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

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**EVIDENCE**

**Tuesday, March 27, 2012**

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**Chair**

**Ms. Jean Crowder**



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

Tuesday, March 27, 2012

• (1100)

[English]

**The Chair (Ms. Jean Crowder (Nanaimo—Cowichan, NDP)):** Welcome, committee members, to meeting number 31.

I call vote 40, under Justice. We will now commence debate.

I welcome Madam Legault, the Information Commissioner of Canada, who will present to the committee.

[Translation]

**Ms. Suzanne Legault (Information Commissioner, Office of the Information Commissioner of Canada):** Thank you, Madam Chair.

I want to thank you for inviting me to speak about the main estimates of the Office of the Information Commissioner of Canada, this morning. I am accompanied by Layla Michaud, Interim Director General of Corporate Services.

Your invitation provides me with a timely opportunity to talk to you about some of our key achievements, challenges and priorities as I begin the third year of my mandate in June.

As detailed in the documents before you, the salary and operating budget for my office in 2012-13 is approximately \$10.348 million, excluding employee benefit plans. I have 106 full-time equivalents. Close to 75% of my budget is allocated to salaries. Of the remaining 25% for operating and maintenance costs, a third relates to fixed costs.

[English]

Madam Chair, I can assure you that since I became commissioner, I have worked to do better with less across all of our activities.

On the program side, we started three years ago to implement a new way of doing business. We have been guided on this path by the clear direction and focus of the strategic plan we adopted at the onset of my mandate. I'm encouraged with the results thus far.

We made a substantial dent in the inventory of complaints that had built up over the years. We reduced it from 2,500 at the end of 2008-09 to 1,800 by the end of this fiscal year. From 1,600 cases that were there from pre-2008, this number is now down to 61.

There has been a substantial reduction in administrative complaints in our year-end inventory.

Six months ago, we started implementing a new strategy for more complex investigations dealing with highly sensitive national

security issues. As a result, we expect to close approximately 100 cases. This represents a 33% increase over last year.

This past year, I have strengthened our legal capacity to assist with formal investigations and litigation. This has also reduced outsourcing costs for legal expertise and professional services. These are outcomes that we expected, and we worked hard to achieve them. They confirm that our business model is sound and that we are heading in the right direction.

Our internal services have been key to facilitating these operational successes. The guidance and assurance provided by our internal audit function, as well as the development of a new case management system, have been instrumental in improving our overall performance.

However, more work needs to be done. In completing the tasks at hand, we face significant risks and challenges.

[Translation]

We must further refine our strategies to deal with a higher percentage of more complex refusal complaints. These have steadily increased from 73% of the inventory at the end of 2008-09 to 88% currently. Approximately 55% can be characterized as follows: 385 deal with national security issues; 253 involve voluminous and highly technical Canada Revenue Agency files; and the others result from the Federal Accountability Act, extending coverage to the Canadian Broadcasting Corporation. We still have 253 cases in our inventory, 135 of which pertain to section 68.1, which has been studied previously by this committee.

The higher percentage of refusal complaints increases the likelihood of time-consuming and formal processes. They also increase the risk of costly litigation.

• (1105)

[English]

Treasury Board statistics for 2010-11, which have just recently been published, indicate an increase of 18% in the number of access requests received by institutions in the last year. Historically, out of this number, 5% to 6% of requests generate complaints to my office. If this trend materializes, we could be faced with an influx of 2,000 to 2,500 new complaints this coming fiscal year.

However, I must say, Madam Chair, that this year the level of complaints has been declining. It has not been increasing. So far this year we are looking at about 1,500.

Moreover, several of the top ten institutions to receive access requests, according to the Treasury Board statistics, are also among the top ten institutions generating complaints; hence, a potential risk in terms of increased workload. A very good example is the Canada Revenue Agency, which apparently has had an increase of 44% in its access to information requests. According to Treasury Board statistics, it is one of the main institutions generating complaints to my office.

This risk is compounded by the fact that institutions, in times of restraint, tend to cut in their internal services, including access to information and privacy programs. The risks from such cuts could include failure to meet legal requirements, declining performance, and an increase in complaints to my office. This is worrisome to the extent that it could adversely affect Canadians' fundamental right of access.

[*Translation*]

Human resources also presents another significant element of risk. As a small organization, my office is disproportionately impacted by workforce characteristics. For example, according to our statistics, 31% of our investigative workforce will reach pension eligibility within the next three years. Three staff members have already retired this year.

We also face uncertainty owing to the fact that we have to relocate our offices in 2013. Preliminary estimates from Public Works and Government Services Canada show that the cost could be as high as \$3 million. We have yet to secure a source of funding. Relocating also entails other risks in terms of sustained productivity and human resources retention.

Given these risks and challenges, here are some of my main priorities for 2012-13.

First, in terms of governance, there are two key positions that I must stabilize within my office. A selection process is already under way to appoint an assistant commissioner, who will be responsible for all investigations and complaints resolution. The process has been initiated with the Privy Council Office. I must also staff on a permanent basis the position of director general of corporate services.

[*English*]

On the program side, I will continue to streamline our operations with a view to increasing the effectiveness and timeliness of our investigations. Regarding administrative complaints, my goal is to move closer to our target of 85% of cases completed within 90 days. The quick resolution of administrative complaints allows us to work more intensely or quickly to resolve new refusal cases.

Regarding refusal cases, my goal is to complete priority cases within six months. We will continue with our strategy for national security cases, building on the successes so far. In the spirit of results-based management, I will establish processes and service standards for all types of investigations. We have done so for administrative complaints. We now have to move to our refusal complaints.

With respect to internal services, implementation of talent management is a key priority for corporate memory purposes. Our

talent management program will help us develop, attract, and retain talent, thereby mitigating some of our human resources risks. It will also contribute to our strategic objective of creating and maintaining a workplace of choice.

We will continue to streamline internal services to minimize risks and improve service delivery. For example, we are currently exploring different shared services opportunities with other institutions, including agents of Parliament. As a start, we have undertaken discussions to procure compensation services and staffing monitoring from the shared services unit at Public Works and Government Services Canada.

[*Translation*]

In closing, I thank you for your continued interest and support. I also wish to acknowledge the unabated commitment and dedication of my staff in this process of continuous improvement, as we strive to deliver exemplary service to Canadians.

Thank you, Madam Chair. I will be pleased to answer your questions.

• (1110)

[*English*]

**The Chair:** Thank you, Madam Legault.

We'll now go to questions. This will be a seven-minute round. The seven minutes will include both the member's question and the commissioner's response.

Mr. Angus.

**Mr. Charlie Angus (Timmins—James Bay, NDP):** Thank you, Madam Chair.

Thank you, Madam Legault, for once again coming to our committee. You know that we have immense respect for you on all sides of the table, and that you perform a vital function for ensuring accountability and ensuring that Canadians' right to have access to information is responded to by government departments.

I'd like to talk with you about a couple of the subjects you raised. I'm looking at vote 40 in the estimates, and I see that there will be a net cut of \$267,000 to program expenditures from the \$10.3 million that you described.

Now, with regard to those dollars that are being cut, are they being targeted on technological infrastructure? How will that affect your need to actually be modernizing your capacity to handle complaints? What are you going to do with that cut there?

**Ms. Suzanne Legault:** Well, the funding was received in 2009-10 for IM/IT strategy. We are starting our fourth year of implementation of the strategy. We are on time and on target. It was a normal decrease in the actual funding for this year.

Obviously it has an impact on our operating costs, but this is something that we had planned for. The development is under way and is functioning quite well. This year we actually rolled out our new case management system as part of the strategy.

**Mr. Charlie Angus:** Thank you.

I was reading the report on plans and priorities for 2011-12, and it talked about the increasingly complex nature of investigation and litigation. We have cases like the CBC—on section 68.1—going up through the federal courts, and we've had ministers taking issues to court.

What is the added expense that you're dealing with now in terms of the complexity of litigation, how does that factor into your overall budget, and how are you offsetting it in terms of moving dollars around in your other files?

**Ms. Suzanne Legault:** The inventory right now in terms of complex cases is 88%. The ability to pursue matters in courts under the legislation is related to these refusal cases. Normally, on administrative cases, although there have been some examples, these do not go to court.

What happens is that we used to have about a 50-50 inventory; we're now at 88%, as we speak. This means that most of these cases are more difficult, more complex. The possibility of these cases going to court is unpredictable as the files unfold.

We are doing better, actually, in terms of the outsourcing of legal costs, because this year I've increased the legal capacity. We have now, as of this year, internal litigation capacity. We are intervening more, in some cases, than we normally would have, so we are having a voice in terms of third party interventions. We're also having a heightened capacity to manage our litigation costs. In fact, our outsourcing of professional services for litigation has decreased this year because of that. We've shifted a little bit on the program.

So far we're managing it. Last year we had to get \$400,000 in emergency funding because we had complex cases and litigation. There is an element of uncertainty to that aspect of things. This year we have managed it without needing to seek additional funding. As I said, this increased internal litigation capacity seems to make quite a good difference in managing that uncertainty.

**Mr. Charlie Angus:** I find that a very interesting approach. It seems to be counterintuitive to some of the common wisdom of the day, which is that you cut the civil service and then you hire staff when you need them. I saw how Mike Harris's common sense revolution went through numerous departments and then ended up actually having to hire back the civil servants, now that they were independent consultants, at a higher rate.

You're telling us that by bringing your own in-house capacity, you're reducing costs and you're able to manage the case files better? Is that...? Do you think that's a model that might work in other departments?

**Ms. Suzanne Legault:** We're constantly looking at ways to gain efficiencies and to deal with the risk of unpredictability that we are facing.

Another example, as well, is that I have a lawyer who is actually in charge of the national security files, and this lawyer is working very closely with the investigators who have special delegation files. What I'm finding is that it's actually working better. The investigators are better counselled in a more timely manner.

It's early, we started six months ago. But what I'm seeing now, I'm very pleased with the way the files are handled and I'm very pleased with the ongoing support that the investigators are getting on these

files. We've developed more templates, it's going faster, and I think the work is moving faster on these files. By shifting some of the way the teams are organized within the program, I think it is generating efficiencies and I think that will continue.

The investigative function is still not where I would like it to be, so I'm constantly trying to see how I can make it more efficient to deal with the change in our inventory, in our caseload. What we've done this year seems to have worked, and so we'll see in the next fiscal how that is going to unfold. It's a little bit too early to tell, but certainly this year it seems to have worked.

• (1115)

**Mr. Charlie Angus:** Thank you.

Finally, we have two bills before the House that could have huge implications for Canadian privacy rights: the update to the PIPEDA, Bill C-12; and then Bill C-30, Minister Vic Toews' snooping law.

Have you done any analysis of the potential impact on your department in terms of information?

**Ms. Suzanne Legault:** No, I have not. Madame Stoddart, the Privacy Commissioner, is very much on top of those files in terms of input from the privacy side.

**Mr. Charlie Angus:** It would have nothing to do with you.

Thank you very much.

**The Chair:** Thank you, Mr. Angus.

Mr. Del Mastro for seven minutes.

**Mr. Dean Del Mastro (Peterborough, CPC):** Thank you very much, Madam Chairman.

Thank you, Commissioner, for attending today and for your presentation. I have a couple of questions for you.

I noted in the main estimates, the Office of the Information Commissioner actually has a small decrease in its overall estimates from the previous year. It looks to be about 2.5%. According to the Library of Parliament, it's made up of a decrease in "other operating costs".

Can you describe for me a little bit about what the "other operating costs" are? Where did you find those savings?

**Ms. Suzanne Legault:** It's really mostly the IM/IT strategy and this was, as I indicated, already planned when we got the funding. There was a decrease in funding over a five-year period, and we're entering the fourth year, so that's totally consistent with what we had projected. That's essentially the big chunk of that.

**Mr. Dean Del Mastro:** The balance—that was about \$268,000 of roughly \$300,000, and about \$31,000 comes from the change in the contribution rate on employee benefits. Would that be pension contributions largely being made—an increase in that being made by staff?

**Ms. Suzanne Legault:** These are just adjustments that are made to the employee benefits plans, unless, Layla, you have something else.

**Ms. Layla Michaud (Interim Director General, Corporate Services Branch, Office of the Information Commissioner of Canada):** It's legislated so the numbers are given to us by Treasury Board Secretariat. It's a percentage.

**Mr. Dean Del Mastro:** Have you been contacted by Treasury Board with respect to the deficit reduction action plan? Have you made a filing with respect to seeking to find between 5% and 10% savings in your department?

**Ms. Suzanne Legault:** Yes, we received the letter from the Minister of Justice in July of 2011, this past summer, and we started to do an exercise, which we've shared with this committee in its totality, including the letter that we sent to the Minister of Justice. We also received another letter in December asking us to submit our analysis.

We hired IBM to do the analysis for us and act as a challenge function for us. IBM had done, in 2008-09 I believe, our business model, so they were actually quite familiar with the way that we were conducting business. So they acted as a challenge function for the review of our funding.

The conclusion that we came to—and this is what we reported to the minister—was that given the cost containment measures from the last Parliament's budget that we had to absorb, and given our little flexibility, we really couldn't give back any additional money without impacting on program.

I have not received any further communication on this aspect, and Minister Clement was cc'd on this letter.

• (1120)

**Mr. Dean Del Mastro:** Okay, my suspicion is that, notwithstanding the fact that I haven't had the opportunity to review this entire document, most departments would probably arrive at largely similar conclusions that any reduction in overall funding would impact negatively in one area or another. I mean that's to be expected. A funding decrease is always going to be a challenge to deal with. I do appreciate that, and I will review that, so thank you very much.

I wanted to come back to.... You said the overall number of cases or complaints that you're dealing with has dropped since the inception. Is some of that due to compliance? I know that you have a couple of crowns—for example, Canada Post and CBC—that were leading to a number of the complaints. You had also mentioned CRA. I believe that you also get a number with respect to—is it immigration that you source for a number of things?

Are you seeing that those departments or those crowns are becoming more effective? Are you still concerned about their approach in this regard? What's leading to the overall reduction? I imagine that the overall requests are still significant.

**Ms. Suzanne Legault:** Well, as I said, the requests are increasing this year, and this is quite a significant increase from comparative past years. So, we'll see what that has as an impact.

In terms of our complaints, we'll probably end the year at about 1,500 received complaints, which is a bit of a decrease from last year. I think last year was about 1,600. But, last year, we had a large spike in July of over 200 cases from one complainant with one institution. If I don't count that, we're about even from last year. The two previous years before that, there were a lot of complaints with

CBC. We definitely saw a huge shift after the FAA in terms of an increase in complaints. It seems to be stabilizing right now.

The other thing that is happening is that there is a reduction in administrative complaints. This is, in my view, an extremely positive sign. You know, we've been working very hard in the last two to three years. We have been going around to departments, talking to deputy ministers, urging them to not have administrative complaints in their office, and to basically deal with the requests on time, because administrative complaints are a bit of a waste of time, money, and resources for all involved in the system. They actually don't provide faster or substantive releases of information to the requester. To me, the administrative complaints are the big waste in the system. As much as we can reduce that, that's a gain for the system overall, and it seems to be what's happening. I think that's really positive.

The other thing I'm seeing on the statistics this year—and I think it's worth mentioning because I've been really making this point for quite some time—is that one of the key indicators of the health of the regime is the number of requests where all of the information is disclosed. I've been saying, every time I've been before this committee, that there has been a steady decline in that statistic. Well, this past year, there's actually been an improvement. I think that is something that should be mentioned here. I think that's a very positive sign. We used to be at only 16% of all requests where all information was disclosed. The latest published statistics indicate 20%. That's a good increase. I'm hoping that there is perhaps a movement with the open government, and that the message is getting across and we're seeing a change.

It could be related to national security and international affairs. Obviously, our situation is changing there, so maybe less information or less requests where there were exemptions. It's too early to tell. I'm hoping the government will ensure that this trend continues. I think that's key.

Perhaps, one last point I would to make, Madam Chair, in terms of other institutions saying that they cannot reduce their budget, my office is lapsing 0.1% and 0.2% of its overall budget in the last two years, and that includes an additional \$400,000. I don't think that there are many federal institutions that actually do not lapse money, like my office. I think that when we look at the budget of our office, year-over-year, there is very little money left. My internal audit committee always asks us to give them an update on our budget because we walk such a fine line all the time.

• (1125)

**Mr. Dean Del Mastro:** I appreciate the answer.

**The Chair:** Thank you, Madam Legault.

Mr. Andrews, for seven minutes.

**Mr. Scott Andrews (Avalon, Lib.):** Thank you, Madam Chair.

Welcome, Madam Legault. Once again, it's a pleasure to have you here.

I wanted to follow up on something you just said. You said that the minister wrote once in July, and then again in August. You replied back to him, but you said you haven't heard anything.

Could you just clarify exactly what you meant by that?

**Ms. Suzanne Legault:** Yes. The minister wrote to me in July and wrote again in December, asking for the results.

I don't have it before me, but the July letter essentially asked us to abide by the intent and spirit of the DRAP exercise, which we agreed to do. That's why we embarked on the analysis with IBM.

In December they asked us to provide the details of our analysis. This is what I actually sent to the committee at the same time that I sent it to the minister.

**Mr. Scott Andrews:** And you haven't heard back from the minister on exactly what's going to be the result of this?

**Ms. Suzanne Legault:** No.

**Mr. Scott Andrews:** Do you suspect what the result will be?

**Ms. Suzanne Legault:** No. I have no information.

**Mr. Scott Andrews:** Okay.

Your office has expanded over the last number of years. Do you think you're being asked to do more with less money? Is it a concern that you've been asked to do more, but now you're going to be asked to do more with less?

**Ms. Suzanne Legault:** Well, we have to do more with the same envelope. We have to do more because our inventory has changed so much; it is a lot more complex than we used to have.

An administrative complaint is usually about whether or not the institution has responded to the allotted timelines under the legislation. A refusal complaint—for example, I have a CRA file where I've actually had two investigators working on this file, almost exclusively, for almost two years. That means those resources cannot work on other investigations.

They're not all like that, not all so voluminous, but some of them are very complex. The national security files, obviously, are highly sensitive. They deal with highly sensitive material. We have to take a very cautious approach to the analysis of these files. It's essentially line by line. Improper disclosure actually has a lot of consequences, so we have to make sure that our position is proper.

**Mr. Scott Andrews:** If the envelope does change, and it gets smaller, will the result be that you're taking longer to do investigations? Or what will be the other consequence?

**Ms. Suzanne Legault:** Well, our envelope has gotten smaller, because in the last Parliament, in the last budget, we were asked to absorb the salary increases of collective agreements. For us, when most of our budget consists of salary and we have very little O and M manoeuvring, a decision like that meant, I think, a \$320,000 decrease in our envelope.

That's very significant for us. We've already had to address this. I have three positions that were cut this fiscal year, and I have some people who've left and have not been replaced already to absorb

these cuts. So this has already been integrated, if you wish, into our budget. I'm already doing more with less.

As to where we're at right now, frankly, it would take longer to do cases, but it's more than that. It's a risk in our internal services. There are a lot of reporting requirements. We have reporting requirements very similar to those of any other institutions. We do have to have an internal audit function.

Contrary to small agencies, we have to have a full-scale internal audit function, because we are an agent of Parliament. We have had an unmodified audit from the Auditor General for the last five years. I really think we need to keep that. We're looking at sharing our services in terms of human resources simply because the risk in terms of the expertise is too high. Small institutions do have to be aware of those things.

Frankly, as to the people I have in my office, everybody's working so hard that, at this point, I don't think I can ask them to do more. They're going to have to do it on a longer-term scale, if our budget is cut.

I think we'd lose the gains we're making in terms of reducing our inventory, and I think that would be a shame. I really have to clean that up. I still have 1,800 cases in my inventory, and I need to bring that down. My goal is to bring it down to about 500 as a carry-over from year to year so that requesters' rights are really respected. Delays in my office also have a negative impact on requesters' rights.

So it is my responsibility to clean it up. We're making progress, but I'm really convinced that significant cuts.... You know, at some point, there are few areas where I can cut, so....

• (1130)

**Mr. Scott Andrews:** Thank you.

I just want to go back to a question that was asked earlier about Bill C-30.

I know the Information and Privacy Commissioner of Ontario, Ann Cavoukian, has been very vocal and has expressed a lot of concerns. Just to clarify, you haven't reviewed Bill C-30? Do you have no comment at all on Bill C-30?

**Ms. Suzanne Legault:** The Information and Privacy Commissioner of Ontario made comments and that's because she's wearing both hats. In fact, all of the information and privacy commissioners across Canada are, I think, united with our federal Privacy Commissioner in their position in relation to that legislation. But, no, we haven't spent time on that.

**Mr. Scott Andrews:** I have a question regarding your complaints from 2011-12. You had four commissioner-initiated complaints. What is the status of those four complaints? Could you just refresh our memories? You may have told this committee in the past of those particular cases.

If your budget does get cut, would you do less commissioner-initiated complaints? Would that be something that would get lost if your resources are decreased?

**Ms. Suzanne Legault:** With regard to the commissioner-initiated complaints, I really do them when I need to do them. Obviously, I'm very mindful of the fact that whenever I initiate a complaint I add to the load.

I do have two systemic investigations that are still ongoing. They're taking a very long time. I basically now have one person doing these two systemic investigations. That's what happens when I don't have a lot of resources to allocate to that. Those will hopefully be finished in the fall of 2012.

In terms of the other self-initiated complaints, I have the complaint I initiated when Minister Ambrose referred me documents from Public Works in relation to possible allegations of interference. That investigation is still ongoing.

I think I have about 18 self-initiated investigations in total. I'd have to verify that, but I'm one of the top 10 complainants in my office.

**The Chair:** Thank you, Mr. Andrews and Madam Legault.

Mrs. Davidson, for seven minutes.

**Mrs. Patricia Davidson (Sarnia—Lambton, CPC):** Thank you, Madam Chair.

Thank you very much, Commissioner, for being with us once again. It's always a pleasure to see you.

Certainly, in the time I've sat on this committee, I've seen remarkable progress being made in your office since you instigated the new work plan and your new methods of clearing up some of the backlog. When I look at the figures in your report that you gave to us, you really have brought the caseload down that is being referred over from year to year. I think that is great.

One of the things that you talked a little bit about with my colleague was the reduction in administrative complaints. I think that's very important. Can you talk a little bit more about that? I know that you said that you felt that the administrative complaints were part of the biggest waste within the system. Can you just elaborate on that a bit more and tell us how they're being reduced? What's happening that's making this action take place?

**Ms. Suzanne Legault:** I can't give you a complete diagnostic for that because I am not privy to all the information requests that go to the departments. I see only the complaints. What I do see is that there is a significant reduction. I probably intake about 30% administrative complaints on the overall inventory; it used to be 50%. And we're closing them. We're closing more than we're receiving, so we're actually really making a dent in there. That's why my inventory now is basically all complex cases. This is exactly where I want to be, by the way. These are the important cases. This has to deal with what

information is going to be disclosed to the requester and the complainant.

With administrative complaints, it's not about the information that's disclosed, it's about when it's going to be disclosed, or how much the department is going to charge for disclosure. There is very little clout, very little deterrence, because these cases can't really go to court. It's a little bit complex on the legal side, but normally speaking, these cases are not cases I would take to court for disclosure.

As to what's happening in the institution, we are completing our third-year review in terms of the report cards. The report cards are going to be completed and tabled probably in May, and I think that will complete our three-year review. We've made a lot of recommendations. These report cards dealt with administrative complaints. I think we'll have a really good snapshot, and we'll see then in more detail what is happening with the institutions. If you remember, three years ago we did 24 institutions. Those represented about 88% of all access requests across the system, so we had a pretty good diagnostic then of what was happening.

For this report card this year we did 18 institutions. We did the 13 that failed and the five that got a C, because those were at risk. We'll see then what the diagnostic is going to be. That will be in May.

We don't have that completed yet, so I really can't share that with the committee, but definitely that goes to Parliament and to the committee. I think we'll have a much better diagnostic at that point. If that shows a clear improvement, then it should reflect what's happening on the complaint side.

• (1135)

**Mrs. Patricia Davidson:** Very good.

One of the things we heard a lot about, and I'm sure you're well aware of it, is the CBC study. We heard a lot about section 68.1, and—I don't know if it was confusion, but we'll say—the confusion that it was causing.

Do you think that redrafting or changing section 68.1 will have an impact on the number of concerns that are raised and the number of complaints that are raised, and therefore impact your department?

**Ms. Suzanne Legault:** That's a good question.

We now have the decision of the Federal Court of Appeal, so we are now in a position to review the documents. We are investigating the cases. We have closed, I believe, 177 cases now, out of the inventory with CBC.

The recommendation that I made to the committee at the time was that if there were to be an amendment, I would prefer to have a discretionary exemption based on injury and public interest. That would actually track the language of the Broadcasting Act, which is not quite the situation we have. If the government decides to amend the legislation at this time, my concern—and I think it could be addressed; I think it would have to be addressed—is that there should be transition measures, because I have inventories of files, requests, and complaints that have been made under the current legislation. I think it would be extremely complicated to deal with these cases if I had new legislation that didn't deal with transition measures.

That would be my concern. Obviously, ultimately, after that it's the decision of the government to amend or not.

I'm planning to send a letter to the Minister of Justice highlighting my views on that, which I've just expressed, in any event, before this committee just now.

**Mrs. Patricia Davidson:** One of the other things you talked to us about this morning was that the statistics show an increase of 18% in 2011 for the number of access requests received by institutions. You talked a little bit about CRA being one of the ones that could have an influx of new requests being made, and therefore an associated influx to your department.

How would you handle that if it takes place?

• (1140)

**Ms. Suzanne Legault:** These statistics are quite worrisome to me because, according to these statistics, the Canada Revenue Agency has had a 44% increase in its number of requests year over year. These statistics are for 2010-2011. How would we handle that? We already have quite a lot of resources dedicated to these files. We work very closely with both complainants and the CRA. I met with the interim head of the CRA about a month ago to discuss some of the strategies they could have. They have a mix of cases. In my view, some of the cases could be dealt with by proactive disclosure. I've asked them to look at their practices to determine whether they could proactively disclose more, and thereby possibly reduce some of their access requests. We're working with them on these very complex files. They're collaborating with us on an ongoing basis. We have the appropriate approach.

If I get a complete influx, I will have to deal with it when it comes, but, yes, it would be very serious. By the way, on one of these files there is actually a mandamus application in federal court urging us to complete our investigation faster. This is another problem that arises if our program is affected and our cases take longer; complainants can take me to court from mandamus applications, and that generates more cost to the system.

**Mrs. Patricia Davidson:** Thank you.

**The Chair:** Thank you, Ms. Davidson.

Thank you, Madam Legault.

[*Translation*]

Mr. Dusseault, you have five minutes.

**Mr. Pierre-Luc Dusseault (Sherbrooke, NDP):** Thank you, Madam Chair.

Ms. Legault, thank you for being here. I am going to make you speak a bit of French this morning.

In response to my colleague's question earlier, you painted a pretty clear picture of the situation. You mentioned the 5% and 10% savings you had been asked to achieve. That is why you prepared a deficit reduction action plan, a fairly comprehensive one.

I have many concerns, as I am sure you do. Your office is undergoing some major improvements. The number of pending complaints is steadily declining as well. It is my feeling that the cutbacks, the scale of which remains a mystery, are going to hurt. From what I understand, you planned for the worst case scenario of

10%. Is it realistic to think that you will be able to continue on your path of improvement?

I did not read the plan in its entirety, so I would like more details on how these cutbacks could be applied and whether service will be compromised. That is what matters most. As you said in your opening remarks, 75% of your budget is allocated to salaries. If your budget is cut by 10%, how will you continue to provide the same level of service? Do you have any details on how you will do that?

**Ms. Suzanne Legault:** As I told the committee and as I suggested to the Minister of Justice, in my view, it is not possible at this time to make cuts to the resources of the Office of the Information Commissioner of Canada.

If 5% of our budget is cut, as of next year, we are talking \$587,000. If 10% of our budget is cut, it would mean \$1.174 million. If you want to know the truth, at the end of the last fiscal year, I had just \$148,000 remaining, and that included \$400,000 in emergency funding. The year before, it was \$182,000.

It is obvious to me that our fate lies in the government's hands; it's their decision. If I have to make more cuts, I will have no choice but to do so. As the person overseeing the commissioner's office, I will have to implement those cuts. As I see it, that will seriously compromise the office's activities, in terms of both programs and internal services.

We are an extremely small organization. I have only one parliamentary relations person. I have no money left at the end of the fiscal year. I urge you to take a detailed look at the document we submitted and to compare us with other institutions.

What it boils down to is the risk of longer completion times. As I explained, my investigations already take way too long, so if they take even longer and I don't get to them, I could be subject to judicial review by the Federal Court. Will that benefit taxpayers? I don't think so.

We are currently examining the possibility of shared services with the other officers of Parliament. As I also mentioned, we are going to consider shared services with respect to human resources, because Public Works and Government Services Canada already has a system in place that could be effective.

It is not as though I have a lot of people working in that area. So even if I do take a shared service approach to human resources, I still have to maintain some internal resources to liaise with that group.

As for the fiscal efficiency, actual cost savings, there is very little financial gain in shared services. We would not benefit as a large department would. Where we would benefit, as a small organization, is in terms of risk reduction. We would have access to more shared service expertise by doing business with groups that already have extensive knowledge in those areas. That is how we would benefit the most.

But the financial gain we will derive from a shared service approach will be fairly minimal. We are slated to begin sharing accommodations with other officers of Parliament in 2013, so we are studying the possibility of working with them on more shared services.

•(1145)

**Mr. Pierre-Luc Dusseault:** I am not sure whether I have any time left.

[English]

**The Chair:** Mr. Dusseault, your time is up. *Merci beaucoup.*

Mr. Carmichael, for five minutes.

**Mr. John Carmichael (Don Valley West, CPC):** Thank you, Madam Chair.

Good morning, Commissioner, and thank you for your appearance here today. I think you're helping to open the windows for us in understanding what you're dealing with every day. Obviously your life has become a lot more complex in the past couple of years.

I would like to understand, though, the IBM report. I don't know how active this report is in your day-to-day planning. I take it that it's an important part of what you're doing today. Is this for projections, etc., and dealing with some reductions?

I looked at the 2010-11 inventory you referred to with a total inventory at year-end of 1,853, projected to be 2,153 in 2011-12. What is your actual number? Do you know where you are today in terms of real numbers and dealing with those projections?

**Ms. Suzanne Legault:** We're at 1,863 at the end of this fiscal year. This is an important point to make because this year we weren't as successful as the last two years.

**Mr. John Carmichael:** Successful in closing?

**Ms. Suzanne Legault:** Yes, in terms of closing cases.

The fiscal year is not finished but I am expecting we'll be at about 1,500 closed, with 1,500 received, so this year we're about even. There are two main reasons for that this year. One is that we had a lot of illnesses this year at the OIC. Our demographics have caught up with us. Many people had operations or interventions or spouses who were ill. It was strange, anyway. So we've had a decrease in the number of people. Total complaints closed at the end of this fiscal year will come to about 1,500. It's also a symptom of the complexity of the files this year. We're already feeling that. Total inventory at year's end will be about 1,800.

**Mr. John Carmichael:** Okay, so you're down about 25% in your closings.

**Ms. Suzanne Legault:** Yes, according to this projection, which was done over the course of the summer and early fall.

**Mr. John Carmichael:** I understand, and I won't go back through the deficit planning. But in that IBM report, I was interested in your resource projections.

I wonder if you can tell us where you're at. In the 2011-12 resource projection, you talk about numbers of investigators—it's under operations, page 12. I'm curious about your staffing levels. I take it this year the 2011-12 projection is an accurate number.

•(1150)

**Ms. Suzanne Legault:** Yes.

**Mr. John Carmichael:** It looks like you're balancing your legal requirements with partials this year and next year, and then in 2013-14 you take a reduction of two.

**Ms. Suzanne Legault:** I'll see how it goes. Based on what I'm seeing now, it's making our investigations a lot more efficient.

**Mr. John Carmichael:** You mean having a legal—?

**Ms. Suzanne Legault:** I'm talking about having a stronger legal component with the more complex cases. It's working well. I'm going to see how it goes.

My general counsel is not here today, but Emily McCarthy, whom I hired this year, has done an outstanding job, and it's making a big difference.

**Mr. John Carmichael:** Having a varied talent pool is always important. So it's a function of skill reallocation?

**Ms. Suzanne Legault:** Yes.

**Mr. John Carmichael:** With the deficit planning in place, your 39 investigators are maintained. We'll wait and see what happens but it looks as if that stays strong. Your leadership is at five and that stays consistent. Total investigative staff remains strong at 44.

So where are you taking the hit with respect to personnel and getting these cases closed?

**Ms. Suzanne Legault:** It's been on the internal services side. What I've been doing, mostly, is looking at the executive, and trying to reduce the number of EXs I have in the organization. So the remaining ones are working harder.

I have a director of information management who left this year and I haven't renewed that position. I have a director of systemic issues, and I'm looking to integrate that function with the core of the investigation, while moving these investigators under the assistant commissioner. That may save me another EX-1. I have a special adviser who is retiring at the end of this fiscal year. This was a special assignment program and it's a high salary, so this position is not going to be renewed. Those are examples of savings I've made.

I have an EX-1 and an FI-4 in the financial services section, and I will keep only one of those two. I had an assistant commissioner in corporate services; I have not renewed that position. I am going to staff a DG of corporate services instead, and I'm streamlining the corporate services so that they're going to do only corporate services. I'm trying to maximize the streamlining so as to put more emphasis on the investigative function. I had a policy person at an EC-6 level and this position was cut and repositioned. These are just a few of the examples of salary savings we've made this year.

**The Chair:** Great. Thank you, Mr. Carmichael, your time is well up.

Because we have a second commissioner coming before us, I'm going to stop the questions.

I want to ask the commissioner for one point of clarification. You had indicated in your presentation that your office is being required to move, so this isn't a voluntary thing.

**Ms. Suzanne Legault:** I'm having discussions with Public Works and Government Services Canada about the definition of a forced move because the lease at the building where my office is located has been allocated to another department. So we were asked to move by the end of this lease, but we have no money to move at this point so we're waiting for the identification of a source of funds.

If this move takes place, we will be relocating to Gatineau with the Office of the Privacy Commissioner, Elections Canada, and perhaps the Office of the Commissioner of Official Languages. These things are in the works, but we don't know at this point.

• (1155)

**The Chair:** There is no money at this point.

**Ms. Suzanne Legault:** We certainly have no money to do that.

**The Chair:** On behalf of the committee I want to thank you very much for appearing before us.

Because these are estimates, we have to go to a vote on the estimates.

JUSTICE

Offices of the Information and Privacy Commissioners of Canada

Vote 40—Office of the Information Commissioner of Canada - Program expenditures.....\$10,349,000

(Vote 40 agreed to on division)

**The Chair:** We will suspend for two minutes to allow for set-up for the next commissioner. Once again, thank you very much, Madame Legault.

• (1155)

\_\_\_\_\_ (Pause) \_\_\_\_\_

• (1200)

**The Chair:** Welcome back, committee members.

I call Vote 15 under Parliament.

I want to welcome the Commissioner of Conflict of Interest and Ethics. Thank you very much, Ms. Dawson.

I call debate. Ms. Dawson, we'll turn to you first.

[Translation]

**Ms. Mary Dawson (Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner):** Madam Chair and honourable members of the committee, thank you for inviting me to appear before you as you consider our budgetary submission for the 2012-13 main estimates.

With me this morning are Lyne Robinson-Dalpe, Assistant Commissioner for Advisory and Compliance, and Denise Benoit, Director of Corporate Management.

I would like to present briefly the operational and internal management activities that are funded by the \$7.1 million being requested in the 2012-13 estimates.

My office administers two regimes: the Conflict of Interest Act for public office holders and the Conflict of Interest Code for Members of the House of Commons—which together are intended to ensure that public officials, whether elected or appointed, are not in a conflict of interest.

[English]

The general rules of the act on avoiding conflict of interest apply to some 3,100 public office holders who are full- and part-time appointees of the Government of Canada. Of this group, some 1,100 are defined as reporting public office holders. They must meet the reporting and public disclosure provisions of the act and are also prohibited from holding controlled assets and taking part in certain outside activities. These reporting public office holders include ministers, parliamentary secretaries, ministerial staff, and senior government appointees such as deputy ministers, heads of crown corporations, and members of federal boards. Ministers and parliamentary secretaries are subject to further obligations to ensure they are not in conflict of interest.

The code applies to all 308 members of the House of Commons, including those who are also ministers and parliamentary secretaries. The committee on procedure and House affairs oversees the administration of the members' code.

Under the Parliament of Canada Act, I am required to submit two annual reports to Parliament by June 30 each year—one concerning my activities under the act and one under the code. In addition to reviewing my activities, I have taken the opportunity to highlight in these reports issues and concerns I have in relation to the act and the code.

I also submit a list of sponsored travel by members to the Speaker to be tabled in the House of Commons by March 31 each year. In fact, I think that was just tabled. My office is currently fully staffed with 50 employees, and we have significantly reduced the personnel turnover experienced in previous years. As a matter of fact, only one person has left my office in the past 12 months to pursue interests in the private sector.

We are organized into several divisions of which the largest is advisory and compliance, accounting for approximately one third of my staff. This group is responsible for reviewing confidential reports of assets, liabilities, and activities; preparing records of publicly declarable information; and maintaining public registries. To ensure that ongoing staff needs are met, this division has set up a personnel development program. The assistant commissioner of this group is here with us today, as I noted, Lyne Robinson-Dalpe.

The reports and investigations division is responsible for leading investigations into alleged breaches of the act and code, and coordinating the preparation of our annual reports. Legal services plays a critical role in investigations, and also provides legal advice to all the divisions of my office and to myself.

The work of the office is supported by proactive research and communications initiatives, which are coordinated by the policy, research, and communications division. This division coordinates our dealings with Parliament, public communications, and media relations, as well as external relations. It also compiles needed research and contributes to policy development.

Finally, the corporate management section, headed up by Denise Benoit, who is also here to my right, is responsible for our internal procedures and management systems. Her team oversees personnel and information technology issues, our budget, procurement, and management of our facilities, including security.

● (1205)

[*Translation*]

We have put in place, and will continue to put in place, administrative efficiencies to improve our operations and ensure that we are better able to help public office holders and members meet their obligations under the act and the code.

Among these, is the launch in the coming days of a new integrated case management system to deal even more effectively with information related to public office holders and members of the House of Commons. We are also developing service standards for client service and public communications. This will ensure that we are working efficiently and providing timely responses to requests for information or advice.

[*English*]

Overall, the work of my office is focused on prevention, not punishment. My experience is that people want to comply with the rules. The primary goal of my office is help them comply and help them meet their obligations under the act and the code.

Education is a big part of my work, and I pursue a wide range of communications, education, and outreach activities. This past fall, I made presentations to the caucuses of parties with official status regarding the code, and where relevant, the act. Members from my office meet with ministers and their staff, as well as with other organizations whose members are subject to the act, to ensure that people are familiar with the requirements they must meet under the act and the code.

We also investigate and report on cases of alleged non-compliance. Our investigatory activities can be quite unpredictable and complex. Since my office was set up in July 2007, I have released 14 investigation reports under the act or the code.

I submit my reports on examinations under the act to the Prime Minister and bring reports on my inquiries under the code to the House of Commons. All of these reports are made public and are available on the office website. In these reports, where appropriate, I have made comments that go beyond the investigation at hand, and I point to gaps in the regimes or to challenges I have faced in administering the rules.

We are currently involved in a number of investigations, several of which are self-initiated. I follow set procedures in dealing with complaints and investigations. There are other cases that are under evaluation.

This investigatory work takes a certain amount of time and resources. I take very seriously information reported in the media or brought to my attention in any other way. We get numerous inquiries from the general public, and we monitor media reports. Of those that have led to an examination or inquiry, roughly half were by request and half were on my own initiative.

As for my budget, my office has planned expenditures of \$7.1 million for the 2012-13 fiscal year. This amount has remained unchanged for the last five fiscal years. I would like to point out that this past year, as a result of our having a full staff complement, was the first time since we began operations in July 2007 that we fully spent our salary budget of \$4.5 million. The first few years we were setting up, and expenses were lower. We are now fully set up and stable.

The non-salary budget of \$1.8 million is used primarily to cover the cost of arrangements for services in the areas of finance, information technology, and compensation, and to support the day-to-day operations of the office. I expect a lapse of approximately 5% of my operating budget for this fiscal year.

The liquidation of severance allowances accumulated by employees could put additional pressure on the salary envelope of the office, if we decide to follow the trend being set in the public service. Given that the office has no room in its budget to cash-manage the payment of severance allowances, we would propose using the supplementary estimates or seeking reimbursement of eligible pay-list expenditures from Treasury Board to cover these one-time payments, should they happen.

We have also made some investments in our information technology infrastructure. Encryption boxes were purchased to ensure continued protection of information collected and maintained by the office. As mentioned earlier, a new integrated case-management system was developed over the last 12 months to replace an aging application. Also, the infrastructure behind the physical security system needed to be upgraded to meet the standards of the House of Commons, which has taken responsibility for the security system. These non-routine expenditures should lead to long-lasting improvements in systems used by the office.

We're mindful of the budgetary constraints impacting all federal organizations at this time. We regularly and carefully monitor our spending and ensure that our financial practices adhere to standard government practices. We have found efficiencies within our operations to ensure that available resources are directed to the activities that are central to achieving our mandate.

But there is an element of uncertainty in our operations. For example, we cannot control the number or complexity of the investigations we may have to undertake under the act or the code. This can require focusing our resources in that area. These uncertainties may affect the resources we need to fulfill our mandate as we move forward. To date, however, we have successfully managed within the existing envelope and plan to maintain the current level of expenditure.

•(1210)

On our website you will find our reports on annual expenditures for travel, hospitality, and conferences; our annual financial statements; and our quarterly financial reports. While my office is not required to disclose this information I have done so, as I believe it to be a good corporate practice to follow the principles of transparency and accountability.

[Translation]

I am also pleased to report that for the first time, in 2010-11, financial statements of my office were audited by an independent third party, KPMG, and that no concerns were raised with established procedures and information.

Thank you, once more, for inviting me to appear before the committee to discuss the main estimates. I look forward to answering any questions you may have.

[English]

**The Chair:** Thank you, Commissioner Dawson.

We will go to the seven-minute round. It's likely we'll only have time for the seven-minute round today, because we have some committee business to deal with. So members may want to consider splitting their time if they want to have more members on.

I'll go to Mr. Angus for seven minutes, and that includes his question and the commissioner's response.

**Mr. Charlie Angus:** Thank you, Madam Chair.

Thank you, Madam Dawson. As you know, we have enormous respect for the integrity of your office and the work you do. You're now set up under section 81 of the Parliament of Canada Act, where your budget is defined. You don't negotiate directly with Treasury Board; you deal with the Speaker, and that is passed to the Treasury Board. Is that correct?

**Ms. Mary Dawson:** Yes.

•(1215)

**Mr. Charlie Angus:** Thank you.

Our concern is ensuring you have the resources you need to address the numerous issues in your file.

I'm particularly concerned about your last report on March 22 on Mr. Christian Paradis. When he was Minister of Public Works and Government Services, you reported in your findings that he contravened the Conflict of Interest Act by providing special treatment to Mr. Rahim Jaffer, a former caucus colleague, and his company, Green Power Generation, when he directed his staff to arrange a meeting between that company and departmental officials.

Specifically, you found that he contravened section 7 of the act related to preferential treatment, and subsection 6(1), which prohibits office holders from making decisions that would place them in a conflict of interest. Yet it took two years for us to get the finding.

Do you believe you have enough resources to be able to go after offenders like Mr. Paradis?

**Ms. Mary Dawson:** It wasn't a question of my resources. It was a question of the number of witnesses we had to interview. We can't

spread one file among a whole bunch of different interviewers, because we want to have a core group looking at them.

We also had delays in getting documentation and getting some of the witnesses. It took two years. That's the longest investigation we've had to date.

**Mr. Charlie Angus:** Thank you.

This is of central importance to me, because this is the first time we've had a minister found guilty of being in conflict of interest, of putting himself in conflict. In fact, it's the first time we have a sitting cabinet minister who has been found in breach of the law. These are very serious issues, because if unchecked they will speak to underlying potential corruption in government.

**You said:** ...facilitating access to decision-makers or those who may influence them is captured by the Act's prohibition against providing preferential treatment. Ministers are in a position of power and have a special responsibility to ensure that that power is exercised fairly and in a way that is open to all Canadians.

This didn't happen in the case of Mr. Paradis. I'm concerned about the delays and the stalling that may have happened with witnesses and documents, because there was an election in between. If Canadians had known that Mr. Paradis was guilty of this kind of behaviour, they might have been able to make a choice. But he was allowed back into cabinet and is now in a senior position. The Prime Minister doesn't seem to think it takes any action.

If we had managed to get this settled in a timely manner, do you think Canadians would have been better represented?

**Ms. Mary Dawson:** I really can't comment on that. It's up to the Prime Minister to determine what action, if any, to take. My report stands on its own feet. It gives the facts.

**Mr. Charlie Angus:** Thank you for that.

The Prime Minister has said that as long as a cabinet minister doesn't commit what he called "substantial harm"—to me that's not even a bar that gets up above the dirt. As long as a minister doesn't do substantial harm, it seems Bob's your uncle and he can get away with whatever he wants.

I'm asking you this because of the resources. You talk about the uncertainty in your budget because you don't know how many complaints.... But I'm wondering if we're going to need a whole special investigations unit just to keep Mr. Paradis on the straight and narrow.

We have him being found guilty and he's still in cabinet. We have the issue of government offices being moved to Rimouski, apparently to a building owned by one of his relatives. Is that an ongoing investigation?

**Ms. Mary Dawson:** Yes, there's an opened investigation on that.

**Mr. Charlie Angus:** Thank you.

Then we also have the issue of a hunting trip with Monsieur Aubut, who was lobbying the Canadian government to help build a \$400 million arena, and Mr. Paradis was off spending the weekend with him at his lodge. Do you believe you have enough resources to make sure guys like Mr. Paradis actually stay on the straight and narrow?

**Ms. Mary Dawson:** So far I've managed with the resources that I have.

**Mr. Charlie Angus:** Thank you.

I guess I'm concerned because these are serious issues. These are serious breaches of conflict of interest, and yet you have no ability to assess penalties. You say your role is educational.

Mr. Paradis tells us he's going to learn his lessons and go back to business as usual. But when you're in breach of conflict of interest and a serious cabinet minister, don't you believe there should be higher levels of standard of accountability?

**Ms. Mary Dawson:** We're coming up within the next year or so to a five-year review of the act, and I think that will be the time for members to take a look at the rules. At the moment, we have in our legislation the capacity to impose penalties, but it's primarily for delays and that's it.

**Mr. Charlie Angus:** Well, thank you for that. Certainly we see that the Conservatives have loopholes that they're driving Mack trucks through on a regular basis, so your advice will certainly be helpful to us.

I think this is a serious issue for us. In light of Madam Dawson's testimony, I was thinking that it would probably be good for us to move a motion on this: that the Standing Committee on Access to Information, Privacy and Ethics formally request the Office of the Conflict of Interest and Ethics Commissioner undertake an investigation into the potential breach of the Conflict of Interest Act by Mr. Christian Paradis, the Minister of Industry, and allegations that in 2009, while Minister of Public Works and Government Services, Minister Paradis stayed at the lodge of Marcel Aubut, former owner of the Quebec Nordiques, while Monsieur Aubut was seeking funding from the federal government for a \$400 million arena in Quebec City, pursuant to subsection 44(1) of the Conflict of Interest Act.

I think this motion will be found in order and I think it's something we, as committee members, should all be willing to ensure that we have accountability on, and I put it to committee.

**The Chair:** Just before I recognize the point of order, I'm going to treat that as a notice of motion, Mr. Angus, because the matter before the committee has to do with the estimates today. So I'll treat this as a notice of motion and it'll be on for our next meeting.

Mr. Del Mastro, you have a point of order.

**Mr. Dean Del Mastro:** Thank you, Madam Chairman.

You made my point. The motion requires 48 hours' notice. It has nothing to do with the estimates.

• (1220)

**The Chair:** Thank you, Mr. Del Mastro.

Your time is essentially up, Mr. Angus. You have four seconds.

So we'll have Mr. Del Mastro for seven minutes.

**Mr. Dean Del Mastro:** Thank you, Madam Chairman.

Welcome, Madam Commissioner. I appreciated your presentation to the committee today.

First of all, I don't have a lot to say about Mr. Angus' comments. Obviously, he has his partisan political rationale for saying the things he said. As we've indicated, we appreciate and accept the conclusions of the report you just tabled in Parliament, and we do appreciate the efforts that you're making on behalf of Canadians, and indeed, parliamentarians.

In drawing up your budget, your office is not required to follow the same procedure as departments and agencies of other officers of Parliament. In particular, you don't negotiate with the Treasury Board Secretariat. You negotiate directly with the Speaker of the House of Commons, who then submits to Treasury Board on your behalf.

How do you determine the resources that your office requires? When I look back over the last couple of years, in fact, you have planned spending, you have a budget, but your actual spending tends to come in at anywhere between 10% to 14% below your budget. How have you been able to maintain that? Are you submitting with some due diligence—i.e., in case you should require additional resources? Are you putting that into your budgetary request at the beginning of the year?

Maybe you can enlighten us as to what that process is.

**Ms. Mary Dawson:** Yes. Well, as I think I mentioned, in the past years we have not spent our whole budget. This year we've come fairly close. In fact, we went over on our salaries slightly, but a little bit under on our other.

Basically, I think we're functioning as we should be at the moment. One never knows, but we do have a little bit of a pot in case of emergencies, but it isn't a big one. Maybe I should ask my corporate person to add to that.

**Mr. Dean Del Mastro:** Sure, that would be great.

**Ms. Denise Benoit (Director, Corporate Management, Office of the Conflict of Interest and Ethics Commissioner):** Just to pick up on what the Commissioner mentioned, our biggest challenges over the last few years has been on the staffing issue, and now that we're fully staffed it has a direct impact on our spending. So what we are lapsing at the end of the day, which will be close to maybe 5% to 6% of our budget, is really the reserve that the Commissioner is keeping for investments that will need to be done at the last minute.

**Mr. Dean Del Mastro:** Okay, that's great. Thank you.

In the past, you said that the Speaker doesn't do a critical analysis of these amounts. Has that changed or is the process still the same. Essentially, you submit what you feel is appropriate, and the Speaker's office essentially....

I guess what I'm asking is does the Speaker's office rubber stamp this or do they come back to you and ask you some questions about the budget that you're preparing?

**Ms. Mary Dawson:** I'm not sure exactly what they do, but I haven't had them come back to me.

**Mr. Dean Del Mastro:** Okay. All right.

Do you think it would be helpful for your office to submit your own proposal to Treasury Board? Would that be a structure that you think would be better? Or are you content with the structure the way it works today?

**Ms. Mary Dawson:** I'm satisfied with the structure. It's very important that my office be independent of the government—

**Mr. Dean Del Mastro:** Yes.

**Ms. Mary Dawson:** —and so I'm not looking for a closer tie with Treasury Board or the government.

**Mr. Dean Del Mastro:** Okay, very good.

Ms. Benoit, you just indicated that you're now fully staffed. Do you feel that the budget that you have is providing you with the adequate resources to create your legislated mandate?

**Ms. Mary Dawson:** Yes. At the moment, it looks like we're going to be fine.

**Mr. Dean Del Mastro:** Okay.

So concerns raised, like the ones by Mr. Angus for example, that it may seem that it takes you too long to report back, this doesn't have anything to do with staffing at the moment. This has more to do with the actual mechanics of completing an investigation.

**Ms. Mary Dawson:** That's right. Sometimes witnesses are simply not available for a couple of months. Sometimes it takes time to get documents. Sometimes there are a lot of witnesses. All those things happened in the most recent case.

**Mr. Dean Del Mastro:** Okay.

In a case by Mr. Angus, I want to go back to it just briefly. As I said, I often look at these things and see the partisan political purposes behind it. But the reality is that I didn't think there were a lot of new facts in the report you presented. I believe Mr. Angus, if he wasn't part of it, certainly a number of his colleagues were, when Mr. Jaffer came before committee. I didn't think there were any new facts per se, but I thought that the findings pertaining to the facts of the case were what was valuable to government, and in fact, something that, as I said, we've appreciated.

Would you agree that there weren't a lot of new facts in the report? It was more looking at the facts of the case with respect of the act.

• (1225)

**Ms. Mary Dawson:** Yes. We had to spend quite a bit of time in this case comparing the situation of Mr. Jaffer with other situations. That took us some time.

**Mr. Dean Del Mastro:** Okay, I appreciate that.

How many investigations did you conduct in the past year? Do you have that number?

**Ms. Mary Dawson:** Well, I have the number. We're conducting at the moment about seven, I believe.

**Mr. Dean Del Mastro:** Seven.

**Ms. Mary Dawson:** Yes. We have 14 files open.

**Mr. Dean Del Mastro:** Okay.

What is the source, most often, of the complaints that you're receiving? Are they most often from political parties? Are they from Canadians at large? Are they from media? What is the source of the complaints that your office reviews?

**Ms. Mary Dawson:** As I mentioned, about half of the investigations were on request, and only a member of Parliament

or a senator can request. So those are the seven. Then, the other half are largely as a result of either media reports or private citizens.

**Mr. Dean Del Mastro:** So your office will self-undertake an investigation? For example, if you see something in the media that you're concerned about, you may well undertake an investigation into that, whether an MP or a senator requests it or not?

**Ms. Mary Dawson:** Yes.

**Mr. Dean Del Mastro:** Okay. Thank you very much.

Thank you very much, Madam Chair.

**The Chair:** Thank you, Mr. Del Mastro.

Mr. Andrews, you have seven minutes.

**Mr. Scott Andrews:** Thank you, Madam Chair.

Thank you, Ms. Dawson, for coming today, and thank you for the work and the reports that you do.

You give us some good reading, educational reading, and another report tabled in Parliament today, so thank you for that.

Obviously the issue of Christian Paradis is here at hand, and it totally lacks the judgment ministers should have. This minister has attended exclusive fundraisers with clients, with public works at the time he was public works minister. He's the first cabinet minister in Canadian history to be found in violation of the Conflict of Interest Act, and now we learn that he went moose hunting and stayed at an exclusive lodge with the former owner of the Quebec Nordiques at the same time the federal government was lobbied to finance a new NHL arena in Quebec City.

All of this is very troubling.

Getting back to the report that you tabled on Mr. Paradis less than a week ago, you put substantial resources into a two-year investigation—a 34-page report—and the Minister was found to have contravened the Conflict of Interest Act.

Then the Prime Minister comes out and just shrugs it off, says thank you very much, and does absolutely nothing.

Madam Commissioner, do you feel that your work is in vain, when there are really no consequences, when you put all this effort in to a report, and then nothing comes of it?

**Ms. Mary Dawson:** No. I think I thoroughly discussed a certain area of the act, which I hope all public office holders will understand better. I don't think it's time lost at all. I made additional observations in that report as well, relating to other aspects that I noticed.

I do try, as I said in my remarks, to take opportunities whenever I can to elucidate the rules.

**Mr. Scott Andrews:** You're very familiar with the Conflict of Interest Act. Is there anywhere in the Conflict of Interest Act where it refers to substantial conflict?

**Ms. Mary Dawson:** Sorry, what was that?

**Mr. Scott Andrews:** Is there anywhere the Conflict of Interest Act refers to substantial conflict?

**Ms. Mary Dawson:** No.

**Mr. Scott Andrews:** No, but the Prime Minister seems to say that there was no substantial harm done, and that is defined nowhere in the act.

Do you think that there should be mandatory minimum penalties in the Conflict of Interest Act, and if so, that government ministers can't ignore them?

**Ms. Mary Dawson:** I wouldn't go with mandatory minimum penalties. I think some areas of the act could benefit from some penalties. Not all of them, probably, but some.

I don't believe in mandatory minimums, myself.

• (1230)

**Mr. Scott Andrews:** Thank you.

Neither do I.

It would seem to me that the Conflict of Interest Act is a tool for deterrence. In your presentation you mentioned prevention, not punishment.

Do you think that deterrence is weakened when there's no action taken to those who contravene the act?

**Ms. Mary Dawson:** I think having a report written about you as having contravened the act is a result. It is a significant result.

**Mr. Scott Andrews:** But is there deterrence?

**Ms. Mary Dawson:** I would think so. Would you like to have a report written about you as having contravened the act? I don't think so.

**Mr. Scott Andrews:** Well, at the end of the day, if there are no consequences, it's just a slap on the wrist.

**Ms. Mary Dawson:** Well, people are noticing it.

**Mr. Scott Andrews:** Oh, that they are.

Commissioner, Marc Garneau and I sent you a letter today, asking you to look into the reports of Minister Paradis, when he went to a moose hunting camp and stayed at an exclusive lodge.

We believe that the Minister has violated sections 4, 5, 6, 7, 11 of the act, and 9 and 14 of the code. We hope you will do this investigation. I know this happened only this morning, so I'm not going to ask you to comment, but hopefully you'll give that some consideration.

On another subject, you've been asked by a member of the Newfoundland legislature to look into Loyola Sullivan, a former fisheries ambassador and a defeated Conservative candidate, who is now working for a big fishing company that's in many dealings in the province, internationally in China, and in other places. There are many aspects happening in Newfoundland on that. Are you planning an investigation into Mr. Sullivan?

**Ms. Mary Dawson:** That's an example of a request that does not come from a member, and therefore it's where I would self-initiate if I decided.

I'm actually looking at the circumstances in that case.

**Mr. Scott Andrews:** Okay.

Just so that we know, if you do self-initiate an investigation, what would be the timeline on your deciding on that?

**Ms. Mary Dawson:** Usually, it varies. It depends on how quickly I can form an opinion as to whether there's the substance of an investigation to go forward with.

**Mr. Scott Andrews:** The Conflict of Interest Act does say you're not allowed to undertake anything from a year from a designated public office holder, is that correct?

**Ms. Mary Dawson:** I am not allowed to...? No.

**Mr. Scott Andrews:** Pardon me?

**Ms. Mary Dawson:** Sorry, I don't think that's correct.

**Mr. Scott Andrews:** No?

**Ms. Mary Dawson:** No.

**Mr. Scott Andrews:** The fisheries ambassador has a one-year cooling-off period.

**Ms. Mary Dawson:** Oh, he has a cooling-off period, but that has nothing to do with my investigative powers. There are certain rules that apply for one year after a public office holder leaves—two years if you're a minister. That's whether there's an infraction or not. Then I have 10 years to decide whether to investigate and that's when I become aware of the thing.

**Mr. Scott Andrews:** Does Mr. Sullivan fall under your mandate as a public office holder?

**Ms. Mary Dawson:** Yes, he was a public office holder.

**Mr. Scott Andrews:** When he was the fisheries ambassador.

**Ms. Mary Dawson:** Yes.

**Mr. Scott Andrews:** I'm looking forward to your comments on that particular thing as well.

Thank you very much, Madam Chair.

**Ms. Mary Dawson:** Thank you.

**The Chair:** Thank you, Mr. Andrews.

Mr. Calkins, for seven minutes.

**Mr. Blaine Calkins (Wetaskiwin, CPC):** Thank you, Madam Chair.

I may not use all of my time, in which case I'll see if one of my colleagues here would like to use the remainder of that time.

Thank you, Ms. Dawson, for being here today to address some of the concerns and speak to the estimates. I'm going to be talking about some of that. I know you've already deferred to Ms. Benoit. My questions may be specific enough. I'll leave that to your discretion, though.

In going through the information that's been presented to me, I want to first ask you some questions about your organization chart. You've outlined in your testimony that you have 50 employees. On your organizational chart, under corporate management you have 10 employees.

Could you tell me what those roles would be, what kinds of employment? Is that human resources? Who are we talking about in corporate management?

**Ms. Mary Dawson:** I'll let Denise take that one.

**Ms. Denise Benoit:** Under corporate management, we have two employees who are HR. Of course, we do our own staffing at the office. We have two people working in finance. We also have one person who is the coordinator of all administrative services at the office.

Because we've been developing a new case management system, we also have a business analyst who's been able to really translate our business requirements properly, so that the system would meet what we need. We also have information management, so records management, of course.

• (1235)

**Mr. Blaine Calkins:** So that would make up the difference. Human resources is two, financial services is two, an administrative coordinator is one, and a business analyst is one. That's six. The other four would be.... How is that?

**Ms. Denise Benoit:** There is me and my administrative assistant, and there's also one person on maternity leave who works in finance. Yes, that's my team.

**Mr. Blaine Calkins:** Okay, that's interesting.

When you take a look at the overall complexity of various organizations that do this, and I'm just asking a question, they need to come to a span of control through management. In the private sector, we see two human resources people, for example, for every 100. Yet, you have two for 50. Is there something complex going on in this office that you need two human resources people, and two financial services people? To change the aspect of what's required in the private sector compared to what's obviously here in the public sector seems to be out of line.

I used to work in information technology, with overly complex teams dealing with overly complex problems. You have a 4:1 ratio of corporate management in your organization. Yet, in the private sector I've never seen anything fewer than 8:1 or 9:1.

**Ms. Denise Benoit:** Because we are under Parliament, we try to respect all the policies and guidelines that are in the public service. As you can imagine, there are a number of policies that need to be applied and that requires a lot of expertise within our office. If we rely on one person only, and if that person leaves, then we're left with no services at all.

On the financial side, we have one person who's the accounts payable person, so at a more junior level. Then we have someone who does the reporting, who's at the senior level. The people are definitely not at all the same levels, so it's different. They bring different expertise to the office.

Because we're independent, we're not relying on anybody else to do our HR. On the financial services part, it's the same issue.

**Mr. Blaine Calkins:** I understand the independence notion, so let's explore that for a moment, shall we? I think independence is absolutely critical when it comes to people working in advisory and compliance—when it's the commissioner herself and her staff, people working on reports and investigations, or people working in policy research, communications, and legal services. But when it comes to corporate management, where is the justification—the rationale—for not using the services that are already available?

Is paying somebody working on advisory compliance any different from paying somebody else working in the Government of Canada, or working at the expense of taxpayers? I would just like to know what the rationale would be for maintaining independence for somebody simply in charge of keeping track of vacation days and paying the staff.

**Ms. Denise Benoit:** When we can, we make use of arrangements. For example, we have MOUs with the House of Commons for information technology, which is something we could just not do on our own. We have an MOU with the Library of Parliament for the actual accounts—issuing cheques—because that is not an expertise that we have. Compensation is done by Public Works, so we're using an agreement with Public Works to do our pay. When we can, we do go ahead and make these arrangements, but there are some services that we felt were better kept in-house.

**Mr. Blaine Calkins:** This gets more interesting because now you are obviously utilizing some in-house services, which don't appear on your organization chart. They are doing some of the workload for you, and yet you still have a 4:1 ratio.

I'm not going to dwell on it. I would just hope that everything is being done as efficiently and effectively as possible.

I know that KPMG has done an audit, Madam Commissioner.

**Ms. Mary Dawson:** Yes.

**Mr. Blaine Calkins:** In their audit, did they do a performance audit, or was it simply an audit making sure that it's compliant with the generally accepted accounting principles, and so on? Was there any attempt or any interest in doing a performance audit, or is it too soon in your office?

**Ms. Mary Dawson:** I'll ask Denise to answer.

**Ms. Denise Benoit:** At this point, the primary focus was really to look at it to make sure that all our practices were in accordance with accounting principles. As we move forward, that is something we actually are mentioning. I don't know whether it's in our annual report or somewhere else, but we're going to start looking at doing internal audits of our processes to see if there is room for change and improvement.

**Mr. Blaine Calkins:** Okay, when it comes to the broader interests of the taxpayers' interests, when it comes to everything that's moving forward with the deficit reduction action plan and so on, I can see here, based on the budget information that you laid out for us, there was no request made to you. Because of your independence, there was no request made.

Was there any consideration given to try to do the Information Commissioner's fair share of reducing the cost to taxpayers?

• (1240)

**Ms. Mary Dawson:** Do you mean the Conflict of Interest Commissioner? I do the same thing myself once in a while.

**Mr. Blaine Calkins:** I'm sorry, Conflict of Interest Commissioner. We have so many commissioners here. I apologize, Ms. Dawson.

**Ms. Mary Dawson:** I understand that we are actually under the level that even the government people.... We are a small enough organization that we were not targeted for these reductions.

Is that correct, Denise?

**Ms. Denise Benoit:** Exactly. When you look at organizations in the public service, there was a threshold where if people had a budget—I can't remember what the exact amount was—these organizations were not asked to provide savings.

In our situation, we're a relatively new organization that is still building, so at this point, as we're finally reaching the level where we wanted to be at, it is difficult to turn around and offer savings. We've made a commitment not to increase our expenditures. We've been asking for the same budget as the last budget, so that's our commitment. We haven't come before this committee for additional funding over the last few years.

**The Chair:** Mr. Calkins, you are well over your time.

**Mr. Blaine Calkins:** Are you certain, Madam Chair?

**The Chair:** I am very certain. I have the clock in front of me.

Thank you, Mr. Calkins.

**Before I release the commissioner, I now need to call the question on vote 15, under Parliament.**

PARLIAMENT

Office of the Conflict of Interest and Ethics Commissioner

Vote 15—Program expenditures.....\$6,338,000

(Vote 15 agreed to on division)

**The Chair:** It is carried on division.

Commissioner Dawson, I want to thank you and your staff very much for appearing before committee. We look forward to the statutory review of the act when it's tabled in Parliament.

I'm going to suspend for two minutes. We do need to go in camera because of the nature of the business that I need to bring forward to the committee, so I'll suspend while we move in camera.

*[Proceedings continue in camera]*







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