboise:** Thank you, Mr. Chairman.

I am going to change the subject. A little earlier, you very kindly said that the Public Service Commission was delaying your staffing process. However, the last time you stated that you were interested in new technology. In your budget, I note a heading for acquiring land, buildings and works. There are budgets for those purchases, but nothing for new technology. I imagine you will need new technology to give yourself the capability of detecting those who obtain information.

Do you have a committee or experts examining the issue? Will you table a proposed budget to acquire new technologies or something similar?

**Ms. Jennifer Stoddart:** Yes. A large part of the budget we will be submitting to Treasury Board will be used to equip our office with leading-edge new technology. Historically, this has been a deficiency at our office and the situation is becoming critical.

Will we be acquiring the technology ourselves? I do not think so, because it is beyond our means. What we need to do is procure the services of experts who can follow new technologies, such as biometrics, radio frequency emitters, and so on. Those experts are in very high demand, and obtaining their services could become very important. I think that is how we should proceed. We should also increase our employees' capability of attending specialized conferences and symposia in the field.

This brings me to our travel budget. Conferences are often held quite far from Ottawa. They might be held in the United States or even Europe, especially in the areas of biometrics for passport i.d. or similar areas. That is how we would try to keep abreast of new technologies.

• (1015)

**Mr. Mario Laframboise:** Will you submit a budget specifically for that purpose to Treasury Board?

**Ms. Jennifer Stoddart:** Well, it would be part of our application for a new permanent budget pursuant to the new legislation. There is no doubt that technology is now an essential component of a privacy commissioner's role.

**Mr. Mario Laframboise:** I am certain it is. My problem is the Liberal Party. At the House of Commons, we have been fully connected only since last year. They are always four or five years late. There is the rub.

[*English*]

**The Acting Chair (Mr. David Tilson):** That's it?

Okay, Ms. Jennings.

**Hon. Marlene Jennings:** I would just ask if the commissioner could respond to the two questions that she wasn't able to respond to in the first seven-minute round.

**Ms. Jennifer Stoddart:** Thank you, and I would hasten to correct the erroneous response I gave to your question in the first round. We financed eight, not five, contribution programs. I'm sorry for that error.

Why not a research council? I can't answer that, honestly. When PIPEDA was set up in the late 1990s, this contributions part was set up...although the issue of duplication is an important issue in a bureaucracy and a government, I know. We've just been able to run it once.

My impression, from having been on juries of research councils and so on, is that because our procedures are simple and are targeted at a specific community, it may be faster and easier to apply to us for minor amounts, especially for community groups—we've funded some community groups, consumer groups, and so on—than to the major, multi-university, multi-million dollar, multi-year ones that go through research councils.

As for your last question, it seems to me I've got the Treasury Board...oh, the trial, yes.

**Hon. Marlene Jennings:** And not creating delays.

**Ms. Jennifer Stoddart:** Thank you.

What we would hope, Mr. Chair, is that we could go ahead as planned with our quest for permanent funding that we are terminating now, present our request for permanent funding to Treasury Board in August, and have this dealt with in the ordinary course of events. With that new basis for funding in the exercise for the next fiscal year in which there would be adjustments in the annual process, we could then be part of the trial.

I'd like to mention, too, that we were just given a report from the Senate that also has suggestions for the funding of officers of Parliament. These are slightly different from the suggestions made by this committee, so—

**Hon. Marlene Jennings:** Which do you prefer?

**Ms. Jennifer Stoddart:** We're still examining them, honourable member.

**Hon. Marlene Jennings:** Come back to us with the answer to that question when you finish examining them.

**Ms. Jennifer Stoddart:** We're not quite sure. The Senate's recommendation is rather laconic. We'd have to get more information about it, but clearly this is a process that may need a certain amount of precision, and we'd just like to go forward this summer with requests for stable financing.

**The Acting Chair (Mr. David Tilson):** You did well with that answer.

Mr. Epp.

**Mr. Ken Epp (Edmonton—Sherwood Park, CPC):** Thank you very much. I shall also try to be within that three-minute rule, so I'll be precise.

First of all, thank you for being here and giving us a very concise and complete summary of your mandate and your activities. You did a good job in that.

I'd like to follow up somewhat on Mr. Lee's comments. I know this committee is very interested in making sure that some of the foibles of the past are not repeated, as I'm sure you are, and I wanted to follow up a bit on that. You indicated something about your travel and hospitality expenses being posted on the website. Is that accurate?

• (1020)

**Ms. Jennifer Stoddart:** That is right, yes.

**Mr. Ken Epp:** So everything is there, and we can look at that website. What is the address of the website?

**Ms. Jennifer Stoddart:** It's [www.privcom.gc.ca](http://www.privcom.gc.ca).

**Mr. Ken Epp:** Then I have a question with respect to your budget. You indicate—and we understand this—that budgets and the estimates are negotiated with Treasury Board. I would like to know what your original position was compared to what we have before us today.

In other words, how much did they talk you out of in your presentation? You have indicated that you're short of staff, you don't have enough budget. You have quite a long section in your presentation where you say that if you don't have adequate funding, you can't do this, this, this, and this, and that's very understandable to us here. How much did you ask for compared to how much you will probably be getting, as reflected in this document?

**Ms. Jennifer Stoddart:** How much they will talk me out of remains to be seen this fall. I think that's a chapter that is still to be developed.

The situation is extremely unusual in the Office of the Privacy Commissioner because you have the superimposition of two events: the fact that there were two laws—a new law that never had permanent funding—plus the events that we know of. In that context, given the turmoil in the Office of the Privacy Commissioner, it was agreed when interim commissioner Robert Marleau took over in 2003 that the temporary funding level for most of our resources that come under PIPEDA would simply be carried over. Then in the second year, given the many administrative problems to be worked through, I felt we weren't in a position to really defend and justify a new permanent level of budgeting, and so Treasury Board agreed with us that we would simply carry this money over to a second year, and that is presumably what will happen this year. We agreed then that as soon as we were in a position to make a case for permanent funding, we would present it to Treasury Board and they would then rule on that.

As you know, these things are very demanding. You have to document chapter and verse for why you need the money and how you're going to spend it. So I may make a major presentation and I may not get all that I request. That's still to be seen.

**Mr. Ken Epp:** Is this your presentation?

**The Acting Chair (Mr. David Tilson):** You promised—

**Mr. Ken Epp:** I know, but my question isn't answered.

**The Acting Chair (Mr. David Tilson):** You're over three minutes.

**Mr. Ken Epp:** What you have here is what you presented?

**Ms. Jennifer Stoddart:** No. This is technically my budget for the main estimates under the Privacy Act. It's very unusual. Part of my budget comes from PIPEDA, which technically will be under the supplementary estimates, but we put in the funding levels for the previous years, which we understand will be carried over. It's very unusual.

**The Acting Chair (Mr. David Tilson):** Thank you.

Mr. Broadbent, go ahead, please.

**Hon. Ed Broadbent:** I want to come back to what I was asking questions about earlier, because I'm thinking of doing a private member's bill and I really want to rely on your experience in this area.

I just want to get your interpretation on the issue of filming, videoing and photography. Article 12 of the Universal Declaration of Human Rights states that, "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence...". Now, my proposition would be even for people in public life. If they are in their home, if they're in a hotel, or if they are in a car, they ought to have the right to be exempt from any of this invasion of their privacy unless they consent, and we ought to have a law protecting that right.

Do you agree?

•(1025)

**Ms. Jennifer Stoddart:** Absolutely, yes.

**Hon. Ed Broadbent:** That's wonderful. I don't know what to say. I'm speechless. But being a politician, I of course will fill my time, even with hot air.

Having got that, I'll ask you this: is there any provision now that you're aware of in federal law that would go that far, that clearly, in protecting that privacy?

**Ms. Jennifer Stoddart:** Honourable member, it seems that to give privacy protection in the cases that you've mentioned and in the private lives of even public persons—who, as you say, have a right to a private life too—would take some legal research, because I think you have to look at the respective areas of jurisdiction between the provinces and the federal government. You could put this in the Criminal Code I would think, but I would suggest—

**Hon. Ed Broadbent:** I'm not sure you would want it in there.

**Ms. Jennifer Stoddart:** Well, I'm just not sure, and I'm not a specialist in the Criminal Code.

First of all, with the Criminal Code, as I understand, usually in order to take action the Crown must go forth with something under the Criminal Code, so you have all kinds of administrative issues of who can have a right of action. From what I understand, the people who work in crown attorneys' offices across the country and people who work in the police forces across the country have huge problems, because these forces and offices are overburdened and they can only go forward with the most serious issues. So I think you have to look at the practicality of enforcing privacy rights and the legal vehicle that's most appropriate to do so. I'm sure that lawyers who look into this could see in what way the federal jurisdiction would be the most appropriate given the extent of federal powers. I suggest that a lot of this falls into provincial jurisdiction.

**The Acting Chair (Mr. David Tilson):** Mr. Powers.

**Mr. Russ Powers (Ancaster—Dundas—Flamborough—Westdale, Lib.):** I have a single question, and then you can go to Mr. Lee's previous question.

You're required to do your funding and operations under the management resources and results structure policy established in that. You alluded in your opening comments—and we're talking about the funding mechanism—to the fact that your funding comes

from two sources: one for the administration of the Privacy Act, and the other for the administration of PIPEDA. You blend the resources together, in other words, to be all-inclusive.

Can you give me an explanation as to how you can be in compliance with the management resources and results structure policy and yet have a blended budget? You say that you really don't allocate the resources.

**Ms. Jennifer Stoddart:** It's a challenge. It's an unusual situation. We try to respect, for example, in complaints that the two laws are from very different eras; they have different obligations. So we try to respect the resource allegation in allocating resources for dealing with complaints. But that is one of the things we would like to deal with in going forward to permanent funding, to move away from this anomalous situation.

**The Acting Chair (Mr. David Tilson):** We'll conclude this morning with Mr. Lee.

**Mr. Derek Lee:** Thank you.

To go back to the program activity dealing with privacy—education, promotion, and protection of privacy—the fact that your expenditures for travel hospitality, including travel for investigation purposes, is on your website is very good. It actually obviates the need for me to ask a whole lot of questions, because it's going to be transparent anyway. So that's good.

Dealing with the broader issue, though, you have an education mandate as Privacy Commissioner. We have school boards, high schools, universities, community colleges, all of which deal with education. We have voter education. We have driver education. We have education all over the place. How could you possibly do any significant educating with the very limited budget you have? Don't you think it would be necessary for you to constrain your objectives and goals in this education piece? Otherwise, it's just going to be a bottomless pit for spending, which I don't think we're into around here these days.

Have you taken any steps, or could you take any steps, to constrain and define precisely what you want to do in education, clearly, so you know what you're going to spend and you're not always being pushed to go out beyond it and ask for more money?

**Ms. Jennifer Stoddart:** Yes, we are in that process now of defining our educational goals and the means we can do. You're right, on something like privacy education you could spend tens of millions and so on. So we're looking for cost-effective multipliers. We'll never have expensive, flashy education programs. It's beyond us; I don't think it's appropriate for us. So we look to multipliers. We look to our presence at various conferences. We look to cooperating with provincial commissioners, exchanging materials. Increasingly, we look to our website, which is very low cost, making sure it's responsive. We want to, for example, redo the search engine, which is not quite as efficient as we would like, so that it becomes a real tool, a resource tool for other privacy educators.

• (1030)

**The Acting Chair (Mr. David Tilson):** Thank you, Commissioner and Mr. Lee.

As I indicated at the outset of the meeting, we are going to recess for a few minutes, Commissioner, to discuss future business in a private session. I want to thank you for coming this morning. It may well be that the committee will have further questions for you, and the clerk will advise you of an appropriate and convenient time that we can meet again.

I thank you and Mr. Pulcine for coming this morning.

The committee will recess for a few minutes.

*[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 Parliamentary Internet Parlementaire at the following address:  
Aussi disponible sur le réseau électronique « Parliamentary Internet Parlementaire » 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.**