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**Tuesday, April 5, 2005**

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**Chair**

**Mr. Leon Benoit**

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## Standing Committee on Government Operations and Estimates

Tuesday, April 5, 2005

• (1535)

[English]

**The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)):** Good afternoon, everyone. We're here today to hear witnesses on Bill C-11, an act to establish a procedure for the disclosure of wrongdoing in the public sector, including the protection of persons who disclose the wrongdoings.

This afternoon we have as witnesses in the first hour Diane Gorman, assistant deputy minister, health products and food branch; and Diane Kirkpatrick, director general, veterinary drugs directorate.

We have these witnesses here today. They asked to appear again, after hearing some witnesses we heard on this issue, so we are looking forward to their presentations and then questions.

Go ahead.

**Ms. Diane Gorman (Assistant Deputy Minister, Health Products and Food Branch, Department of Health):** Thank you very much, Mr. Chair, and thank you for the invitation to appear before your committee.

I am going to be making some prepared remarks, and then Diane Kirkpatrick and I will be happy to answer any questions.

[Translation]

The issues addressed in Bill C-11 are critical to maintaining to integrity of the public service, to ensuring effective public service management and to maintaining public confidence in our institutions. The issues you are grappling with are complex, and building legislation that is sensitive to the diverse needs of Canadians, the public service and stakeholders is not an easy task.

[English]

Therefore, we are here today to provide you with a perspective that we believe you may not yet have heard—that of science-based regulatory organizations within government. I would particularly like to thank you for taking the time to hear from us and discuss with us why this legislation is so important to us and the work we do.

Let me begin by saying that Health Canada fully supports the existing policy that allows for disclosure of alleged wrongdoing in the workplace and the need for strong legislation in this regard. The fundamental role of a government is to protect the health and safety of its citizens. As Canada's federal authority for the regulation of health products, the health products and food branch evaluates and monitors the safety, quality, and effectiveness of the thousands of drugs, vaccines, medical devices, natural health products, and other

therapeutic products used by Canadians every day, as well as the safety of the foods they eat.

The work we do and the decisions we make on behalf of Canadians about the risks and benefits of the thousands of health products we regulate are grounded first and foremost in science. The quality of our decisions is inextricably linked to the quality of the science on which those decisions are made and the impartiality with which we approach that science.

Our experience, and indeed the experience of the scientific community and regulators the world over, has demonstrated that good science requires a variety of perspectives and encourages debate among experts in many fields.

Scientific decision-making therefore demands rigour and a broad array of checks and balances to ensure the highest-quality results. This is especially true when decisions are undertaken in the public interest and fundamentally affect the health and safety of Canadians.

[Translation]

We are always conscious of the trust placed in us by the public to safeguard their health and safety. It is a trust that we must earn everyday, as we make decisions that directly affect their lives. In order for cancer patients to participate in potentially lifesaving treatments, they must be confident that we have impartially weighed and communicated the risks and benefits of those treatments. In order for parents to allow their children to be vaccinated, they must be confident that the system we administer to ensure the vaccines are safe is working effectively. In order for industry to bring their therapeutic discoveries to Canada and Canadians, they must be confident that their submissions for approval will be evaluated solely on scientific evidence.

[English]

Because these decisions are so important to the health and safety of Canadians, Health Canada has made it a priority to establish and implement a decision-making process that ensures a rigorous approach to the consideration of scientific information, based on the highest principles of integrity, impartiality, and fairness. Our decision-making framework recognizes and makes explicit the following points.

First, there is an absolute need to ensure the information used for decision-making is comprehensive.

Second, teamwork is essential, and debate among experts in a variety of fields is necessary for quality results. Peer review is a fundamentally accepted tenet of excellence in science and is embraced at Health Canada.

Third, the decision-making process must be open, transparent, and informed by the views of Canadians at all stages.

Fourth, and perhaps most relevant to the discussion of Bill C-11, is that one expert opinion is not enough. We need to consider—and Canadians should benefit from—all of the scientific advice and evidence that is available.

[*Translation*]

Health Canada expects employees to respect the framework because you know that a strong, internal process of review and debate is essential to sound scientific decision-making and to ensuring that Canadians ultimately reap the benefits of a full and complete scientific assessment of the health products they use.

Health Canada views effective whistleblowing legislation as an important tool in the continuum of mechanisms that can help us to ensure that healthy scientific debate is appropriately protected and supported within government and that both employees and public service managers have avenues to ensure the impartiality and integrity of that debate.

• (1540)

[*English*]

As you review the proposed legislation, I would ask that you consider the unique nature of scientific decision-making in regulatory departments, which has at its heart the need for diverse perspectives and vigorous scientific discussion, and consider if this requires special recognition in Bill C-11. I suggest that such recognition may be essential to the ability of regulatory agencies to effectively fulfill their mandates when they are addressing issues of health and safety.

For example, you may wish to consider whether specific provisions should be made that safeguard public confidence by protecting scientific discussions from premature disclosure. This would help to ensure that the public can benefit from the complete understanding of the complex issues involved, which comes only through a comprehensive and well-informed process.

It may also be helpful to recognize the unique nature of scientific decision-making and the processes that support it in your review of the definitions of the legislation pertaining to wrongdoing and what constitutes vexatious or bad-faith complaints.

You will also know that regulatory organizations like the health products and food branch deal frequently with sensitive health matters as well as confidential commercial information. It may therefore be helpful to ask whether the legislation should provide guidance on how such issues should be dealt with.

Our hope is that effective disclosure protection legislation will help us to continue to foster a working environment where scientific debate is encouraged, nurtured, and supported, and that it will provide an essential complement to the safeguards currently in place to protect the unique nature of scientific decision-making in a regulatory context.

Our ultimate objective must be to ensure that Canadians can continue to have confidence in government activities that are based

on good science and a balanced, informed, impartial decision-making process.

Thank you very much for your time. Diane Kirkpatrick and I will be happy to answer your questions.

**The Chair:** Thank you very much, Ms. Gorman, for coming and making your statement. We will get directly to the questions, as we only have an hour.

Mr. Preston, would you lead off, please, for seven minutes?

**Mr. Joe Preston (Elgin—Middlesex—London, CPC):** Thank you.

Thank you for coming today to help us with Bill C-11 and making us move a little further down that road.

You intrigued me with part of your statement, and I'll start with it. You're looking for Bill C-11 to somehow have some sort of disclosure protection legislation based on scientific debate and argument. Can you expand a little further on how you see that would look?

**Ms. Diane Gorman:** What I think would be most beneficial to a department like ours and to the kind of mandate we have is to know that the body that was to be vested with this responsibility added to the confidence that Canadians would have in terms of the scientific decisions that we make, and implicit in that is that if a scientific debate is ongoing and issues have yet to be resolved through that due process, a premature disclosure could in fact be harmful to public confidence. It would be the authorities, the processes that are invested in this organization, that would be important to us.

**Mr. Joe Preston:** I see where your dilemma comes, because you're asking for someone not to be able to come forward before a decision has been made on a product or a decision has been made on a health procedure; and yet if someone has in their mind that there's a danger to where we currently are and that the health of Canadians is at risk, our current disclosure of wrongdoing and the one we're looking at requires them to come forward when they believe the health and safety of Canadians is at risk.

How are you asking us to balance that? With two sides disagreeing on a procedure and one feeling that Canadians are at risk, I'd rather someone came forward than someone did not come forward. How are you asking us to balance this?

• (1545)

**Ms. Diane Gorman:** In my remarks what I wanted to emphasize is the processes that are in place in order to have that debate. Might I add that if the regulatory organization feels that the public needs to be informed, we don't necessarily wait for that debate to be concluded, so we will send out advisories to the public. We will take action and make sure the public is informed. However, the public is ill served if one or two individuals, through that process, choose to exercise their voices outside and therefore may create a public concern that is not legitimate and is not shared by the scientific community.

**Mr. Joe Preston:** Would we not at that point find that complaint to be vexatious or false? The current guidelines clearly state that a substantial, specific danger to life, health, and the safety of Canadians or the environment is a reason to come forward; or if somebody sees somebody not doing that, will it be a wrongdoing? Are you suggesting that someone who would have information to that effect not come forward?

**Ms. Diane Gorman:** No, I'm not suggesting that, and as I said, I absolutely support the legislation. My input is that the legislation be designed in such a way that we are creating incentives for right doing, that we are creating within organizations all of those possibilities for the debate to occur so that the need for disclosure would only be exercised in unique situations.

**Mr. Joe Preston:** In your preamble, though, you used a statement that good science encourages debate. If we have what we might call a simple disagreement between two knowledgeable parties and one feels at the end of the day that they're not being heard on their debate, that something catastrophic or something wrong could happen by the public not being informed, I'd expect them to come forward.

I understand the dilemma you're faced with here, that you'd like the science to be absolute and complete before someone announces it or before we call it to a conclusion, but as I've asked, how do we build that into this legislation?

**Ms. Diane Gorman:** Actually, rarely is the science absolute and complete. This is why we would exercise precaution, why we would make decisions to inform the Canadian public even before the debate is complete. My concern is that if the debate is misconstrued as creating a risk to the health and safety of Canadians, public confidence is undermined.

If I might just add to that, it would not be to pre-empt the kind of disclosure that you're talking about whatsoever, but to ensure, once that disclosure is made, that there is a process that can deal with it appropriately, that can provide a timely resolution to the issue such that either public confidence or the effective decision-making of organizations like ours is not compromised.

**Mr. Joe Preston:** So you're suggesting adding an element of confidentiality to it and adding, if you will, a speed element, something that would help us get through the process fairly quickly so that we can get to a conclusion in case there is some health and safety concern.

**Ms. Diane Gorman:** That's right.

**Mr. Joe Preston:** You're asking for both of those pieces.

We've talked about it being an independent body where wrongdoing may be disclosed. Do you see this fitting that? Is it better set it up as an independent body rather than through the chain of command situation, or is either/or fine?

**Ms. Diane Gorman:** I understand that you've had a fair bit of discussion around this. I actually prefer to approach it from a perspective of the criteria that would need to be established. It needs to be a body that is credible, it needs to be a body employees will feel comfortable going to, it needs to be a body that will have the force to give credence to its authority, and it also needs to be a body in which public service managers have confidence.

So I would prefer to approach it from a criteria perspective, rather than voicing my opinion in terms of its reporting relationship.

• (1550)

**Mr. Joe Preston:** You've used some terms like "premature disclosure" or "scientific information and premature disclosure". Those are good terms after the fact. History makes it very easy to determine whether there was a premature disclosure or not. But when you're in the middle of it, it may not be considered premature disclosure by the whistle-blower, if you will, by the person trying to bring the health and safety of Canadians forward, it may be considered fact to them at that moment. It's very easy to look back after the fact and see that, but how can we justify this piece or how can we put in place legislation that would stop that? Would we want to? That may be a better question?

**Ms. Diane Gorman:** No, we wouldn't want to. We pride ourselves on the investment that we have made in very rigorous decision-making processes and very rigorous scientific processes that are peer reviewed not only within the department, but outside the department and internationally. If an individual voice was heard outside of that context, it would not provide the right level of information to Canadians. Therefore, it is better that Canadians have the advantage of a comprehensive debate rather than individual voices.

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

Madam Thibault, for seven minutes.

[*Translation*]

**Ms. Louise Thibault (Rimouski-Neigette—Témiscouata—Les Basques, BQ):** Thank you Mr. Chairman, thank you, Ms. Gorman, and thank you also Ms. Kirkpatrick for coming here to meet us. In view of the remarks you made and the quite relevant questions put by my colleagues, I have three questions myself.

In the past, have you come across situations that led to this extreme caution for you—and I am not being ironic—or is it because you are just looking at all the possibilities? In the past, have there been any cases that led you to recommend this cautious approach in writing up the bill and even the amendments that might be made to it? That is my first question.

**Ms. Diane Gorman:** Every day, we have to deal with situations where we must act with extreme caution. For example, if we give information on the results of a clinical trial and we think you should put an end to that trial, then we do it right away. We have the power to do that.

I mentioned scientific debate because there are examples that aren't that clear. In the area of therapeutic products, for example, if a drug has undesirable effects somewhere in the country, it's not necessarily a black or white thing. It could be because of the drug itself or because of interaction between that drug and another substance. That is why we need more information.

**Ms. Louise Thibault:** Do you have any examples, Ms. Gorman? Are there scientists, employees or people involved in your department who are aware of things and who said they believe a fault has been committed or was about to be committed? Is that why you are so cautious? Is there someone who, right in the middle of a scientific evaluation process, may have disclosed something and, without wanting to do so, could have harmed the Canadian population, the patients or the corporations themselves or led them into a panic situation? Has that ever happened?

• (1555)

**Ms. Diane Gorman:** That has happened, but very rarely. There are 2,000 people working for the branch. It has happened very rarely.

**Ms. Louise Thibault:** Do you think that only Health Canada employees should be covered by this legislation when it comes into force or should it cover any person involved or aware of things and who might divulge some information?

**Ms. Diane Gorman:** Health Canada employees must absolutely be covered by that legislation. As for the others, I cannot say. I am not here to get an exemption for this kind of work. I absolutely agree with the fact that this kind of work should be covered.

**Ms. Louise Thibault:** We have just received the annual report on the existing policy on the internal disclosure of information concerning wrong doing. According to the statistics—I am sorry we do not have them by department and I will try to get them—in 2003-2004, in the 69 departments and organizations under review, there were 90 disclosures in total. Do you know if there were any disclosures in your department or in your different branches, even though it might not be yours, and how many there were? Of course, I am not asking you for names or anything else of a confidential nature. Were there any at Health Canada and if so, how many were there and what was the gist of it all?

**Ms. Diane Gorman:** I cannot talk for Health Canada because I am only responsible for one branch within that department. Even in my branch, I am not necessarily made aware if someone makes a disclosure or initiates a complaint. I will ask Diane Kirkpatrick to answer you on that because she would know the numbers because of her management role.

[English]

**Ms. Diane Kirkpatrick (Director General, Veterinary Drugs Directorate, Health Products and Food Branch, Department of Health):** Unfortunately, I don't have the figures at my fingertips, but I understand the department does keep a record. We can certainly provide that information to the committee after the meeting.

Prior to coming here today, however, I was advised that none of the disclosures for which we have records were related to whistle-blowing per se. In other words, there were other issues raised under the disclosure umbrella.

[Translation]

**Ms. Louise Thibault:** Do I have any time left, Mr. Chairman?

[English]

**The Chair:** One minute.

[Translation]

**Ms. Louise Thibault:** Ms. Gorman, when you discuss things with the members of your management committees, the assistant deputy

minister or the deputy minister, for example, do you see skepticism or great openness and a great confidence in this new act that will go far beyond what is in the present legislation? Do you feel that people are confident? Do you get the impression that they will use it without too much fear of reprisals or is it the contrary?

**Ms. Diane Gorman:** We are very proud of the fact that within our branch the culture is very open. We have invested a lot in it and if anything happens employees will raise de question within the organization quite confidentially. That is why I said that the organization that is going to have the responsibilities provided for in the act will have to have the flexibility needed to make a decision rather quickly in order to develop this confidence even further. So it is not a matter of skepticism nor of a fear of its existence but rather an asset that we are talking about.

**Ms. Louise Thibault:** Thank you.

[English]

**The Chair:** Merci, Madam Thibault.

Mr. Szabo, seven minutes. If you'd like to divide your time, we'll accommodate that, certainly.

• (1600)

**Mr. Paul Szabo (Mississauga South, Lib.):** Ms. Gorman, I'm led to believe that the definition of wrongdoing in your internal system is substantively the same as the definition in the bill. Is that your understanding?

**Ms. Diane Gorman:** I'm sorry, I missed one word. Are you saying, is it similar to the bill?

**Mr. Paul Szabo:** Yes.

**Ms. Diane Gorman:** Yes, it is.

**Mr. Paul Szabo:** Okay. So if there is a good system in practice internally, there should never be a whistle-blowing to an outside agency, beyond that. We've seen that before, you know. The RCMP and others have declared that they have their own internal thing and it works well.

I think Mr. Preston has raised an interesting issue, that even with your system, which has virtually the same and maybe even more rigorous safeguards as Bill C-11, to the extent that there is someone who still is concerned that there is a risk on the health, environmental, or safety side, and they feel they need someone else to look at it....

Now, in your presentation you say you're concerned about the public confidence levels if some of this information should get out. Is this due to the fact that the bill currently says the Public Service Commission is the body to whom this act will report?

**Ms. Diane Gorman:** No. Actually, I wasn't drawing the link to any discussion around where it might report.

**Mr. Paul Szabo:** So it's not that you think it's not confidential enough?

**Ms. Diane Gorman:** No, I was not expressing a view on that.

**Mr. Paul Szabo:** Okay, that's fine. I just wanted to be sure.

To the extent that there's a professional disagreement, there obviously is an internal process you have to go through, and if there is this professional disagreement, a lot of other people are now involved, I assume—more than simply the two parties. It would have to be right up the chain to the appropriate level to make absolutely sure it's resolved, because it's very important. Is that right?

**Ms. Diane Gorman:** Yes, and in fact it would rarely be among two individuals. We have a structure whereby we have teams working, so you would have experts in toxicology, microbiology, and so on working together as a team to ensure they were looking at the science from every perspective.

**Mr. Paul Szabo:** So that basically means that we're not talking about a rogue employee in the kinds of things you're thinking of. It really would be a professional disagreement between teams. Is that it? It wouldn't be an individual problem. If there were a professional disagreement, you're telling me it would be between more than one person—it's a team.

**Ms. Diane Gorman:** Let me tell you, there are actually two different parts to your question. The way we approach decision-making is to ensure that we have the processes to bring all of the evidence to bear. That will necessitate good debate. It will necessitate rigour in how you make decisions.

**Mr. Paul Szabo:** What happens under your system if it's still not resolved and the team is absolutely convinced that there is a public safety issue? Is there any recourse to them?

**Ms. Diane Gorman:** Let me say, first of all, we don't limit our expertise to people within the department. We involve people from outside. We bring in expert panels domestically. We are also involved very actively internationally; we're sharing science internationally. If there were a rogue opinion, which is really implicit in your question, there might be a variety of reasons for which that person might want to take their view elsewhere—and it might not be motivated by science.

**Mr. Paul Szabo:** I have one last quick question.

If we had a body to whom this wrongdoing could be reported that was clearly independent, confidential, and had the investigatory powers to draw on any other necessary resources to do that, would that give you some comfort level that there would be no disclosure issues that would compromise the issues you've raised in your presentation?

**Ms. Diane Gorman:** As you've described that body, that would be an extension of the kind of debate we have and therefore would be very supportive of the kinds of decisions we make.

**Mr. Paul Szabo:** Okay.

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

Mr. Godbout, you have about two minutes, go ahead.

• (1605)

**Mr. Marc Godbout (Ottawa—Orléans, Lib.):** Good, that would be perfect, Mr. Chair.

I just want to clarify the position you're taking. You said, "Because these decisions are so important to the health and safety of Canadians, Health Canada has made it a priority to establish and implement a decision-making process that ensures a rigorous approach"—and we sure hope so—"to the consideration of scientific

information, based on the highest principles of integrity, impartiality and fairness". I'm sure I commend you for that. Then you go on: "That the decision-making process must be open, transparent and informed by the views of Canadians at all stages".

Yet you're preoccupied with the idea that premature disclosure would not be good for Canadians. Do you think that Canadians can't see the difference between if a process is not finished and if there's professional disagreement on an assessment of a particular drug or a particular medication that's being investigated? I fail to see the problem in having a different process for the situation you're describing, but maybe I'm missing some points there.

**Ms. Diane Gorman:** As for when we make a decision, I describe the types of science that we include in that decision-making process. What I didn't describe is some of the other types of expertise that we bring to our decision. For example, we would involve consumer groups. We would involve societies—for example, the Arthritis Society or the Canadian Hemophilia Society—if we were dealing with something that was going to touch them. We bring in other types of expertise. In some instances we actually will have public fora, which would bring in the public at large.

Let me give you a good example of that—food irradiation. We had conducted a review of some submissions we had that certain foods be irradiated as part of the processing. There were no scientific safety concerns, but we did know that this might be a sensitive issue for the public. So we held public fora across the country and got good input through those fora to that issue, which helped us in our decision.

I would distinguish that from an individual or a few individuals raising an issue publicly in an inappropriate forum, without the context, without the benefit of the debate and the views of others being heard at the same time.

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

Mr. Preston, for about six minutes.

**Mr. Joe Preston:** I may not cover all of that, but let's try.

I'm still at a bit of a loss, so let me start off with a better angle maybe.

You've stated that good science encourages debate and that using in your department passionate persons who are wishing for right-doing.... How is it that we can't...? Well, I'll put it the other way. I can't believe that we could err on the side of being too confidential. We need to be, as Mr. Godbout said, as open and transparent as we possibly can. I recognize that we leave ourselves open in the process I'm describing for the odd, if you will, early disclosure or wrong disclosure of a health concern. But do you not see that this would be a benefit rather than a loss, rather than the alternative of, gee, we knew, but we waited too long; someone came forward, but we weren't allowed to tell anybody?

**Ms. Diane Gorman:** Let me raise with you another possibility, which is that there is not a legitimate health concern, but there is another motive. I think this bill and this process have to protect Canadians against that.

**Mr. Joe Preston:** All right.

In your preamble, you talked about your decision-making framework, and Mr. Godbout went through it, but you said—and it is perhaps most relevant to the discussion of Bill C-11—“That one expert opinion is not enough — we need to consider — and Canadians should benefit from — ALL of the best scientific advice and evidence available.” But can one scientific opinion not have value?

**Ms. Diane Gorman:** Yes, they all have value.

**Mr. Joe Preston:** But until the group comes to a conclusion, even if one person in that group sees danger, they shouldn't come forward.

• (1610)

**Ms. Diane Gorman:** No, I'm not suggesting that at all. If one person sees danger, their responsibility is to make that clear, to articulate that to the group within which they're working. If they cannot resolve it, the obligation of that group is to raise it to another level, in order that it might be resolved.

**Mr. Joe Preston:** The obligation of the group is, then, to take it as a group to a higher level, even if the majority in that group do not believe the opinion of the one?

**Ms. Diane Gorman:** Both Diane Kirkpatrick—and I'll let Diane add to this—and I firmly believe we need to have all the information. We need to hear from that dissenting view. We need to hear that minority opinion, and we need to be informed by it.

**Mr. Joe Preston:** I understand that we need to. From past work dynamic and certainly work dynamic I've seen, when the majority believes something, and one is dissenting, the odds the group will take the decision forward to review the dissenting get slimmer, depending on the size of the majority versus the dissenter.

**Ms. Diane Gorman:** I think the ability of the group to do that depends very much on the kind of culture you've created within the organization.

**Mr. Joe Preston:** Absolutely.

**Ms. Diane Gorman:** If you can create a culture where that is encouraged, and where there is not a right or a wrong opinion, but good debate, then people will come forward. In fact, within our branch we have processes in addition to the decision-making framework. We have tables we call risk management, so once a week I have a risk management discussion at my level. Diane will have one at her level. Her bureaus will have one at their level. I always ask what else I need to know that I do not know. What is the minority view? What are the questions we have not yet answered? What are the questions we need to ask that we don't have answers to? I make sure we uncover all of that, and that there's ample opportunity, thereby providing the support for people to feel absolutely comfortable to do that.

**Mr. Joe Preston:** Knowing what you've just said—and that's a fantastic example of how it would work—how do we write that into Bill C-11? How do we write in the next step from that? That process has taken place; the workplace is an adequate place; everybody communicates, and even the dissenters get to move their views forward, but at some point they just don't believe it's being moved to the point...or they feel Canadians are at risk. How do we write the next step into Bill C-11? The next step, in my mind, is that the person goes to report a wrongdoing or a health and safety risk. Is that not what you would see as the next step?

**Ms. Diane Gorman:** Well, as Mr. Szabo said, I absolutely agree that if you have the right systems and processes in place, the need for employees to use that kind of forum would either be negligible or very minimal.

**Mr. Joe Preston:** I agree with that.

**Ms. Diane Gorman:** However, I think having it there, and not being concerned about these issues being aired there, is also a very positive thing.

**Mr. Joe Preston:** I guess I'm still unclear as to what you would like us to do to Bill C-11 to accomplish what you're asking.

**Ms. Diane Gorman:** Well, there are several things.

**The Chair:** Fast.

**Mr. Joe Preston:** When in doubt, ask, I guess.

**Ms. Diane Gorman:** First of all, it is to recognize that different types of work are conducted in the public service; that the mandate of a branch like mine is extremely important to Canadians and to the government; that we are, I think, an exemplary organization, in terms of the fora we have created for decision-making. Therefore, the extension of that, in terms of this bill, is that it will not be in the public interest if this is used as a platform for individuals who have an agenda that is not a scientific agenda and that may not be in the interests of the health and safety of Canadians.

**Mr. Joe Preston:** It wouldn't be in the best interests, whether it was in Health Canada or Industry Canada, if there were someone who wanted to bring forward, if you will, a rogue opinion. That's clearly what we're dealing with here. If the environment is tainted, it won't matter whether it's Health Canada or somewhere else, so we need to write legislation that will work for all.

**Ms. Diane Gorman:** I agree.

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

Mr. Robert Thibault.

**Hon. Robert Thibault (West Nova, Lib.):** Thank you, Mr. Chairman, and welcome to our two presenters.

I have two questions that are a bit difficult to frame, as I'm having the same problem as Mr. Preston and you in articulating them, but I look at it from a Canadian point of view.

It's a question about whistle-blowing versus professional disagreement on a decision after a legitimate process. The result coming from that is two very different things to me. The whistle-blowing is a legitimate thing if there has been a wrongdoing, if there's a risk to the public, and if the normal process has been followed and it has not resolved; or it can, if abused or misused, spread fear into the population unnecessarily.

I look at it from the point of view of, say, suffering from high blood pressure, for which I would be prescribed medication from a physician. I would see that Health Canada had approved this medication and that it keeps me healthy, and then I read in the paper that a government scientist says this medication may lead to cancer. What information in that is true for me as a Canadian?

If this person has gone through the process, has the information, has had it vetted professionally through the organization, and is aware that information is being suppressed or changed or hidden, or that a proper process is not being followed, then it would be whistle-blowing. If he disagrees because he has a different theory from common scientific knowledge or from the team's approach, then that would be a professional disagreement.

Am I to understand that it's that second case you are concerned about?

• (1615)

**Ms. Diane Gorman:** That's right.

I should say on behalf of the employees in the branch that they are extremely dedicated employees who understand the impact that any statement they might make publicly can have on the confidence of Canadians or individual decisions as you described. Therefore, it is the latter of your two examples. In the first example, if we were aware of information that Canadians should have, we would have an obligation to provide that information to Canadians in a way that's useful to them.

**Hon. Robert Thibault:** For my second question, if I take that latter scientist who works in your organization, I know that sometimes the most brilliant breakthroughs in science are done by people who don't share the common view or who might have a diverging opinion or diverging theory. What opportunity do you provide for debate or discussion for people within your organization? Do they participate in other fora outside the department where they are able to bring these views forward and have them debated?

**Ms. Diane Gorman:** They do—and maybe I'll ask Diane to give some very specific examples.

As we make decisions, as I described earlier, they have opportunities within the organization, domestically and internationally. They also participate broadly in international conferences, in scientific symposia, where they can bring forward their views, and where they're exposed to new research and new ideas.

**Ms. Diane Kirkpatrick:** Building on what Diane Gorman has said, we've actually set up a system that encourages scientific debate and looks for differences of opinion. It seeks those out for the very reasons we have discussed here today and to make sure there is no stone unturned. If something was missed, we need to know about it and to debate it.

For example, we have set up teams of reviewers so that people with expertise in toxicology and related disciplines, people with expertise in chemistry and related disciplines, and scientists with expertise in microbiology and related disciplines are involved in the review process. We have a step-wise procedure that incorporates this team approach, plus peer review, which is the cornerstone of scientific evaluation and review.

As Diane Gorman mentioned, we encourage and support our scientists in attending, participating in, and taking the lead in international fora on issues that are being debated in the scientific community.

The bottom line of all this, from our perspective, is that there's no such thing as zero risk. There's risk in everything, and that's part of the difficulty associated with the work we do. The results of our

assessments have to be based on looking at the weight of evidence, and that weight of evidence is enhanced by having different opinions and perspectives brought to bear on the data that are before us.

So we have our peer review process. Diane mentioned that we also have what we call our science issues review groups. Again, the main emphasis of those is to ask, where were there differences? How were those differences addressed? What are the data that support the conclusion that is being recommended to us as managers in terms of any assessment?

Diane mentioned experts. When there is in fact a difference of opinion, we rely very much on experts to review the data and to become involved in the debate.

Of course, we communicate regularly with our counterparts in other countries and other agencies. We're not the only group that's involved in the review of the kinds of products system we have responsibility for. So it's a very comprehensive system that's intended to encourage that debate.

• (1620)

**Hon. Robert Thibault:** Thank you.

**The Chair:** Thank you, Monsieur Thibault.

We'll now go to the Bloc. Monsieur Gagnon, for five minutes.

[*Translation*]

**Mr. Marcel Gagnon (Saint-Maurice—Champlain, BQ):** Thank you very much. Like my colleagues, I am having a bit of trouble following because I am not a scientist in your area.

In view of the precautions your are taking, I am wondering what this legislation can add. You said that if the legislation is well drawn-up, you will rarely have to use it. That means that, in your opinion, all precautions have already been taken at Health Canada. There is practically no disclosure possible. However, if it becomes impossible, I get the impression that instead of inspiring confidence, your advice on drugs, food and so on will lead to a loss of confidence in the population. I have problems understanding why you agree with the bill. From what I have been hearing from the outset, I do not see how the legislation, once implemented, will dispel your fears.

You mentioned extremely important criteria for the implementation of the act. What criteria would mean that this legislation could be a valuable tool for Health Canada?

You also mentioned food irradiation. In my opinion, if there is any one area where the public does not necessarily show confidence, even still today, it has to be food irradiation. If, for example, someone from Health Canada has doubt on the value of your studies in that area, how could that person disclose this doubt in order to have these studies undertaken again, if necessary?

[English]

**Ms. Diane Kirkpatrick:** First, I would like to emphasize that one of the issues we were hoping to bring forward to the committee was recognizing the distinction between whistle-blowing and normal scientific debate. It's critical to recognize that difference. Again, it's why we emphasized the team approach, why we emphasized the peer review, because it's critical to scientific decision-making that all evidence that's available be brought to bear in decision-making. One point of view does not make debate. One point of view does not constitute whistle-blowing. A different point of view does not constitute whistle-blowing.

You're quite correct that it's exceedingly important for us to be aware of any different point of view, an assessment of data, in the review of products for which we're responsible. Food irradiation is an excellent example of that. And our current processes would encourage those differences of opinion to come forward, not only internally, but when, for example, we establish advisory groups, when we go out to the public, we have laid out the differences of opinions and why we have concluded one way or another. Those are all very important.

There was one other thought I had about your question, what else in the whistle-blowing? It has to do with process. Somehow, whatever body would hear a disclosure would also need to look at the integrity of the process. Otherwise, anyone can say they have a disagreement, and what is the impact of that on decision-making, on the confidence of Canadians, and on the confidence in terms of the work we do within the department?

•(1625)

[Translation]

**Mr. Marcel Gagnon:** For example, you study certain drugs at the request or suggestion of pharmaceutical companies who have invented a drug that is supposed to produce miracles. Is there any risk that the drug companies might lobby heavily in order to get the drug approved? If that were to happen, wouldn't that be a factor that might lead to whistleblowing?

**Ms. Diane Gorman:** That's not a daily happening at our work, but once again, there are still processes protecting the decisions and the impartiality of the employees and the industry. That's why teams examine submissions, it is why we call on outside experts and those experts must fill out a form to the effect that they are not in a conflict of interest and it is also why there are different levels of delegation for the decision-making. It is also very important in order to maintain the public's trust. We are not influenced. Our decisions are based on science.

[English]

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

Mr. Scarpaleggia and Mr. Boshcoff, we'd like to give you both time, if we could. So starting with Mr. Scarpaleggia, if you can, keep it shorter than five minutes. It would allow Mr. Boshcoff an opportunity.

**Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.):** I certainly will, Mr. Chair.

You were mentioning before that if someone goes outside to air their disagreement while a process is under way—let's say a drug

approving process—it is a very unhealthy thing for the process. Could you describe what happens inside the organization? How is the institutional culture disturbed by someone's doing something like that? Is the quality of the final decision compromised because the waters have been stirred a bit inside the organization? Can it have a long-lasting impact? Do people start to interact differently with each other on the scientific team, and you're askew from that point on? Can you elaborate on that?

My second question is, if some important information is suppressed and a bad decision is made, are certain people within the organization—maybe the health protection branch or managers—legally liable for having somehow misdirected the process? Is there legal liability for managers and others?

•(1630)

**Ms. Diane Gorman:** Thank you for both questions.

With regard to the first one, we would never compromise the decision because of the possibility that somebody had raised the issue outside of the department.

**Mr. Francis Scarpaleggia:** No, I wasn't suggesting you would compromise it; I'm suggesting that the culture of the organization would be so upset that it would become dysfunctional, because somebody has gone outside.

**Ms. Diane Gorman:** The greatest risk of somebody going outside is that this individual cannot be trusted by their colleagues, and therefore you don't have the healthy debate. You don't have the benefit of that person's view inside the organization, which is another really important reason to make sure we have a healthy culture where that debate is encouraged. That is probably one of the greatest risks internally to the culture of the organization.

The other is that Canadians might have wrong information and might make poor decisions based on that information, and their confidence in our systems would be jeopardized as well. I think those are all risks, which goes back to my earlier point. This body, when it is created, needs to consider things like confidentiality and timeliness of decision, so that these risks are not extended inappropriately in time.

On the second, yes, individual managers and employees are liable. Your question was in the context of poor decision-making. For any decision we make, we can be taken to court.

**Mr. Francis Scarpaleggia:** I'm talking about wrongdoing of some sort—if there's bad faith, conflict of interest, or if something prevented the process from working properly, for whatever reason, and as a result a bad decision is made that jeopardizes the public interest.

**Ms. Diane Gorman:** We can be and are named in suits in Canada—individuals, managers, even the Attorney General. My point was that this is a part of how we do business, and that it also forms an important part of our system of checks and balances.

**Mr. Francis Scarpaleggia:** Is this particular check unique to more sensitive departments, like Health, where a bad decision can essentially kill people? I'm wondering if the same liability would apply to managers in other departments, where a misdeed would not result in such dire consequences.

**Ms. Diane Gorman:** The acts to all which public service managers are subject are the same throughout the public service proper. Obviously, the impact on individual citizens will vary with the type of decision made and nature of the organization that makes it.

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

Mr. Boshcoff, a short question.

**Mr. Ken Boshcoff (Thunder Bay—Rainy River, Lib.):** There is some debate about whether, under your current internal disclosure policy, employees are sufficiently protected from reprisals, whether employees know they will not be at risk if they come forward. This concern is based on what we've heard from witnesses who have been before us. We're giving you this opportunity to give us your comments on how your current internal disclosure policy adequately protects its employees.

**Ms. Diane Gorman:** Do you mean within the department itself?

**Mr. Ken Boshcoff:** Yes.

• (1635)

**Ms. Diane Gorman:** If part of the evidence discovered reprisals, then the individual would be dealt with.

**Mr. Ken Boshcoff:** It seems then, particularly in your department, that there's a whole range of non-whistle-blowing issues that have been compounded into...whether it's unjust dismissal, harassment, or those types of things. Do you see the policy here being able to address those, or is there clearly a need for much more manifest legislation, such as Bill C-11, to overcome any of those shortcomings? Can it be handled with...? It seems that the employees who were before us had a lot of issues.

**Ms. Diane Gorman:** You're talking about former employees of the department having lots of issues.

**Mr. Ken Boshcoff:** Yes, I mean those who appeared as witnesses.

**Ms. Diane Gorman:** As you know, a number of issues between the department and those individuals are still before the courts or other judiciary bodies, so it would be inappropriate for me to comment on them.

However, to answer your question in a more generic way, I think this bill needs to look at the issue of reprisals and ensure that employees can come forward with confidence, and that managers also need to have confidence in the process, so vexatious or capricious complaints are dealt with as well.

**The Chair:** Thank you very much, Mr. Boshcoff.

Our time is up for this first section of our meeting today.

I would like to ask, Ms. Gorman, if you could write a letter to the committee with a proposal for an amendment to the legislation that will deal effectively with what you're proposing and suggesting today. If you could do that, it would be much appreciated.

Thank you very much for coming today, both of you. I look forward to that letter. Your input today will be useful in developing this whistle-blower legislation.

Thank you very much.

We will suspend for two minutes while the next witnesses come to the table. When we reconvene, we'll start by dealing with a housekeeping motion to do with lunch on Thursday. Then we'll get right to the witnesses. It will be our first meeting on the estimates for 2005-06.

• (1637)

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

• (1641)

**The Chair:** Good afternoon again, everyone. We'll reconvene.

Pursuant to Standing Order 81(4), we're now going to have our first meeting on the main estimates for 2005-06. We're dealing with vote 1 under Privy Council, which was referred to the committee on Friday, February 25, 2005.

As witnesses from the Privy Council, we have Kathy O'Hara, deputy secretary to the cabinet, machinery of government; and Patrick Borbey, assistant deputy minister, corporate services.

Thank you very much for coming today. If you could make short presentations, we'll get right to questioning.

**Ms. Kathy O'Hara (Deputy Secretary to the Cabinet, Machinery of Government, Privy Council Office):** Thank you, Mr. Chair.

[Translation]

It's a pleasure to meet the members of the Standing Committee on Government Operations and Estimates. I have with me Mr. Patrick Borbey, Assistant Deputy Minister for Corporate Services, Privy Council Office. Patrick and I have with us other officials who can support us if need be. I will introduce them as needed.

[English]

I'm pleased to appear before the committee to talk about our main estimates for 2005-06. As you can see from the documents, our main estimates for that year are \$141.3 million, which is a net decrease of about \$446,000 in financial requirements from the last fiscal year. However, I would note that we know that \$141.3 million will need to be adjusted during the year to reflect budget announcements, additional funding for PSAT, and funding related to the commissions of inquiry. As of now, we are showing total planned spending of \$149 million.

As our report on plans and priorities indicated, over the next three years we will spend about 70% of our resources in four key priority areas: about 45% to allow us to focus on key policy areas; 13% to improve the management of the government; 9% to conduct medium-term policy planning; and 3% to strengthen our own internal management practices. The first priority, focus on key policy areas, is obviously very consistently in line with the PCO's major role, which is to support the government's implementation of its policy agenda as articulated by the government in the October 2004 Speech from the Throne.

I'd like to discuss for a little bit how we would measure our progress in achieving these priorities, which are identified in our RPP, but I'd like to note that we are actually in the process of reviewing our performance measurement indicators. As you can imagine, for an organization like ours, it's very hard to sort out what our performance indicators are. Much of the work we do is really work we do with other players, and there are always other players involved in the implementation of the initiative, so we have a real attribution problem.

I would have to say that what we've shown in our RPP is a first cut, an attempt at trying to measure our performance. In the meantime, we're participating in a government-wide project called management results and resources system, which is all about trying to develop and implement an organization-wide performance measurement framework. I'm hoping our RPPs will reflect that over time and will reflect the improvement in our performance measurements.

I won't go through the document. It makes it quite clear what those interim performance measures are. If you have any questions about them, I'd be pleased to answer questions about our priorities as indicated, or the performance measures that we propose to use.

Thank you.

● (1645)

**The Chair:** Thank you for your presentation.

We'll get right to questioning, beginning with Guy Lauzon, for seven minutes.

**Mr. Guy Lauzon (Stormont—Dundas—South Glengarry, CPC):** Thank you very much, Mr. Chair.

Thank you, Ms. O'Hara and Mr. Borbey, for being here.

A couple of things in your opening comments give me a little cause for concern. One is that the total amount is not necessarily the total amount, that we can expect more expenditures. Can you give us an educated guess as to how much more those extra expenditures will be?

**Ms. Kathy O'Hara:** Patrick may have more details on this one.

Do you have a total or can you break it down?

**Mr. Patrick Borbey (Assistant Deputy Minister, Corporate Services, Privy Council Office):** Right now our planned expenditures are \$149 million; and \$141 million is what is in the main estimates. There is a certain amount that is going to be covered in the first supplementary estimates, and that is related to additional funds that have been approved by cabinet, by Treasury Board. We also will

have to come back with additional estimates with respect to the commissions of inquiry, because we do not yet have approved budgets covering the full fiscal year for those costs. We can expect further supplementary estimates later on in the year, probably in November or December, as part of the first round of estimates.

**Mr. Guy Lauzon:** Would you like to hazard a guess as to what those requirements will be?

**Mr. Patrick Borbey:** It's a little too early right now to estimate, but you can expect that the Gomery commission obviously is going to have a substantial amount for the current year. But I don't have an estimate right now.

**Mr. Guy Lauzon:** You also mentioned in your opening comments that you really can't get a handle on performance indicators, that it's pretty hard to measure your performance. If you're spending \$150 million, I think it would be prudent to have some performance indicators. I would feel a heck of a lot more comfortable if you could tell me whether I'm getting value for my money.

**Ms. Kathy O'Hara:** I guess what I was trying to point out is that we're different from a service organization, which may find it easier to find clear performance measures. They could do client surveys, for example. They could have performance measures related to the time required to perform a certain function and improvements in the time required.

We're largely a policy-oriented department that supports the government implementing its agenda. We work on issues across the government. For us to be able to measure our performance relative to the achievement of a particular government priority is something that we struggle with. I think all departments struggle with that part of their performance measurement. It's much easier to measure operations than policy, and for the central agencies it's even harder because they're almost entirely policy.

**Mr. Guy Lauzon:** We'll go on. I don't feel a whole lot more assured, but anyhow....

I noticed in program expenditures that there's a substantial increase in your 2005-06 estimates over last year's estimates. Can you tell me why that is?

**Ms. Kathy O'Hara:** You're referring to the total planned spending of \$181 million?

**Mr. Guy Lauzon:** In your program expenditures you have main estimates for 2005-06. You have \$125,413,000, and last year it was \$111,000.

● (1650)

**Mr. Patrick Borbey:** If you'll bear with me, I can explain some of the increases. There are increases associated with the change of the structure in the government. We've had to create additional structures to support the government, whether it's the new cabinet committees, the new ministers' responsibilities that have been added as part of the restructuring. There are some workload pressures that have been added to that.

It is composed of a series of increases and decreases. There are also some decreases that were related to the transfer of responsibilities to the Department of Indian Affairs and Northern Development for the Indian Claims Commission, for example, and the aboriginal affairs secretariat. This is a decision that was made last year. We also have increases that are related to the finalization of the disbanding of the Communication Canada organization. PCO did inherit some responsibilities and some resources that were related to that. Those are the main changes.

**Mr. Guy Lauzon:** We're talking an increase of about 13%. That's a heck of a lot of money—that's \$14 million. It's going to cost 12%, 13%, or 14% more to do the work, or less work, than it did last year?

**Mr. Patrick Borbey:** As I've said, it is related to the changes in the responsibilities and the expectations that have been placed on the organization. Those had to be funded with additional resources.

**Ms. Kathy O'Hara:** It also relates to the creation of changes to the cabinet committee structure. PCO's organizational structure has to match the cabinet committee structure because we provide support to the cabinet committees. For example, there is a new operations cabinet committee, there is a new ad hoc committee on sustainable development, and there have been new positions created. Also, another cabinet committee is the global affairs cabinet committee.

**Mr. Guy Lauzon:** That's why I'm so concerned about performance indicators. You suggest a 13% raise and you say you're doing business differently, but are you doing it better? I have no comfort level from knowing that.

**Ms. Kathy O'Hara:** One of our priorities, as you would have seen, would be improving support to those cabinet committees. That was one of our five—

**Mr. Guy Lauzon:** Well, you'd like to think so, but I don't have the performance indicators. Even at the end of the term I won't be able to know whether that was in fact effective.

As for the grants listed in the estimates and contributions, in 2004-05 there was almost \$16 million allocated to that expense and in 2005-06 there doesn't seem to be any. Can you explain that?

**Mr. Patrick Borbey:** Basically, what happened there was that last year there was a decision to transfer some responsibilities related to aboriginal affairs to the Department of Indian Affairs and Northern Development. There was a series of contributions that were associated with that responsibility and they've been transferred as well. So outside of a small grant, we no longer have responsibility for contributions and grants in the department.

**Mr. Guy Lauzon:** Maybe it's actually worse than what I'm thinking, because if you were doing that same job, you mean the cost would be another \$15.6 million. We'd be up to \$175 million if you were continuing to do the same work with the aboriginals and you included that \$15.6 million.

**Ms. Kathy O'Hara:** You would add it to our \$125 million—

**Mr. Guy Lauzon:** Well, I'd add it to your \$149 million, because you have \$141 million there but you say it's really going to cost \$149 million. If you add another \$15 million, that gives you about \$165 million to do the same work you did for \$141 million last year. That's a big, big increase—

**Ms. Kathy O'Hara:** The \$15 million was a contribution.

**Mr. Guy Lauzon:** Yes, but you don't have it this year.

**Ms. Kathy O'Hara:** Right. And we also moved the people who did the policy and administrative work. That would be the aboriginal strategy. The people who administered that contribution program were moved to the Indian affairs department.

**The Chair:** Thank you, Mr. Lauzon. Your time is up.

Madam Thibault, followed by Mr. Szabo.

[*Translation*]

**Ms. Louise Thibault:** Thank you, Mr. Chairman.

Thank you, Ms. O'Hara and Mr. Borbey.

Just like my colleague, speaking for Quebec and Canadian taxpayers, I'm very concerned by your problems with performance indicators. Your main mandate is rather clear and I can understand that things might be added on to it, but I'll start at the beginning of the process: can you narrow down your planning specifically enough in order to establish adequate performance measures as a follow-up? If you have trouble planning things at the very beginning, we'd like to hear about it.

I'd like you to give us a bit of your history. Has there been a change in your mandate which would explain why you could manage in the past and can't anymore, or have you never been able to manage?

Then, do you make a distinction between the regular occurrences and exceptional circumstances? Absolutely exceptional circumstances can happen some years. Are you regularly confronted with exceptional circumstances?

I'm putting this question to you in good faith: have you asked for help? We have extraordinary resources, like the Auditor General's Office, who could help you set up a system. That's a neutral organization and it could be done with the greatest confidentiality. Then, you could report back to us, that is to the Canadian population through a committee like ours.

That was the first part of my questions.

The second part has to do with human resources. Correct me if I'm wrong. In 2005-2006, you had 1,117 full-time equivalents. You had 1,095 in 2004-2005. It's not a scary number, but it's increasing.

What was the situation in 2001, 2002 and 2003? What was the rate of increase for your full-time equivalents? Why can't you decrease it before 2006-2007 or 2007-2008? Of course, I'm talking about your five-year planning, the estimates we'll be voting on. I'd like you to give me an answer not just about the estimates, but also about your plans for people and resources.

We all know what kind of huge effort was made by the public service a bit more than 10 years ago, but the number of jobs in the public service has grown considerably. What is your organization doing to be more efficacious and in order to cut costs?

•(1655)

[English]

**Ms. Kathy O'Hara:** If I could respond to the first question with respect to planning, in many ways PCO's functions really do flow from the government's agenda. So we plan based on the government's agenda, and it changes year to year. And as I mentioned, this RPP is very driven by the October 2004 Speech from the Throne. A lot of our activities flow from what's in the Speech from the Throne.

When I talked about the problems with developing the indicators, in large part it flows from the function of the PCO. Our RPP, for example, indicates that one of the results we're trying to measure is whether cabinet decision-making and the legislative agenda were well supported.

Unlike an operational area where it's pretty easy to find a quantitative indicator, for example, what we find for a lot of the results that we're trying to achieve, it's almost all qualitative. You saw from our document that in many cases our performance indicators are narrative reporting as opposed to a quantitative number, a quantitative indicator.

One of our other results, for example, is that the Prime Minister and ministers received sound advice for decision-making. Again, it's very hard to measure that in a quantitative way. And so what we are doing is working narratively to try to measure some of that.

What I was trying to say in my opening statement is that we'd like to be able to improve that and we're working with the Treasury Board in finding ways to improve that. I think the other departments that have policy results similar to this would probably benefit from it as well.

With respect to our mandate, as I mentioned earlier, over the past year we have had new functions added to the Privy Council Office. For example, we had the national science adviser added, we had new cabinet committees added that required additional support. In other words, we're not trying to get more resources to do the same mandate. In fact, our mandate per se, the role of PCO, hasn't changed. It's almost like a volume in that the number of committees we have to serve has increased over that time.

It's interesting that you refer to exceptional.... I think that's probably one reason why PCO's estimates can fluctuate over time, because over time you can have the number of cabinet committees changing, which means the operations branch of PCO changes in size, changes in demand, which is why we needed to have some workload pressures relieved. So our mandate has changed, the higher number does reflect that.

Patrick, you may have more on the question about human resources.

•(1700)

[Translation]

**Mr. Patrick Borbey:** I can give you a few examples concerning our growth. I don't have the figures for 2001, but I can explain a few fundamental changes that have occurred since 2001.

For example, in the area of terrorism and antiterrorist strategy, we have an additional 75 to 80 people working exclusively in that area to support the government. We also have a mandate in terms of official languages to support the government. We added human resources for that. You mentioned people working...

**Ms. Louise Thibault:** As you mentioned official languages, I would like to put a question to you.

**Mr. Patrick Borbey:** Yes.

**Ms. Louise Thibault:** You say that you added human resources to do your job in the area of official languages.

**Mr. Patrick Borbey:** Yes.

**Ms. Louise Thibault:** Would you agree with me in saying that since the legislation was enacted it has been a total fiasco, and that we have not made any progress? You are telling me that you added resources...

My time is up. We will have the pleasure of getting back to this. I am very interested in the matter.

[English]

**The Chair:** Merci, Madame Thibault.

Mr. Szabo with seven minutes.

**Mr. Paul Szabo:** Thank you, and welcome.

When we get documents like this after we've all had a long day, there's a tendency for our eyes to cross when we look at them, really. A lot of numbers and a lot of detailed words have just been placed before us. It really is difficult.

I wonder if we could just set the papers aside and maybe try this as a little experiment in how you and I, or this committee and you, can communicate about what happened last year and what's changed. What were the substantive changes? Ultimately, members are going to say we had a plan last year, and you could tell us what actually did happen and what surprises came your way—good ones and bad ones. Then you could tell us about your plan for this year, taking into account the sunseting of stuff or inflationary expectations.

When I look down here, having the estimates for 2005-06 and the comparatives for 2004-05 doesn't tell me anything about what actually happened, so let's just talk. Can we just talk and say, listen, if I were going to look at this, the only thing I don't understand right off the top is the \$14-million change in the estimates. But I don't know what the actuals were last year, so I have no idea whether or not this is a result of bad planning at the main estimates stage or whether this is to correct something that came about as a result of the actual performance during the year.

Talk to us like regular folk, and let's see if we can understand; and then there are no problems.

**Ms. Kathy O'Hara:** Obviously a couple of things happened in the last fiscal year. One was the transition in July, which, as I've talked about, led to the creation of new cabinet committee structures, for example. That has a huge impact on PCO and on how it's organized and what it has to do. In the transition in July as well, as Patrick and I have talked about, some functions moved from PCO to other organizations. We made that change.

The other major event in the last year was the October Speech from the Throne, because again so much of our policy work in PCO is driven by the policy objectives in the Privy Council Office. For example, our document talks about the work that was done on the health accord. There was a significant amount of work done in September-October feeding into the FMM and into the development of the health accord. The Speech from the Throne talked about issues like child care. Again, we work with departments on major issues such as child care.

Our work is so driven by these kinds of things that are unpredictable. From year to year, we react to Speeches from the Throne, which guide our work, and we react to machinery decisions. Those were the big ones for last year, I would say.

• (1705)

**Mr. Paul Szabo:** Well, actually, every year may be a little different depending on whether there's a Speech from the Throne or an election. These are factors that would affect it. I'm sure, when I look at some of these expenses, they're never going to be exactly the same as the prior year. That's why it's useful to identify in lay terms what the principal drivers were—and I think we're all familiar with the things that you mentioned—and how they do affect your volume of activity and the associated costs.

**Ms. Kathy O'Hara:** I'm sorry, but I also should have mentioned the commissions of inquiry.

**Mr. Paul Szabo:** We had to do that in the supplementaries to get the moneys. I think we all understood that.

The members probably want to leave this place feeling very comfortable that they know more specifically what the \$14 million is. I know it may be difficult, but if any question was going to be asked, this was it. You probably have prepared an answer for it, and it's one of those situations—what question were you hoping I wouldn't ask, and what is the answer to that question?

**Ms. Kathy O'Hara:** Do you want additional information? Patrick has provided some information on the \$14 million.

**Mr. Paul Szabo:** But now, because we have this agreement, our conversation is going to be in lay terms, not in bureaucratese.

**Ms. Kathy O'Hara:** I can say that \$11 million of the \$14 million was for the domestic affairs committee, which wasn't a new committee. What we did was this. We used to have a cabinet committee on social union and a cabinet committee on economic union, and we combined them, but there is a much higher workload so there are additional resources for that committee.

There's a new cabinet committee called operations. So the PCO had to create a secretariat to support that new cabinet committee.

There was a new committee, a global affairs committee. We used to have a foreign and defence policy committee, but we hadn't had one for several years. So there was a new global affairs committee and a new Canada-U.S. committee, so again, both of those required secretariats.

A national science adviser was added to the structure. The aboriginal secretariat that was created was a new function. So all of those were—

**Mr. Paul Szabo:** With what you said to me, it sounds to me like these are pursuant to commitments made and the infrastructure required to discharge those responsibilities.

The last question I would then ask you is this: are they permanent, or are these one-time committees to take into account some of the variability in terms of activities occurring that affect PCO?

**Ms. Kathy O'Hara:** “Infrastructure” is a good word to use to describe it. We'll need that infrastructure to support this kind of cabinet committee structure. As you say, if that cabinet structure were to be changed, some of these committees eliminated in the future, we wouldn't need those resources.

**Mr. Paul Szabo:** Thank you. I'm comfortable.

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

Mr. Preston for seven minutes.

**Mr. Joe Preston:** Perhaps I could just start right off where Mr. Szabo ended, because I'm not sure I finished this.

You're talking about an increase of \$11 million here, and a couple more million here and a couple more million here, because of new committees under the cabinet structure. Did nothing go away? Did we do nothing but add?

• (1710)

**Ms. Kathy O'Hara:** The support to the Métis interlocutor was moved to the Indian affairs department.

**Mr. Joe Preston:** That's actually transferred. That didn't go away. We're still spending that money, it's just in a different place.

**Ms. Kathy O'Hara:** Was the question, did we eliminate?

**Mr. Joe Preston:** Yes. We added all these new committees to help cabinet structure. All this is going to make us work more efficiently, I suppose, at a cost of \$12 million, \$14 million, \$20 million, whatever it is. If I take a business approach to this, if I add new structure it's usually to help me find some economies. In fact, you're adding new dollars to find new economies to the cabinet structure.

Did nothing go away? We didn't find any savings anywhere; all we did was add to the old structure we had.

**Ms. Kathy O'Hara:** Unless Patrick can add to this, the only cut I can think of is our ERC cut.

**Mr. Joe Preston:** So government will just continue to grow until it outgrows this building, I suppose.

One of your mandates is obviously about government policy and giving advice on policy. A question asked last year was on polling. I'm wondering if you can help me with that. Last year we talked about how much we spent on polling in the previous year. Could someone tell me how much we spent in 2004-05 and how much are we planning to spend this year, in 2005-06—to, of course, just help the government with policy?

**Ms. Kathy O'Hara:** Correct me if I'm wrong, Patrick, but my understanding is that the 2004-05 number was \$297,000. If you want the 2003-04 number, it was \$260,000.

**Mr. Joe Preston:** What are we projecting in 2005-06?

**Ms. Kathy O'Hara:** My understanding is that we expect to end up in about the same range this year.

**Mr. Joe Preston:** So this polling, of course, is all non-partisan. Is there any way we could get exact numbers for 2004-05 and maybe copies of the polls that were taken in 2004-05?

**Ms. Kathy O'Hara:** The \$297,000 is an exact number, and these are all published as per the Treasury Board policy. We can give them to you, but they are all published.

**Mr. Joe Preston:** Okay.

In the report on plans and priorities, I see notes on an increase of \$11 million to fund—I love this one—non-discretionary pressures. This is a notation that I'm sure my wife would like to use in the future. What is a “non-discretionary pressure” and what's \$11 million for?

**Mr. Patrick Borbey:** That is referring back to the explanation we gave on the change in the structure of PCO. Additional responsibilities have been added.

**Mr. Joe Preston:** This is for the new cabinet help.

**Mr. Patrick Borbey:** There are also additional responsibilities related to the action plan on official languages. For example, we are funding Statistics Canada's post-census survey of official language minorities across the country. So there's that plus the pressures related to the restructuring of the cabinet process, and the internal workings of PCO to support that.

**Mr. Joe Preston:** I understand in here we've identified departmental savings going forward five years. If we've identified savings five years hence, why can't we implement them now? How can we truly believe, seeing the growth we've had in the PCO over the last five years, that we're going to see a decrease? It's always great to talk about doing something five years from now, but what are we doing this year to cut expenses versus last year?

**Mr. Patrick Borbey:** Okay, I can answer that.

We have a plan under the expenditure review process that sees about a \$25-million saving over five years coming out of the PCO. The vast majority of that is going to come through greater efficiencies in operations, in particular in the corporate functions. We are pursuing having a shared services model with the other central agencies in order to be able to gain through efficiencies, reducing the amount of investment we put into corporate systems by pooling our resources. So that is our plan for where the majority of our savings are going to come from.

**Mr. Joe Preston:** If we know them to be savings going forward, are some of them being realized in 2005-06? Are we starting down that road?

**Mr. Patrick Borbey:** There's \$2.3 million that's been cut in our budget this year as part of the ERC. That grows to \$6 million in two years, and over five years it's \$25 million.

• (1715)

**Mr. Joe Preston:** I see that we've budgeted \$8.9 million for commissions of inquiry, and we recognize it will likely be higher than that. I guess it's a shame that we need to have expenditures on inquiries to look at how our government acted in the past. However, I would suggest this is maybe the best money spent in here.

What is your best estimate on what this figure may be by the end of the year?

**Mr. Patrick Borbey:** I can't really guess at this point, because we do not have budgets that have been approved, for the Gomery commission in particular. This amount includes an estimate to support the Arar commission, and approximately \$4 million to support the policy research initiative that is part of that business line. That is for an organization that is providing advice to the government on future policy directions.

**The Chair:** All right.

Mr. Preston.

**Mr. Joe Preston:** So we've had a fairly large ramping up of expenditures over the last four years at PCO—something in the 25% range. Now we're going to save some amount over the next couple of years. In general terms, on the large increases in PCO spending over the last three or four years, can you give me in simple layman's terms, as Mr. Szabo has asked, justification for those increases? Why has government grown?

**Mr. Patrick Borbey:** There are additional pressures, as we've explained, associated with the new structure. That structure of government has to be supported by people, and that is reflected. Most of our costs are for people at PCO.

The other area where there's some growth is in the transfer of responsibility, for example, from Communication Canada for some responsibilities they previously provided to the government for which we now are responsible. I think Mr. Wright explained the last time that the government saved a significant amount of money through the disbanding of that organization, but some of those functions are continuing. So that is reflected also in our growth.

Then you also have the normal increases in the cost of salaries, cost of living, and systems and technology to support the government.

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

Mr. Gagnon is next for five minutes, please.

[*Translation*]

**Mr. Marcel Gagnon:** Thank you, Mr. Chairman.

I have trouble understanding a few things. You mentioned that some 70 people had been added to the official languages service.

**Mr. Patrick Borbey:** No, I am sorry, that was for the antiterrorism service. For official languages, a dozen people were added to support the government in the implementation of its action plan.

**Mr. Marcel Gagnon:** Do you have any idea of what those people actually do? I am just back from a trip and I got the impression that French had improved little, at least in the embassies. Any idea of what is being done? Are those people still in the pipeline?

[English]

**Ms. Kathy O'Hara:** I can answer that if you like. The people in the Privy Council Office who work on official languages support Minister Bélanger, who is the Minister responsible for Official Languages. He's been asked by the Prime Minister to play a coordination role in this area because, as you know, a number of departments are involved in the official languages action plan. Those people provide a kind of coordination and secretariat function to Minister Bélanger, coordinating the other departments and producing the annual report every year on official languages.

So it's a classic central agency function. They're not providing operations; they're doing the central agency function, the challenge function, the policy development function.

[Translation]

**Mr. Marcel Gagnon:** If I understand this correctly, those people answer to the Prime Minister concerning the state of official languages, if there is any improvement, but more likely, any worsening of the situation. That is the work they do for the Prime Minister.

• (1720)

**Ms. Kathy O'Hara:** Yes.

**Mr. Marcel Gagnon:** You talked about measuring, the amounts of money invested to measure efficiency. You have just answered that question, but I would like to go back to it. We are talking about a few million dollars extra and we do not really know how to improve the efficiency.

**Mr. Patrick Borbey:** I will clarify my remarks. What I said concerned how we were going to come up with the 25 million dollars in savings the government asked us to find. So our budgets were slashed by 25 million dollars over the next five years and that represents 2.3 million dollars for the current year as you can see in the estimates.

We are trying to be more effective and efficient by combining our efforts together with those of the other central agencies, the Department of Finance, the Treasury Board Secretariat, the Public Service Human Resources Management Agency and the Canada School of Public Service in order to offer common services rather than coming up with our own systems and having our own employees working on accounts payable, for example. So we think that we can become more efficient in that area in order to come up with the savings we were asked for.

**Mr. Marcel Gagnon:** Thank you.

[English]

**The Chair:** Thank you, Monsieur Gagnon.

Mr. Godbout, do you have a short question—or more? Go ahead, please.

[Translation]

**Mr. Marc Godbout:** Yes, Mr. Chairman. I am examining the document that was given to us where they mention contributions in the order of 15,597 million dollars that do not exist anymore in 2005-2006.

Are these contributions you mentioned that have gone to other departments?

**Mr. Patrick Borbey:** Yes, they were transferred to Indian and Northern Affairs Canada.

**Mr. Marc Godbout:** The major portion of that amount?

**Mr. Patrick Borbey:** That is it. Those amounts were not cut; they were transferred and are now under the responsibility of another minister.

**Mr. Marc Godbout:** In analyzing the program expenditures, we can see the correspondence between the 14 million dollars and the list you gave us before.

That is all, Mr. Chairman.

[English]

**The Chair:** Thank you, Monsieur Godbout.

Seeing no other questions, I'll ask a few myself, or maybe make a bit of a comment. We have a motion in the committee that I'd like you to stay for, so I won't take long at this.

I have a concern. When you look at the plans and priorities, the department's planned spending for 2005-06 is to decrease from \$181 million to \$149 million. Is that what you still expect to happen?

**Mr. Patrick Borbey:** No.

As I mentioned, we are expecting the Gomery commission to submit a budget. We may also have some additional costs related to supporting the Arar commission. We don't have those estimates yet, so we can expect there will be increases that are subject to cabinet approval and then are tabled as supplementary estimates, hopefully in the first round of supplementary estimates in the fall.

**The Chair:** Still, in the plans and priorities, was there no way to anticipate that this spending in fact may have been there?

**Mr. Patrick Borbey:** The instruction we receive from the Treasury Board Secretariat is to reflect in the RPP only those elements that have been approved. In some cases they were approved after the main estimates were finalized, so that's why there is sometimes a difference—for example, the \$149 million versus the \$141 million.

I know it is difficult to follow, but basically we are following the procedures that are dictated to us by the Treasury Board Secretariat.

**The Chair:** I guess maybe my concern, then, is with the instructions that are given to you. You have those statements, and you have statements in the report on plans and priorities that there will be a decrease of \$40 million pertaining to the termination of certain items related to—and you have them listed—and a decrease of \$2.3 million and \$2.8 million for other reductions. And that is to be offset by an increase in \$11 million for the non-discretionary pressures my colleague referred to, and an increase of \$1.8 million mainly related to transfers to the Department of Indian and Northern Affairs.

We've discussed all that, but then we have a statement saying that the PCO has identified \$25.2 million in savings. Anybody reading these documents and putting them all together would have a hard time getting any realistic picture about what's going on here.

Would you agree with that?

•(1725)

**Ms. Kathy O'Hara:** I totally agree.

**The Chair:** So what are we going to do about that?

Part of the responsibility of our committee is to try to help change the system in regard to the way the estimates are presented to the committee and the way we review these estimates, and to provide advice to other committees as to how they can do a better job of scrutiny. But if we get bafflegab like we have presented to us here, how are we supposed to do our jobs?

I don't mean to attack you in any way. You have expressed that you're frustrated, too. What would you suggest to us, though, as a first step—or two or three—in terms of trying to improve this process?

**Ms. Kathy O'Hara:** As Patrick said, this RPP is structured the way we're instructed to structure it, but like you, I find it hard—and I think this is Mr. Szabo's question—to get the story. What's the storyline here?

My understanding is that the Treasury Board has an improved performance reporting project under way right now under Minister Alcock that is exactly intended to improve these documents. And they're including—and I know this was an issue that came up in November—horizontal reporting, because it isn't just our individual estimates then. It's when there are issues—and official languages is a good example—that are government-wide, and you have to look at every department's RPPs and estimates to add it all together.

So my understanding is that Minister Alcock is indeed focused on exactly that—how to improve these documents and how to improve horizontal reporting.

**The Chair:** Have you been involved with him at all in this process?

**Mr. Patrick Borbey:** I've been involved in two different capacities now. I used to be the senior financial officer at Health Canada and now I'm with PCO. And I can say that for the last year and a half we've been working on basically trying to restructure the way we present financial information, using what Mr. Alcock has asked us to do in terms of the program activity architecture.

We are now presenting our estimates under the first phase of that reform. There are more changes required, including, as we alluded to earlier, improving the way we report on the indicators. That's a continuous process, and hopefully over the next couple of years we will see some improvements that will make your life easier, and also ours, in terms of being able to explain and give you the best information possible.

**The Chair:** As part of that process, are you going to be presenting information that will be more meaningful in the plans and priorities report? I think you've said that.

On the performance reports, in the past 11 years that I've been a member of Parliament, I don't know if I've ever seen a performance

report that has indicated something hasn't gone well. Everything has always gone wonderfully well. Yet we know that's not the case. Is part of the process to improve the performance reports so that they really give some kind of idea to the people of Canada on exactly what the government feels has gone well, what hasn't, and how they're going to deal with it?

**Ms. Kathy O'Hara:** My understanding is that the answer to your question is yes, because these documents should be learning documents. Yes, it would say that the government didn't achieve its objectives, but why we didn't achieve the objectives would be explained in the document, as well as what it is we need to change. Then we'd discuss it with this committee: do you think we've identified the right reason for why this didn't work; and now that we're going to try to fix it, do you think we have the right fix? Then you'd have a meaningful analysis and would be able to learn from the performance.

Isn't that what a performance measurement really is? It's learning from successes and failures.

**The Chair:** Yes. I won't pursue this in any greater length now. I know my colleagues are anxious to leave. Our time is almost up.

It has been frustrating, because there has been a lot of talk about change during the 11 years that I've been here. Quite frankly, some change has happened, but it hasn't been terribly significant. There's a lot to be done.

I sincerely hope that the changes you're talking about actually happen. If they do, I believe the cynicism of the general public will be reduced substantially. I think government generally and Parliament will be reviewed in a more positive fashion.

Were there any final questions for the witnesses today?

Thank you very much for coming today. I appreciate your presentation and your answering of questions. Thanks very much. I appreciate it.

Before you leave, committee, and before we adjourn the meeting, we have a motion. This is a housekeeping motion. I'll move it. If you would like some discussion, we'll do that. If not, we'll pass it very quickly.

I move that the clerk make the necessary arrangements for a working lunch at the Parliamentary Restaurant following the appearance of Mr. James McVay, assistant to the special counsel, U.S. Office of Special Counsel, on Thursday, April 7, 2005.

(Motion agreed to)

•(1730)

**The Chair:** Thank you very much.

The meeting adjourned.







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