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Chair

Mr. Bob Zimmer

Standing Committee on Access to Information, Privacy and Ethics

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• (1545)

[English]

The Chair (Mr. Bob Zimmer (Prince George—Peace River—Northern Rockies, CPC)): Good afternoon. I call the meeting of the Standing Committee on Access to Information, Privacy and Ethics to order. It's meeting 80 on Wednesday, November 29. Pursuant to Standing Order 81(5), we are examining supplementary estimates (B) 2017-18, vote 1b under the Office of the Commissioner of Lobbying and vote 1b under the Offices of the Information and Privacy Commissioners of Canada, referred to the committee on Thursday, October 26, 2017.

Our apologies for the other day for being delayed in the House after many votes, and for making you have to come back, but here we are.

Mr. Cullen.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): I have further apologies to Madam Michaud. I just wondered if it was okay to move my motion now. We were going to move it last meeting, and the votes conflicted, so I'd like to see if we can move it now. It's without the expectation of spending a great deal of time on explanation.

The Chair: Yes, the floor is yours.

Mr. Nathan Cullen: For the committee's recollection, this is a motion I put forward a little while ago. I'll read the motion, and then we can have a quick talk about it. It says:

That, notwithstanding the motion adopted by the Committee on Monday, October 30, 2017, regarding the Conflict of Interest Act study, the Conflict of Interest and Ethics Commissioner be invited to appear before the end of her tenure set for January 8, 2018.

We've checked with the commissioner, and I believe she is available when we have meetings on December 11 and December 13. The committee has no committee business during those days, so that would work.

The reason we moved this forward is initially when I stood down.... I think I stood down on the motion. I don't think we ever got to vote on it because the idea was that.... I remember having the exchange with Mr. Erskine-Smith that we would just simply invite her through estimates, not realizing that she didn't have any estimates. Only the commissioners of Information and Lobbying had estimates; the Ethics Commissioner did not. We can't call a commissioner forward if they haven't asked for more money during the estimates process.

That is compounded by the fact that her term is up on January 8. She's been extended twice already, and as the Ethics Commissioner has said, she has no desire or intention to be extended a third time. That would be a 24-month extension, which stops being an extension. That's just a new hire.

I perceive this as an exit interview, because in order for us to call her as a witness in the future beyond her date as commissioner, if she were not willing to come—and some of us may forgive her for not wanting to come back here if she's just left—I wouldn't want any circumstance in which we'd have to subpoena her. I think an exit interview is a very natural and normal process for a long-serving public official who has played a vital role for all of us as members of Parliament.

She's made recommendations to this committee before about the act, and I imagine that will be the topic of discussion for us. She also has valuable information and experience that is unique because she's the only Ethics Commissioner our country has ever had, as far as I know. Why not take the opportunity? She's available. We're available. Let's do this.

That's my motion.

The Chair: We've all heard the motion. Is there any debate?

Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.): My understanding was that she was going to come in January or February, and we were going to begin a study on her recommendations from 2013. The idea was not that we were just going to bring her in on estimates, but it was to be a more fulsome study of her recommendations. I don't know why that changes.... If she's not the current commissioner, she'll be the past commissioner and she'll still have made those 2013 recommendations. If we have a new commissioner at the time, we can bring them both in, frankly, and have that conversation.

Given the schedule we have, my view is—and I think it's shared by my colleagues—that we've had this discussion, and let's stick with the schedule we have.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: The discussion we had was informed erroneously at the time that we would see her in a couple of weeks anyway during this estimates process. I was wrong in that. I assumed she had made an estimates request, and she hadn't.

Mr. Nathaniel Erskine-Smith: That was not my understanding.

Mr. Nathan Cullen: To the notion that, in late January or February, she would be a private citizen, that may be of some benefit and it may not. Since she is the Ethics Commissioner right now in standing, it is this committee's prerogative and request that we can call her forward. She's available. We aren't busy.

Clearly an exit interview is a normal business practice in any business I've been involved in. The idea of exit interviews is that you do them before the employee leaves. You don't do them after they've left, because getting them back, in my experience, can sometimes be tricky, especially one who's been under a great deal of both public and private attention.

The notion I put forward is this: why not have the conversation? It certainly does not do us any harm, and I think it could greatly inform the process and the questions we would put to a new Ethics Commissioner. It would also help me, at least, and I imagine other committee members, frame the scope of any study we're going to do on the ethics rules as they sit right now based on her most immediate and current experience.

The Chair: Is there further debate?

Mr. Kent.

Hon. Peter Kent (Thornhill, CPC): Thanks, Chair.

I would support the motion, basically because a sitting commissioner has a greater ability and greater authority to speak about the post she's holding, about the investigations, the reports, and the authority she has, and the responsibility that she still has. I think it would not be unexpected to find that if she appeared before the committee after the fact, after she had stepped down, she would be exceptionally discreet in making any comments on the operations of that office as a former commissioner.

If she's available, and if she's willing to talk to us—again, with some of the limitations that we know she could well invoke—it would be refreshing to hear her views about how the office has operated, and how she believes and recommends it should operate in future, after her having served for a very long term as commissioner, and during some fairly turbulent times.

The Chair: We'll have Mr. Cullen, and then Mr. Erskine-Smith.

Mr. Nathan Cullen: I'm trying to imagine the scenario as well if there were a current and a former commissioner sitting side by side, a scenario in which the former would want to, out of respect for the new one, be more than discreet, actually. That's the concern. She's the sole person in that position right now and can solely speak with authority, without any concerns about somebody sitting beside her who is standing in the position. To assure committee members, because the Ethics Commissioner has to always be discreet, I'll say this publicly. There's no interest in my mind in asking questions directly related to any of the investigations she has ongoing right now, because her answer, I assume, properly would be, "I'm not going to talk to you about that."

Also in the current conversation has been the notion of certain aspects of the ethics act that she has looked at and recommended on previously—eight months ago, I think, was the last one, and then back in 2013. If she has any reflections as she's leaving the post, it's weeks later that she will no longer be the Ethics Commissioner. My

experience has been that's when people can often be most instructive and most constructive. In three weeks, she won't be the Ethics Commissioner anymore. I find that then people are much freer to speak directly to things that we need them to speak to rather than having to worry about the next two, three, or four years of their time in the office.

I think this is an opportunity for us. We have the time. She has the time. It certainly doesn't hurt anything that we're looking to do, so why not take the opportunity that's available to us?

• (1550)

The Chair: Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith: We may not have the time, which is I think why we suggested January or February in the first place, but my understanding is that if we're discussing the 2013 recommendations, nothing ought to change, whether she's sitting or not sitting. We're talking about her 2013 recommendations, but this idea of an exit interview is a different way of framing the conversation.

I wouldn't mind if we were to stand down for five minutes. I have my views, but I wouldn't mind consulting my colleagues on that proposal.

The Chair: We can. We have witnesses today, but again, the committee is in charge of its destiny.

You have five minutes. I'm going to stick to that. In five minutes, we'll reconvene.

• (1550)

(Pause)

• (1555)

The Chair: Despite the humour, we'll call the meeting back to order.

Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith: Having consulted my colleagues, I think we're all of the same view that we just stick with the schedule as we've previously agreed upon. As I've said, I don't think there's any magic in having.... She's still going to be the former commissioner speaking to a decade of experience, and certainly still speaking to her 2013 recommendations, which is the point in the first place.

That's the view from this side of the table.

The Chair: Is there any further debate?

We'll call the vote.

Mr. Nathan Cullen: May we have a recorded vote?

The Chair: A recorded vote is what I assumed.

(Motion negatived: nays 6; yeas 3)

The Chair: Thank you, Mr. Cullen.

We'll proceed to hearing from our guests today.

Go ahead. Our apologies again for once more delaying you. Committee business is what it is.

Thank you.

Ms. Layla Michaud (Deputy Commissioner, Investigations and Governance, Office of the Information Commissioner of Canada): Mr. Chair, thank you for the opportunity to appear before you today. My name is Layla Michaud. I'm the deputy commissioner, investigations and governance. I'm also the chief financial officer for the Office of the Information Commissioner of Canada.

I'm here to seek the approval of the committee for supplementary estimates (B).

[Translation]

The Access to Information Act establishes the Information Commissioner as the first level of independent review of institutions' decisions on disclosure in response to access requests. Requesters who are not satisfied with how institutions responded to their access request have the right to complain to the OIC.

The Commissioner is required by law to investigate all complaints within her jurisdiction. These investigations are conducted in an efficient, fair, and confidential manner. For the past few years, we have been of the view that the current funding levels for the OIC are insufficient for the office to properly fulfill its mandate to protect Canadians' access to information rights.

[English]

Underfunding of this office has been endemic for years. We have made repeated requests for additional permanent funding. To date none have been accepted.

Last year this committee approved temporary funding for the office of \$3.4 million for one year. This funding was a fit-gap measure put in place pending the adoption of Bill C-58. With this funding we resolved 2,245 complaints. This was the highest number of complaints resolved in any year of Commissioner Legault's mandate.

Last year the Office of the Information Commissioner made another request for funding but this request was not included in budget 2017. However, since the office lapsed a portion of its funding in 2015-16 and in 2016-17, we now seek your approval through supplementary estimates (B) to reprofile this lapsed funding in the amount of \$1.8 million. With these funds, the \$1.8 million, we plan to hire 14 consultants and resolve a total of 1,900 complaints.

The office senior management team will closely monitor results. Our performance is also followed by our external audit and evaluation committee on an ongoing basis. However, this request is again a fit-gap measure and will not resolve the office's ongoing funding issue.

• (1600)

[Translation]

For this reason, a permanent funding solution continues to be needed for the office to properly fulfill its mandate and provide the independent oversight Canadians deserve. Hence, we will continue to work with the Treasury Board of Canada Secretariat and the Department of Finance to ensure Canadians' access rights are protected.

In closing, I ask that you approve this request to re-profile the \$1.8 million in lapsed funding, through Supplementary Estimates B.

Once again, thank you, Mr. Chair, for the invitation to discuss our request for funding and I hope we have the opportunity to discuss a more permanent solution for the office's funding in the future.

[English]

I would now be pleased to answer your questions.

The Chair: Thank you, Ms. Michaud.

We will start off our seven-minute rounds with Madam Fortier.

[Translation]

Mrs. Mona Fortier (Ottawa—Vanier, Lib.): Thank you, Mr. Chair.

Ms. Michaud, thank you for answering our questions this afternoon.

In the OIC's 2017-18 departmental plan, you stated that current staffing levels are insufficient to address the current inventory of complaints, absorb the number of new complaints and undertake complex investigations.

What level of staffing do you think you would need to address complaints and undertake investigations in a timely manner?

Ms. Layla Michaud: In the past few years, we have made repeated requests for permanent funding.

In your analysis, we look at the trend in complaints, our inventory and the number of complaints received every year.

Three or four years ago, when we did this analysis, we said that we needed about \$4 million per year for the first three years in order to be able to bring our inventory down to almost zero, to 500 complaints. In addition, we needed a little over \$1 million on an ongoing basis. That analysis was carried out three or four years ago. At that time, we were receiving between 1,700 and 1,800 complaints a year. Last year, we received over 2,000, just like the previous year. This year, if the trend keeps up, we expect to receive more than 2,400. The demand is much higher than what we are able to offer. We therefore have to regulate supply and demand. We should conduct another analysis on that.

Three or four years ago, we needed \$4 million per year for three years, in addition to an ongoing amount of just over \$1 million a year. In whatever shape or form, Bill C-58 will be a game changer.

Mrs. Mona Fortier: That was exactly what I was going to ask in my next question.

Could you briefly elaborate on that? If Bill C-58 was passed and implemented, would your budget and your ability to continue your work be affected?

Ms. Layla Michaud: First, we must see the final version of the bill. Second, one of the issues we have to tackle is the transition. That's extremely important. How will the transition be handled?

If Bill C-58 becomes law in January and all the complaints received up to January are no longer managed in the same way as the new complaints received under the new legislation, we will have to manage two different systems. We need to know how the transition will be handled. How will we manage those two systems?

Today, our inventory has more than 3,400 complaints. If the bill becomes law in January or February, those 3,400 complaints will have to be processed under the new system. The last thing we want is to have an inventory under the new provisions. We will have to do a thorough analysis. As we often say, “the devil is in the details”. When we analyze the bill, which we have already started, we must pay attention to all that. For now, it's very difficult to give you an amount.

• (1605)

Mrs. Mona Fortier: Since I have the answers to my two questions, I will share my time with Mr. Picard.

Mr. Michel Picard: Good afternoon.

Could you tell me how you arrive at the amount of 1.8 million in lapsed funding?

What does that amount correspond to?

Ms. Layla Michaud: You want to know what the \$1.8 million corresponds to?

Mr. Michel Picard: You are asking to re-profile lapsed funding for two fiscal years: 2015-16 and 2016-17.

Ms. Layla Michaud: The breakdown of the OIC's expenditures is as follows: 80% is spent on salaries and 20% on operations. The amount of \$1.8 million includes approximately \$275,000 for 2015-16, and \$1.5 million for 2016-17.

Mr. Michel Picard: So we are talking about amounts that have not been spent during the fiscal year.

Do the years during which the amounts were not spent correspond to the three years for which you said the funding was \$4 million?

Ms. Layla Michaud: No.

Mr. Michel Picard: Could you clarify why the \$4 million comes up three times and what it is for?

Ms. Layla Michaud: I was asked earlier how much money would be needed. We have made repeated requests for permanent funding. Three or four years ago, we estimated that we needed about \$4 million over three years to reduce our backlog, followed by a lower amount in permanent funding. However, we did not obtain that funding.

Mr. Michel Picard: How much did you receive instead of the \$4 million?

Ms. Layla Michaud: We received nothing.

Mr. Michel Picard: So you had no funding. How were you able to save money under those circumstances?

How much funding did you have?

Ms. Layla Michaud: Let me clarify that, in terms of the \$1.8 million, we did not receive additional funding for 2015-16, but that we did not spend \$275,000 of our overall allocation for that same year.

[English]

The Chair: You have 30 seconds left, if you want to use them.

Mr. Michel Picard: I'll give that to my colleagues. I'll continue in the next round.

The Chair: Next we move over for seven minutes to Mr. Kent.

Hon. Peter Kent: Does the \$4-million figure still apply in terms of addressing the current backlog of 3,400?

Ms. Layla Michaud: We will have to do another analysis to see if \$4 million will be enough. Based on the form that Bill C-58 is going to take—

Hon. Peter Kent: Yes. Whether it's a two-tier system or not....

Ms. Layla Michaud: Exactly. We will have to do a complete analysis. Three or four years ago, when we tried to get more money for the office, the analysis was that \$4 million for three years would be needed to eliminate the backlog, plus around \$1.5 million on a permanent basis.

Hon. Peter Kent: Okay.

Ms. Layla Michaud: But we did not get that money, just to be clear.

Hon. Peter Kent: It would seem to an outsider that having to hire new staff would bring a certain inefficiency. It would take time to train auditors or respondents to get up to speed to respond to complaints. Has that been your experience?

• (1610)

Ms. Layla Michaud: Yes. Actually I can talk about last year. We received \$3.4 million and we were able to hire FTE government employees and consultants as well. Then we had to train them. We have a good training program. We had to mentor them. We have a good mentoring program as well. Our directors were really involved, so year after year we're learning from what we did the year before.

With the \$1.8 million this year, we have already been able to hire consultants to help us to resolve complaints.

Hon. Peter Kent: Do you measure by averaging complaint costs, unit costs? Is there an average cost to resolving a complaint?

Ms. Layla Michaud: Yes. As you know, there are different ways to do costing. You can take your complete authority and divide by the number of complaints, and it's going to give you a number. What you can do as well is look at direct cost for the program divided by the number of complaints, and you'll get another number.

We know that for administrative complaints, it's now costing us between \$400 and \$800 per complaint. Then we know that for exemption complaints.... It depends on the type of complaint. If you ask me how much, for example, the long gun registry investigation cost.... I don't have the number with me, but it was a really intensive investigation. Lawyers were hired externally. Some of our lawyers were involved as well. The commissioner was heavily involved in that investigation. It was a very expensive investigation.

It depends.

Hon. Peter Kent: In terms of managing the backlog, do you triage the complaints depending on the challenges and the number of human resources that might have to be applied—lawyers, or the commissioner herself?

Ms. Layla Michaud: Yes. I'm a big believer in analytics and big data and so on. I'm always looking at our inventory. I'm always looking at the types of complaints we have. As well, we're using the capacity of our people. Some people are better at investigating missing records, so we're giving them missing records complaints. So yes, we're doing that. We're constantly looking at our inventory and we're trying to be as efficient as possible.

Another thing we're doing is interest-based negotiation, mediation. We're having numerous discussions with complainants. We're having discussions with departments. We're trying, without giving the information, because we cannot give the information...but if we see that the complainant, for example, is interested in one report of 25 pages, or even if there are 1,000 pages, we try to focus the complainant and the institution on just the 25 pages. It means that complainants are getting the information they're looking for more quickly, and for us, it's a win as well, because it reduces our workload, and it's the same for the department. I think it's a win-win-win. As much as possible, we're trying to do that. It's not always possible, but when it is, we're trying.

Hon. Peter Kent: How important—and I would think it would be very important—is the training of the respondents at the various departments and agencies in terms of preventing complaints—in other words, responding in a way that would minimize the number of complaints you have to process?

•(1615)

Ms. Layla Michaud: What we see with proactive disclosure, as an example, currently.... I was under the impression a few years ago, when there was more proactive disclosure, that the number of access requests would drop, and the number of complaints would drop, and so on, but that isn't the case. The trends show that yes, we're doing more proactive disclosure, but bottom line, Canadians are still looking to get information from their government. Hopefully, at one point, we will get no complaints. That would be super, but at present, it's not the case.

There is the duty-to-assist provision as well, where institutions can speak with requesters to see what they're looking at, and I know that some institutions are doing it really well. We're also trying to have that type of discussion as much as possible before beginning an investigation. It's helping a lot.

Hon. Peter Kent: Is it right to conclude that you're getting more co-operation from some departments and agencies in the duty to assist?

Ms. Layla Michaud: Duty to assist between the department and the requester...? Yes, we're trying to collaborate with the department as much as possible. We all have our piece of the puzzle. We have different roles. At one point, we're in the same boat. We're trying to collaborate as much as possible. Sometimes we have to agree to disagree.

Hon. Peter Kent: Thank you.

The Chair: Thank you.

Mr. Cullen, you have seven minutes.

Mr. Nathan Cullen: We heard from many witnesses that Bill C-58 was going to create problems in getting access to information from certain government agencies. If problems are created, complaints go up and the costs to your office also go up in trying to resolve these complaints. Is that a fair, logical extension?

Ms. Layla Michaud: We need to see the form that Bill C-58 is going to take at the end of the parliamentary process. A report was tabled by the commissioner, as you know. She was here before you a few weeks ago. Amendments were proposed by this committee. We're now at the third reading stage. We are analyzing the proposed amendments. When our analysis is done, the commissioner will comment further on Bill C-58.

Mr. Nathan Cullen: I'll save you some time. The core pieces of the commissioner's analysis around not applying to the Prime Minister's Office or to the minister's office, all remained in the bill. They were not amended. Those amendments were proposed and rejected.

The President of the Treasury Board was in the House recently discussing this bill and suggested that proactive disclosure was going to solve many of the complaints and problems. You just said the opposite.

Ms. Layla Michaud: When we look at the trends, we see more and more proactive disclosure but the number of access requests does not decrease. Last year, I think 75,000 access requests were made to all the different departments. There is an increase year after year, and there is more proactive disclosure. At one point, are we going to achieve—I don't have the word in English—in French it's *un équilibre*? I don't know.

Mr. Nathan Cullen: It's equilibrium, balance, sure.

Did the government come to you at any point for a cost estimate of the impacts of Bill C-58 on your department?

Ms. Layla Michaud: No. We have not been consulted, not that I'm aware of.

Mr. Nathan Cullen: But you're the chief financial officer.

Ms. Layla Michaud: I'm the chief financial officer.

Mr. Nathan Cullen: In proposing this legislation, the government didn't approach you to ask if they brought this in, what would the cost impacts be on the Office of Access to Information.

• (1620)

Ms. Layla Michaud: No.

Mr. Nathan Cullen: Okay, so that's that. As I understand it, is it fair to say—I don't want to put words in your mouth—that your office has been chronically underfunded for a number of years?

Ms. Layla Michaud: Yes, since Commissioner Legault has been there, we've made numerous....

Mr. Nathan Cullen: How long ago was your most recent request for extra funding?

Ms. Layla Michaud: We made one last year.

Mr. Nathan Cullen: You made one to the government.

Ms. Layla Michaud: The \$3.4 million was approved for a year. Now we are here this year again for temporary funding but we need permanent funding for this office.

Mr. Nathan Cullen: When the Office of the Information Commissioner has asked for permanent, stable funding to help Canadians get access to the information that they're entitled to under the law, those requests have been rejected.

Ms. Layla Michaud: Yes.

Mr. Nathan Cullen: The budget is the rejection. You say we need this much to do our job, and the budget comes in this much short year after year.

Ms. Layla Michaud: Last year, through the budget exercise, we asked for temporary funding.

Mr. Nathan Cullen: Is that different this year?

Ms. Layla Michaud: This year we asked for temporary funding as well, and again it's a fit-gap measure because of Bill C-58. Hopefully, we will be consulted and able to work with Treasury Board and Finance in regard to giving them proposals as to how much money we need to operationalize.

Mr. Nathan Cullen: Extend this out. When you are unable to perform your duties in resolving complaints, help me understand the impact of that on Canadians. I'm thinking of the civil liberties groups, the first nations groups, the environmental groups, and the media outlets that have appeared before us and had problems gaining access to information that, under the law, they are entitled to.

By not resolving these complaints, does this keep the problem going longer for these individuals and organizations?

Ms. Layla Michaud: Of course. There's no reason that we should have a backlog. There's no reason that we should have an inventory.

Mr. Nathan Cullen: Is the backlog directly and exclusively related to money, funding?

Ms. Layla Michaud: The backlog is directly related to money.

Mr. Nathan Cullen: We've heard it said from the Information Commissioner and others that information delayed—

Ms. Layla Michaud: Is information denied....

Mr. Nathan Cullen: It's another way to deny.

Ms. Layla Michaud: Yes.

Mr. Nathan Cullen: Underfunding your department, therefore ensuring that a backlog is maintained, and therefore guaranteeing

that the delays will be longer, is a backdoor way of denying information to Canadians.

Ms. Layla Michaud: I think that's a fair statement. There's a reason that year after year we're looking to get more money for our office.

Mr. Nathan Cullen: If the government were really intent and sincere about ensuring access to information to Canadians—again, which is entitled to them and enshrined by law—then funding that process would be the clearest way to show that commitment.

Ms. Layla Michaud: My sense is, yes, that's a conclusion that can be made.

Mr. Nathan Cullen: You may have said this already, but what percentage of your operations get taken up through the complaint process? Is it one-half of your budget? Is it three-quarters? Is it one-fifth? Has that analysis ever been done?

Ms. Layla Michaud: What I said earlier was that 80% of our budget is related to hiring FTE employees, and 20% is operations. When we look at our total budget, usually if we make a distinction between corporate services and programs, it's around 20% for corporate services and 80% for the program.

The Chair: Thank you, Mr. Cullen.

Next up we have Monsieur Picard.

[*Translation*]

Mr. Michel Picard: Since we are talking about the budget, I will go back to the figures you mentioned.

You requested \$4 million to start and a subsequent \$1 million. Could you tell me what the difference is between those two amounts and what they are used for?

Ms. Layla Michaud: I don't have that information with me.

• (1625)

Mr. Michel Picard: What initiated your request for \$4 million?

Ms. Layla Michaud: Three or four years ago, we made a request for permanent funding to the government.

Mr. Michel Picard: Roughly, how much was the request for?

Ms. Layla Michaud: It was for \$4 million for the first three years. If memory serves, I would say that we asked for \$1.5 million on a permanent basis.

Mr. Michel Picard: The annual funding that you estimated or expected was initially—

Ms. Layla Michaud: That's what we needed, in addition to our current funding.

Mr. Michel Picard: In other words, the \$1.5 million was in addition to your request for \$4 million, for subsequent years. Is that correct?

Mrs. Alexandra Mendès (Brossard—Saint-Lambert, Lib.): No. That became \$1.5 million per year.

Mr. Michel Picard: I'm sorry, but my question is for the witness.

Ms. Layla Michaud: Our annual budget is about \$10 million. A few years ago, we submitted a budget asking for roughly \$4 million over three years, in addition to our budget of \$10 million. We then asked for a permanent amount of \$1.5 million per year, for a total annual budget of \$11.5 million.

Mr. Michel Picard: So the \$4 million was simply to get the ball rolling, so to speak.

Ms. Layla Michaud: Exactly. It was to eliminate the backlog.

Mr. Michel Picard: In the past three or four years, give or take \$100,000, what was your annual budget?

Ms. Layla Michaud: Our overall budget is \$10 million or \$11 million, year after year.

Mr. Michel Picard: It's each and every year.

Ms. Layla Michaud: Yes. Last year, we obtained an additional \$3.4 million.

Mr. Michel Picard: It was not exactly the additional \$4 million you had requested, but it was close enough.

Ms. Layla Michaud: Yes.

Mr. Michel Picard: That addressed your request for support to process the additional files.

Ms. Layla Michaud: Exactly.

Mr. Michel Picard: You mentioned additional cases by saying that there could be as many as 2,400 complaints this year. Without going into the details of those cases, could you tell me what they were about and what the explanation is for this significant increase?

Ms. Layla Michaud: They are extremely varied. A few years ago, we received a lot of complaints from journalists, whereas now, most of the complaints we receive come from the public at large. If the trend keeps up, we will have 2,400 complaints this year. I think Canadians want to have more information from their government.

Mr. Michel Picard: Very well.

I'll go back to a question my NDP colleague asked earlier. He said that the funding was a way to show the government's commitment to settle certain cases. How can you then explain the fact that the funding has not been spent?

Ms. Layla Michaud: Eighty per cent of the expenditures is earmarked for the staff we hire. In the government, we have to have a competition to replace staff, which takes at least three or four months. People also go on maternity leave, transfer to another department, or decide to work part-time, four days a week, which is leave with income averaging.

Mr. Michel Picard: So the lapsed funding is the funding not spent because of departures and the long delays to replace people.

Ms. Layla Michaud: Exactly. That's the main reason why we have not spent that money. It's not because projects have not been completed or because of reasons like that.

Some things are also more difficult to foresee. For instance, if a pending case is settled at the end of the fiscal year, and we set aside \$100,000 for it at the beginning of the fiscal year, most of that amount will not be spent.

Mr. Michel Picard: So the lapsed money is because of the cash flow. It is not unspent funding that could have been used to hire people to process other files.

Ms. Layla Michaud: It's a bit of both. If I understood your question correctly, most of the unspent money is because of wages that we did not have to pay.

● (1630)

[English]

Mr. Michel Picard: Mr. Chair, I'll share my time with Mr. Erskine-Smith.

The Chair: Go ahead, Mr. Erskine-Smith. You have one and a half minutes.

Mr. Nathaniel Erskine-Smith: Thanks very much.

You intimated, I think, a bit of an answer with respect to MP Kent's line of questioning, but I just had a question on the \$3.4 million that was provided last year. It resolved 2,245 complaints, which is about \$1,514 per complaint. You then suggested that \$1.8 million will resolve 1,900 complaints, but there's no breakdown for us to see why there's such a differential between the \$1,514 per complaint and the approximately \$947.

Is the answer the same one that you gave to MP Kent, that it's the different complaints that you're analyzing?

Ms. Layla Michaud: Yes. They're different complaints, different types of complaints, but with the \$1.8 million, we think our consultants will be able to close around 600 complaints. Then, with our A-base, with the people who are in place now, who are doing investigations, our objective is to close around 1,300 complaints, for a total of 1,900 with the \$1.8 million.

Mr. Nathaniel Erskine-Smith: Frankly, when you're coming in and asking for \$1.8 million, it would be better to break it down, I would suggest, in a much more detailed way, first by suggesting what the \$1.8 million is actually to resolve. The 1,900 is actually \$1.8 million plus the resources you're already receiving, so it's not that helpful for us. You also ought to break down what types of complaints you have to resolve.

The other comment I would make is that resolving complaints is one question, but there's been a massive increase in access requests and therefore an accompanying increase in complaints. There's no knowledge that we would have, based on the information that you've provided, as to whether or not the complaints are founded, which is also useful information for this committee in order to understand trends, to understand whether these are real problems that are in the regime. As you've indicated, it's not journalists now. It's individual Canadians, and whether or not these individual complaints are founded is I think also an important question for us.

I mean, feel free to comment, but I just don't think you've provided enough information when we're talking about spending \$1.8 million.

The Chair: Thanks. That's time.

We'll move on to the next round, for five minutes, with Mr. Gourde.

[Translation]

Mr. Jacques Gourde (Lévis—Lotbinière, CPC): Thank you, Mr. Chair.

My thanks for joining us.

Along the same lines, could you tell me whether the amount of \$1.8 million for the 14 consultants covers a one-year period?

Ms. Layla Michaud: Yes, we are just asking for temporary funding now.

Mr. Jacques Gourde: Will the consultants be self-employed or on payroll?

Ms. Layla Michaud: They are not salaried employees.

Actually, consultants can be hired in a number of ways in the government. In terms of access to information, we hire them through a mechanism implemented by Public Services and Procurement Canada (PSPC), formerly Public Works. So we make a request through that system; we then conduct interviews and finally do the hiring.

The amount of \$1.8 million we receive will help us hire them until March 31 of the next fiscal year.

Mr. Jacques Gourde: You are talking about the next fiscal year ending March 31, 2019.

Ms. Layla Michaud: No, I'm sorry, it's the current fiscal year 2017-18. They will be hired until March 31, 2018.

Mr. Jacques Gourde: Mr. Chair, it's very noisy.

[English]

The Chair: Yes. Go ahead.

[Translation]

Mr. Jacques Gourde: The amount of \$1.8 million will basically cover four months only.

Ms. Layla Michaud: The budget process—

[English]

The Chair: Excuse me for a second. It's awfully noisy on this particular side, and we're having difficulty hearing the witness and the questioner.

Go ahead.

[Translation]

Ms. Layla Michaud: That's how the parliamentary process works. We made the request for the \$1.8 million under budget 2017.

Mr. Jacques Gourde: I understand that, but could you tell me whether the 1,900 complaints that will be resolved involve the Office of the Information Commissioner as a whole for the entire year?

Ms. Layla Michaud: Yes.

Mr. Jacques Gourde: The 1,900 complaints are not in addition to the ones that have already been resolved.

Ms. Layla Michaud: No. There are 1,900 complaints for the whole year.

• (1635)

Mr. Jacques Gourde: Earlier you addressed the issue of the cost-benefit ratio. You mentioned an amount between \$400 and \$800, but your overall budget indicates that the number of complaints that you resolved last year was 2,200. We are closer to \$5,000 per complaint, not \$800.

Ms. Layla Michaud: Yes, that's what I mentioned earlier, because I was talking about administrative cases where the amount is between \$400 and \$800 per complaint. However, we don't just handle administrative cases. The Canadian firearms registry cost much more than \$8,000.

Determining an average depends on how the costs are established, for instance, by removing or allowing indirect costs. In any case, the average is about \$4,000 per complaint.

Mr. Jacques Gourde: Let's come back to the hourly rate.

Is it much more expensive to hire consultants for the short term, four months in this case, than to hire people full time at the office?

Ms. Layla Michaud: Clearly this is the case, and it is why the office needs a stable and permanent budget that enables it to handle the quantity of complaints filed.

Mr. Jacques Gourde: Where do you find consultants with the expertise needed to do this work?

Are they retirees who return to the labour market?

Ms. Layla Michaud: That's the case for many of them. We hire people who have previously worked in access to information at the office or in the departments, and who are now retired. However, we also have people who are in no way retired and who work day-to-day as consultants in the field of access to information.

Mr. Jacques Gourde: Could you give us an idea of what a person working full time might earn compared to a person hired as a consultant?

Ms. Layla Michaud: Hiring a consultant for one year costs us about \$180,000. It's market driven. However, the salary of an employee, for example a PM-4 or a PM-5, is about \$85,000 a year.

In other words, we could have two employees instead of a single consultant, but because of the temporary nature of the funding, it is impossible to hire people permanently. So we have no choice but to hire consultants.

Mr. Jacques Gourde: At the office, how many people work on complaint cases and how many work on the rest, in administration and things like that?

Ms. Layla Michaud: Basically, 20% of our staff are dedicated to corporate services, and 80% take care of the program, which includes complaints, legal services, access to information and the rest. All of these people help to resolve complaints. As for the people who directly handle complaints, there are about 50.

Mr. Jacques Gourde: Thank you.

[English]

The Chair: Thank you.

The last question goes to Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith: I'll pass along to Mr. Baylis.

[Translation]

Mr. Frank Baylis (Pierrefonds—Dollard, Lib.): The number of complaints and access to information requests are on the rise. What steps are you taking to be more efficient?

Ms. Layla Michaud: Since she has been at the Office of the Information Commissioner, Commissioner Legault has striven to make efficiency and performance a priority.

When I arrived at the Office of the Information Commissioner as the person responsible for corporate services, my mandate letter was very clear: I was to be sure to minimize the corporate services footprint and assign the maximum number of staff to the program.

To that end, we examined how we could work in partnership with other fellow officers of Parliament or other government entities. For example, contracts involving our financial system are now outsourced to the Canadian Human Rights Commission. I'm not talking about people who take care of our finances, but about our financial system.

We also work with our colleagues on security, since we must follow specific security rules. We work with our colleagues at Elections Canada, the Office of the Commissioner of Official Languages and the Office of the Privacy Commissioner.

We have done a lot of work to reduce the time allocated to corporate services. We spend 20% of our time on these services, and when we compare ourselves to other organizations, we find we are very efficient.

•(1640)

[English]

Mr. Frank Baylis: On the question of actually, one after another, delivering per request, what are you doing to be more effective in that sense?

Ms. Layla Michaud: In regard to the request to the complaint, what we're doing is... Earlier I talked about the interest-based mediation and negotiation to really understand what the complainant is looking for, the type of information that he's looking for, for us to be more effective and in order to give the information to the complainant as quickly as possible and to reduce the burden on the department. It's something that we're working really hard on presently with departments.

We're also having numerous discussions with departments to increase the collaboration in order for them to really understand our process and give us what we are looking for as representation.

Mr. Frank Baylis: When they had Bill C-58, one of the things—and I'm a layperson so I don't know much—that came up was that if the request had three parts, and this has been taken out, if they had the subject matter, the type of document, and the period of time, we were told that that would very much help the departments be more effective. We were told that by IRCC and border services who

represent 60% of all requests, so more than 60% of all requests said, "Look, if you just give us this bit of information, we can be a lot more effective."

The commissioner was dead set against that. It was felt that it was barring access to information, and it was actually taken out. But it seemed to me, at the time, that would have made you a lot more effective. It would be a lot easier to produce, and this was coming from the departments that actually have to do the work, saying that would make their work a lot more effective.

Given that didn't take place, what things can be done to make it more effective?

Ms. Layla Michaud: As I said, we will continue to negotiate with departments, with complainants. Frankly, to have a discussion with complainants to really understand what they're looking for helps a lot. It's something that we will continue to do.

Mr. Frank Baylis: Was there anything in Bill C-58 that will actually help? Was anything mandated—that part was taken out—that was put in there going to help you be more effective?

Ms. Layla Michaud: I did not look at the last version of the bill as amended by this committee, but something that is going to help us is the publication of our decisions. I think that was added to the bill. The publication of our decisions will help the departments understand how we're dealing with our different investigations. It would become a kind of body of case law, which will be very useful. That's one aspect.

The Chair: Thank you, Ms. Michaud, from the Office of the Information Commissioner of Canada, for coming again today.

I've tried to spread out a little bit of the time we lost with the Special Olympics appearance in the House today and the motion. I'm spreading it over the two groups evenly.

Again, thank you for coming today, and thank you for your testimony.

We're going to temporarily suspend until we get the other commissioner set up.

•(1640)

(Pause)

•(1645)

The Chair: I will call the meeting back to order.

Once again, we welcome the Office of the Commissioner of Lobbying to the committee. We're welcoming Ms. Karen E. Shepherd, Commissioner of Lobbying, along with Charles Dutrisac, acting director of internal services and chief financial officer.

You can open up with your statements now.

[Translation]

Ms. Karen Shepherd (Commissioner of Lobbying, Office of the Commissioner of Lobbying): Good afternoon, Mr. Chair and members of the committee.

I am pleased to be here today to discuss my request for additional funding that was included in supplementary estimates (B), tabled on October 26. I am joined by Charles Dutrisac, acting director of Internal Services, and chief financial officer.

As I have mentioned in previous appearances before this committee, I run a lean but effective organization. In past years, I was able to streamline operations without compromising the effectiveness of my office and my ability to deliver on my mandate.

• (1650)

[English]

However, I stressed last May, during my appearance on main estimates 2017-18, that while I am able to meet the demands of my mandate with current funding by making appropriate trade-offs, this may become more difficult to do in the near future. Over the years, there have been less discretionary funds available to deal with increased or unexpected pressures. For example, in 2016-17, the lapse was 3%, or \$130,000.

I am faced today with an unexpected pressure in the form of a legal challenge. In May 2017, a legal challenge to my authority to open an investigation and to compel the attendance of witnesses was launched in the Federal Court. My office had to retain outside legal counsel in order to defend this challenge. It is imperative that the Office of the Commissioner of Lobbying respond to the court challenge in order to defend the commissioner's authorities derived from the Lobbying Act. It should also be noted that other federal legislation provides for powers similar to those being challenged in this court case.

Since 2008, my office has spent less than \$5,000 per fiscal year on legal costs, other than the salary of the office's senior counsel. For 2017-18, as in previous years, I planned for potential legal costs and put money aside. In the course of the year, money in the legal reserve was reallocated to other projects. Once the court challenge in the Federal Court was confirmed last May, priority projects were placed on hold to ensure that my office would have sufficient financial resources to pay the legal costs. These include information management projects, as well as upgrading the website and the registry of lobbyists to meet the latest accessibility requirements and respect government standards.

[Translation]

I am asking the committee today to approve my request for additional funding of \$400,000, as included in supplementary estimates (B). This request for additional funding is the first time that I have requested extra funds.

The court case presents an unprecedented resource demand on an organization that has about \$300,000 discretionary funds each year.

[English]

The funding that is subject to approval today is to be allocated to legal costs in relation to this legal challenge. This special purpose allotment is to be applied this fiscal year and can be carried forward to the next fiscal year under the operating carry-forward provisions. I would like to stress that this funding is not being added to my budget of \$4.4 million. These are funds that I can access, as required, to pay for legal costs, while allowing me to continue to deliver on my mandate. I would like to note that before making this request for additional funding, I undertook a strategic resource review. However, no significant potential for internal reallocation was identified.

The reason I have been able to run an efficient and effective organization is that I regularly hold priority-setting exercises with the management team to look at available resources and priorities and to reallocate funds when required.

In conclusion, if the Office of the Commissioner of Lobbying does not have the financial capacity to meet the legal challenge in court, future enforcement of the Lobbying Act and of the Lobbyists' Code of Conduct is in jeopardy. If the case cannot proceed due to lack of resources, or is not properly defended and is lost, precedents for other legislation may be created.

[Translation]

This additional funding will supplement the resources required to defend the legal challenge in court and thereby ensure my ability to ensure compliance with the Lobbying Act and the Lobbyists' Code of Conduct. It will also ensure that my office can deliver on its day-to-day business, as described in the Departmental Plan 2017-18.

Thank you, Mr. Chair, for the opportunity to elaborate on the need for the funding requested in the supplementary estimates (B).

I welcome any questions you or the members may have to assist the committee in making this decision.

• (1655)

[English]

The Chair: Thank you, Commissioner.

I want to clarify that the issue of the court case is ongoing. I would ask committee members to avoid questions in that regard because the commissioner will not be able to answer them anyway. I will try to guide that as much as I can, but I'd appreciate it if we just stayed away from the subject.

First up is Ms. Fortier.

[Translation]

Mrs. Mona Fortier: Madam Commissioner, thank you for being with us today to present your additional requests.

Could you explain which projects you had to set aside and how that affected your organization's effectiveness? Will you be able to catch up fully if this amount is granted?

Ms. Karen Shepherd: Thank you for your questions.

There are two notable projects. The first concerns the registry system and the second concerns our website. An update is important to improve ease of use and accessibility.

The act exists to require the transparency of lobbying activities so that Canadians and lobbyists, among others, can find this information and to ensure compliance with the act.

It's this project that I put—

Mrs. Mona Fortier: —on hold.

Ms. Karen Shepherd: Yes, that's it.

The other project involves information management. The situation has been really stable for several years. There is a lot of information. It's important that the employees have access to the information they need to do analyses, conduct investigations, ensure compliance with the act, and improve the situation of the office. I think that's really important. It's one thing the committee approved when I submitted my departmental plan including all the priorities for this year.

If I received the funds now, I am sure that I could move these projects forward. I repeat that access to the \$400,000 I'm requesting today does not involve an increase in my budget. It would instead be a special allocation. It's simply to give us some flexibility, and enable us to establish our priorities and defend the case.

As I said before this committee, I run a lean and effective organization. I don't have the money for this.

Mrs. Mona Fortier: As I understand it, according to your departmental plan, you intend to assess your outreach and education program.

Have you already had the opportunity to conduct this study? Is that why you had to put some of your projects on hold?

Ms. Karen Shepherd: We've finished the assessment, and we are in the process of studying the suggestions that would help to improve the situation. The danger is finding something that we should do but can't because of a lack of flexibility within the budget.

Mrs. Mona Fortier: Okay.

[English]

The Chair: There are still three minutes remaining.

Mrs. Mona Fortier: Because my questions have already been asked, I'm going to share with Monsieur Picard.

The Chair: Mr. Picard.

[Translation]

Mr. Michel Picard: Thank you, Mr. Chair.

We won't discuss the details of the case before the court.

Have you used legal services in the past? Is it too periodic to make it a consistency, a provision? Is there a provision in the coming years for this kind of exception?

• (1700)

Ms. Karen Shepherd: That's a good question.

There is no precedent.

Yes, it would be a good thing if it was possible to have money that I could use as needed.

[English]

Mr. Michel Picard: Not on a long-term basis, but between two and four years, do you have any...? Besides those issues you wanted to fix, which you were not able to fix because you don't have the money, what is your vision for the next two to four years in terms of the development of your service?

Ms. Karen Shepherd: In terms of moving forward with the lobbyist registration—?

Mr. Michel Picard: In the kinds of services you provide to the public, are there some challenges that you would like to consider on a middle-term basis, for example? Would you like to expand, or do you think that your service is as efficient as it should be and you're satisfied with the way it's going?

Ms. Karen Shepherd: In terms of things like the lobbyist registration system, for years I had put that system into maintenance mode when there was the first budget cut of 5%. It's a robust system, but it's not sustainable in the long term. I've started to put money into the project from the discretionary funds, so that is something that will require investments.

One of the things I was going to be looking at today in this discussion was the legislative review. Depending on what happens with the legislative review, that is something I can see the office will likely need to seek funding for, if not on a long-term basis, on a one-time basis, because there will be a need to put money into education and so on.

I mean, we're doing what we can. I'm very lucky with the office I have that we have found the efficiencies that we can.

I mentioned that before even trying to request the funding or getting access to the funding, I did a strategic resource review, which looked at the fact that things are running tight and there really isn't any movement to move things from one project to another or to stop.

Mr. Michel Picard: Thank you, Chair.

[Translation]

The Chair: Thank you.

[English]

Next up, for seven minutes, Mr. Kent.

Hon. Peter Kent: Thank you very much, Chair.

Thank you, Commissioner. It's always good to talk to you.

Just about this time a year ago, you said you wouldn't accept an extension, and then circumstances, of course, resulted in another extension. I'm wondering what you see now as your final day in the commissioner's office.

Ms. Karen Shepherd: First of all, if I may, for the record, I think what I had said in the past was that I was not going to seek reappointment. In other words, I was not going to—

Hon. Peter Kent: Yes.

Ms. Karen Shepherd: However, I've always said that I am committed to ensuring a smooth transition.

At this point, my extension is scheduled to end on December 29. There is a process under way, and I would have to suggest that you speak with the Privy Council Office as to the status of where things are.

Hon. Peter Kent: Now in the event that another extension doesn't occur, by whatever means, what is the transition process in the absence of a sitting commissioner? How would your office operate? How would investigations continue? How would all of the reporting and analysis by those who report to your office be processed?

Ms. Karen Shepherd: To be honest, it's hard to speculate at this point. What I can say is that the staff are very professional and very well educated and there are things in place, but in terms of speculating as to what might happen, I'm sorry, I don't have an answer for you.

Hon. Peter Kent: Now you're well aware that the commissioner who handles the other side of lobbying is in a similar situation. An extension is coming to an end, and she has indicated that she will not continue. However, Commissioner Dawson has suggested in the past that the time is well due—and certainly for efficiencies of operation in the future—and that the two offices might well be merged.

Given your experience since 2008 in the office, on your side of the lobbied and the lobbyists, I'm wondering what your thoughts might be on a merging of the two offices.

Ms. Karen Shepherd: I guess I share a slightly different view, in that I think there's a reason for the two offices being separate. They were together at one point before 2004, when they were separated, and it was a court case that talked about institutional bias.

There are different things that would have to be looked at as well. When you look at something like public office holders, I believe under the Conflict of Interest Act—I don't know the exact number—it's 2,000 or something, but there are 350,000 of those covered under the Lobbying Act. There are some differences. There is some overlap.

What I've seen in the city of Toronto where there have been two bodies—and the same thing with overlaps—is that they have worked together with a memorandum of understanding. As I understand it, that has worked well in terms of doing investigations concurrently or jointly.

My recommendation before merging the offices would be to look at how the offices could work better together. Maybe that's something that could be studied during the legislative review, whether there are specific fixes that need to go into the act to allow the two bodies to maintain their independence but to work on combined interpretation bulletins, or investigations, which require you to do things in private but might have different focuses.

• (1705)

Hon. Peter Kent: As far as the operation of your office is concerned, you upset some in the lobbying community with your new reporting guidelines in 2015. How are those guidelines working now as compared with in previous years?

Ms. Karen Shepherd: Are you referring to the new Lobbyists' Code of Conduct?

Hon. Peter Kent: Yes, the code of conduct .

Ms. Karen Shepherd: When I first announced in 2013 that I was seeking a consultation to see if the code was meeting its objectives or should be revised, the initial reaction was, "What's wrong? We didn't request a change." I think when they felt that I was truly listening and so on, the participation was quite extraordinary, which allowed

me to go out with a stronger code, as required by the act in 2014 for consultation.

My experience has been that lobbyists do want to comply with the act and the code. What I've been seeing now, to really get to the heart of your question, is how, if they've reacted, they've actually been coming increasingly to the office to ask questions before taking action to make sure they conform. I think it's quite positive.

Hon. Peter Kent: Excellent.

There have been suggestions over the years that there be greater penalties provided for offenders under the act. What are your thoughts? Again, after 11 years, do you think that your office would function better and lobbyists would abide by the code of conduct if there were greater penalties for any offences or violations?

Ms. Karen Shepherd: Right now the Lobbyists' Code of Conduct is a non-statutory document so there are no fines or jail terms. There are reports to Parliament, but as I've said before, I think the consequences are quite significant when you think of the lobbyist's reputation in terms of maintaining or gaining employment. In terms of breaches of the act, for an indictment it is as high as \$200,000, or two years in prison. For summary convictions, it's as high as \$50,000, so there are fairly substantial fines.

In the past I have advocated for administrative monetary penalties, which would give the commissioner more of a continuum in terms of ensuring the appropriate compliance measure with the offence. Right now, using it for lesser transgressions such as for late filing, it would be educating and monitoring. Referrals to the RCMP for breaches of the act would then go further to charges. For breaches of the code, it would be reports to Parliament.

I think going forward I would see having more of a continuum and having the administrative monetary penalties, rather than making stronger hammers, if you will, at the other end, but instead having something in between the two extremes.

The Chair: Thank you. That's time.

Hon. Peter Kent: Okay. Thank you.

The Chair: The next up, for seven minutes, is Ms. Laverdière.

[Translation]

Ms. Hélène Laverdière (Laurier—Sainte-Marie, NDP): Thank you very much, Mr. Chair.

I would like to thank both of you for being here today.

Thank you for your presentation, Ms. Shepherd.

You have an annual budget of \$4.4 million. In fact, that's less than it costs to install a skating rink in front of Parliament.

Voices: Oh, oh!

Ms. Hélène Laverdière: You said yourself that you have to carry out your activities on a very tight budget.

If you had fewer cuts and resource management difficulties, and if you had more resources and staff, could a lawsuit like the one you are facing have been avoided?

• (1710)

Ms. Karen Shepherd: Yes. The budget is tight, and we have put measures in place to be as efficient as possible so that I can fulfill my mandate.

Could I have avoided this situation if I had had more funds? It's really difficult to say because it's truly unprecedented.

The difficulty in terms of the funds for legal fees is that we don't know if there will be a lot of appeals.

[English]

Ms. Hélène Laverdière: Go on in English, please.

Ms. Karen Shepherd: If there are a lot of appeals, then you don't know how much court is going to cost you. With the office, I think I have always taken pride in using the dollars and so on wisely, so I would not want to be having such a large fund that it's going to lapse. When I initially started, we were putting a lot of money aside.

[Translation]

At the end of the fiscal year, no more than 5% of the amount can be carried forward to a subsequent year. So we use it at the end of the fiscal year.

Personally, I prefer to obtain surplus funds so that I can access them as needed.

Ms. Hélène Laverdière: I know it's difficult to carry forward funds from one year to the next, but the fact that you had to dip into your funds for legal fees indicates the stress on your activities because of a lack of funding. Is that the case?

Ms. Karen Shepherd: Indeed, if we had more funding, we could do more. Currently I have only one lawyer on staff. We still manage to put things in place. However, in terms of the legal fees fund, it's really difficult to say because this is the first time since 2008 that the office, or myself, has been in a situation like this, before a federal court.

Ms. Hélène Laverdière: You mentioned the fact that you have regular meetings with your managers to focus on the priorities, if I understand correctly. I have two questions about that.

First, it means that there are cases and files that you won't be able to handle because they aren't priorities. Do you have an idea of the proportion of files you have to put aside because you don't have the resources to handle them?

Second, when you decide on the priorities, what main criteria do you rely on to establish them?

Ms. Karen Shepherd: In fact, there are two facets.

When I talk about the priorities and the meetings I have with the directors and managers, I'm talking about what we do at the beginning of the year. We have to appear before you with the departmental plans in order to have an additional budget approved. When I say we hold regular meetings, I'm referring to a general services committee that studies what is being done about our office's projects, but not in terms of investigations.

• (1715)

Ms. Hélène Laverdière: Right.

Ms. Karen Shepherd: This year, we conducted a press review and assessed the priorities for the various projects for the entire office. Subsequently, we decided what we need to invest. As I explained, this year, it may be necessary to invest more in the registry system by drawing on our \$300,000 discretionary fund.

In 2015, we wanted to amend the Lobbyists' Code of Conduct. We put more money into the budget for this project because I had to travel all over the country. We put more emphasis on that. During a funding period, we really evaluate the content of the projects.

My colleague Mr. Dutrisc is very strict about the evaluation and respecting the burn rate. That's why I came here; the situation is very real and the funds I'm requesting are necessary.

With regard to investigations, or the compliance of enforcement measures, we have done a lot of work. We did administrative reviews and investigations. We deal with cases where people are banned from lobbying for five years. We also deal with exemptions. Since 2008, we have completed more than 80 of these reviews. We have been proactive. So far, we have had the ability to find...

We are still stretching the budget for projects. I work on projects even if there aren't enough funds.

[English]

The Chair: Thank you, that is time.

Next for seven minutes is Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith: I'm wary of getting into trouble with the *sub judice* convention, but I do want to ask questions about the case. I would ask that we go in camera, which I understand would not actually contravene *sub judice* if we get into some of the details.

The Chair: Yes, Mr. Erskine-Smith, if you would like to make the motion we can vote on that.

Mr. Nathaniel Erskine-Smith: I move that we go in camera. We have a request for \$400,000 specific to a legal complaint. We should understand what that request is about.

The Chair: Okay, we will vote to go in camera.

(Motion agreed to)

The Chair: We'll take a few minutes. People in the room who don't need to be here can exit. We'll suspend temporarily for approximately two minutes. We don't have much time left.

[*Proceedings continue in camera*]

•(1715) _____ (Pause) _____

•(1725)

[*Public proceedings resume*]

The Chair: We will now go to the votes.

OFFICES OF THE INFORMATION AND PRIVACY COMMISSIONERS OF
CANADA

Vote 1b—Office of the Information Commissioner of Canada – Program
expenditures.....\$1,804,207

(Vote 1b agreed to)

OFFICE OF THE COMMISSIONER OF LOBBYING

Vote 1b—Program expenditures.....\$400,000

(Vote 1b agreed to)

The Chair: Shall I report the votes to the House?

Some hon. members: Agreed.

The Chair: We are good to go.

Again, thank you for being so patient with us.

Thank you, committee. We're out before 5:30.

The meeting is adjourned.

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