



Legislative Assembly of Alberta

The 28th Legislature  
First Session

Standing Committee  
on  
Legislative Offices

Friday, November 23, 2012  
8:34 a.m.

Transcript No. 28-1-4

**Legislative Assembly of Alberta  
The 28th Legislature  
First Session**

**Standing Committee on Legislative Offices**

Xiao, David H., Edmonton-McClung (PC), Chair  
McDonald, Everett, Grande Prairie-Smoky (PC), Deputy Chair

Bikman, Gary, Cardston-Taber-Warner (W)  
Blakeman, Laurie, Edmonton-Centre (AL)  
Brown, Dr. Neil, QC, Calgary-Mackay-Nose Hill (PC)  
DeLong, Alana, Calgary-Bow (PC)  
Eggen, David, Edmonton-Calder (ND)  
Leskiw, Genia, Bonnyville-Cold Lake (PC)  
Quadri, Sohail, Edmonton-Mill Woods (PC)  
Rogers, George, Leduc-Beaumont (PC)  
Wilson, Jeff, Calgary-Shaw (W)

**Also in Attendance**

Notley, Rachel, Edmonton-Strathcona (ND)

**Legislative Officers**

Jill Clayton	Information and Privacy Commissioner
Brian Fjeldheim	Chief Electoral Officer
Del Graff	Child and Youth Advocate
Peter Hourihan	Ombudsman
Merwan Saher	Auditor General
Neil R. Wilkinson	Ethics Commissioner

**Office of the Auditor General Participants**

Jeff Olson	Assistant Auditor General
Loulou Eng	Senior Financial Officer

**Office of the Chief Electoral Officer Participants**

Lori McKee-Jeske	Deputy Chief Electoral Officer
Teresa Griffiths	Election Operations Assistant
Bill Sage	Acting Director, Election Finances
Drew Westwater	Director, Election Operations and Communications

**Office of the Child and Youth Advocate Participants**

Bonnie Russell	Director, Strategic Support
Jackie Stewart	Executive Director, Advocacy

**Office of the Ethics Commissioner Participants**

Brad Odsen, QC	General Counsel and Registrar, Lobbyists Act
Glen Resler	Chief Administrative Officer

**Office of the Information and Privacy Commissioner Participants**

Marilyn Mun	Assistant Commissioner
Sophia Furtak	Manager, Finance

### Office of the Ombudsman Participants

Joe Loran	Deputy Ombudsman
Suzanne Richford	Director, Corporate Services

### Support Staff

W.J. David McNeil	Clerk
Robert H. Reynolds, QC	Law Clerk/Director of Interparliamentary Relations
Shannon Dean	Senior Parliamentary Counsel/ Director of House Services
Philip Massolin	Manager of Research Services
Stephanie LeBlanc	Legal Research Officer
Nancy Zhang	Legislative Research Officer
Nancy Robert	Research Officer
Corinne Dacyshyn	Committee Clerk
Jody Rempel	Committee Clerk
Karen Sawchuk	Committee Clerk
Christopher Tyrell	Committee Clerk
Rhonda Sorensen	Manager of Corporate Communications and Broadcast Services
Jeanette Dotimas	Communications Consultant
Tracey Sales	Communications Consultant
Liz Sim	Managing Editor of <i>Alberta Hansard</i>



**8:34 a.m. Friday, November 23, 2012**

[Mr. Xiao in the chair]

**The Chair:** Welcome, ladies and gentlemen, to the committee. We've got a full schedule today, so let's start right away.

Before we start, let's go around the table and introduce ourselves. Let's start with the deputy chair.

**Mr. McDonald:** Everett McDonald, Grande Prairie-Smoky.

**Mrs. Leskiw:** Genia Leskiw, Bonnyville-Cold Lake.

**Mr. Rogers:** George Rogers, Leduc-Beaumont.

**Mr. Wilson:** Jeff Wilson, Calgary-Shaw.

**Mr. Bikman:** Gary Bikman, Cardston-Taber-Warner.

**Mr. Loran:** Joe Loran, Deputy Ombudsman.

**Ms Richford:** Suzanne Richford from the Ombudsman.

**Ms DeLong:** Alana DeLong, Calgary-Bow.

**Dr. Brown:** Neil Brown, Calgary-Mackay-Nose Hill.

**Mrs. Sawchuk:** Karen Sawchuk, committee clerk.

**The Chair:** David Xiao, Edmonton-McClung. I'm the chair of this committee.

Mr. Eggen, it's your turn to introduce yourself. You're right on time.

**Mr. Eggen:** Perfect timing, yes. I'm David Eggen. I'm the MLA for Edmonton-Calder.

**The Chair:** With that, you know, we have a full schedule today, so we will move on to the business at hand.

Before we do that, just a few housekeeping items and notes before starting. I'd like to remind everybody that the microphone console is operated by *Hansard*. Please keep your BlackBerrys off the table as these can interfere with the audiofeed.

I'd like to have a motion to adopt today's agenda.

**Mrs. Leskiw:** I so move.

**The Chair:** Okay. Mrs. Leskiw. All in favour? Opposed? Carried. Thank you.

Today we'll review the 2011-2012 annual reports, the business plans, and the 2013-2014 budget estimates for the offices of the Legislature, starting with the office of the Ombudsman. Before we begin, I would like to point out that the decisions on the budget estimates will be made once all of the offices have been heard. This has been incorporated into our agenda as item 4(g) if you look at your agenda.

I'd like to welcome the Deputy Ombudsman and Ms Richford. Before you start your presentation, I'd just like to ask that the last 20 minutes or so be left for questions from the committee. Now please proceed with the presentation.

#### **Office of the Ombudsman**

**Mr. Loran:** Well, thank you and good morning. Peter Hourihan, the Ombudsman, sends his regrets. He's out of the country due to other commitments with the International Ombudsman Institute and is unable to be here today. He's a director for the North American region with that group. While he's there, he's seeking

out information on best practices in case management, critical analysis, quality assurance, and accountability measures.

I'd like to thank you for the opportunity to present the Ombudsman's annual report, business plan, and budget. As I've been with the Ombudsman's office for almost six months, I will endeavour to answer any questions you may have, and if I cannot provide an answer immediately today, I commit to follow up with you as soon as possible.

The organizational chart shows the revised structure of our office. It is based on our current complement of 23 positions. That's page 2 on the slide deck. You should have a hard copy in front of you. When the Ombudsman presented to you last year, the office had eight vacancies. There was also some concern expressed about the reporting lines on the organizational chart, which have also been addressed. Since last year's report we've had four staff members move on to other opportunities. Peter committed to you last year that his target was to bring the staff complement of the office up to 23 positions, which is where we're at today.

In his presentation last year Peter stated: we've embarked on a year of review to identify opportunities to change our structure and processes for efficiencies. This is partially captured in our 45th annual report, and the committee will continue to see changes going forward. However, some things will not change. Our mandate is to ensure the government provides quality service that is fair and accountable to Albertans in the way in which we approach this responsibility, which is through a co-operative and progressive relationship with government authorities for which we have oversight.

Some of the areas we will be focusing on are increasing the awareness of our office and its mandate; ensuring all Albertans are taking advantage of our services where appropriate and ensuring they understand our relevance, and we need to understand their needs; ensuring we are maximizing our efficiency through the appropriate use of technology not only to increase awareness but also to manage our work processes; ensuring our employees are prepared and capable of dealing with our workload in a manner which Albertans expect; and analyzing our internal processes and information to help us become more efficient and ensure we have focused our resources on areas where they will have the most impact.

**8:40**

On page 3 of the slide deck the workload statistical overview is presented so that you can see year-to-year trends and the volume of information our office is currently managing. You will note that we've had an increase in written complaints, which may partially be attributable to a change in our policy to accept e-mail submission of complaints.

We also handle a significant number of inquiries which are classed as nonjurisdictional. We believe that this is an important service we provide to Albertans in that they often call our office thinking that they are dealing with an issue related to a government authority or are just frustrated with their inability to find the right avenue for their concerns to be heard. We clarify if the issue is not related to government authorities – we provide them that clarity – and almost always are able to provide them with the appropriate advice on where they should be directing those concerns. This is an area where we feel some critical analysis may provide additional information about the problems which, although they may be outside of our jurisdiction, should be addressed by the appropriate authorities or may allow us to better target some of our awareness initiatives.

Some of you may have had a visit by the Ombudsman or one of our staff to your constituency office. The purpose of these visits is to ensure your staff are aware of the services we can provide for your constituents and to solicit opportunities within the communities to provide presentations to groups who would benefit from greater knowledge about the role of the Ombudsman. These visits have proved beneficial and will continue as it is our intent to get to every constituency office in the province over the next year. We follow up each visit with a letter which recaps our discussion with the staff. Our priorities include increasing awareness, seeking outreach opportunities to speak with community or service groups who might benefit from knowing more about us, and reminding them that we can assist in providing information on where to refer constituents with problems.

Last year Peter reported that the Ombudsman was in discussion with the Human Rights Commission regarding jurisdictional issues which were impacting timely resolution of our complaints. I am pleased to report that this matter has been collaboratively resolved, and these investigations are now moving forward. The alternative complaint resolution process and informal resolution process continued to be used where appropriate to ensure quick and nonbureaucratic resolutions are achieved.

An example of our progressive and co-operative approach working well is with the patient concerns office of Alberta Health Services. This area came under our jurisdiction on April 1, 2006, and over the years we've worked collaboratively to improve the processes used by the patient concerns office. We have seen an improvement in the entire patient concerns resolution process and improved service to Albertans.

Are there any questions on the annual report?

**The Chair:** Later we will open the floor for questions. Go ahead.

**Mr. Loran:** Continue on?

**The Chair:** Yes, please.

**Mr. Loran:** I would now like to move on to our strategic business plan. The strategic business plan will assist the Ombudsman office in ensuring we stay relevant, productive, and helpful in our goal of seeking and ensuring fairness for Albertans. We seek to be innovative, to change as required, and to be consistent to the greatest extent possible. The format of this business plan is different from previous years' plans. I hope it will allow this committee to easily identify our key directions and progress made towards achieving them. This year's business plan was a collaborative effort of all of the staff. This has allowed everyone in our office to see themselves and their work in our various priorities and goals. As well, it provides a clear vision of how they contribute to our success.

We have identified four strategic priorities for inclusion in the strategic plan. These are of significant importance and require a dedicated focus to ensure we're effective in delivering our mandate: enhanced awareness of the Alberta Ombudsman, providing an excellent service, fostering a positive work environment, and exploring technology.

The following initiatives will help us achieve the goals which support these priorities. The first goal is enhanced awareness of the Alberta Ombudsman. We have increased awareness with government authorities, and the next page on the slide deck is an example of what you'll see within the strategic business plan. The goal is to ensure full, bilateral communication to further the role of the Ombudsman. Some of the initiatives are to meet with all of the deputy ministers and heads of other authorities, visit all MLA constituency offices, distribute brochures and other communica-

tion materials to authorities, and develop a communication strategy for jurisdictional and nonjurisdictional authorities.

The next one is increased awareness with all Albertans. The goal is ensuring maximum exposure across Alberta. Some of the initiatives are to create opportunities for public presentations and develop an external communication strategy.

Next, we have rebranding of the Alberta Ombudsman's office. The goal is to enhance awareness of the office. So we're redesigning the Ombudsman's logo, the Ombudsman's website, and the publications and promotional items that we distribute. The intent of this is to ensure that we're reaching all audiences.

Next, under providing an excellent service, we have: conduct thorough and accurate investigations. The goal is to reorganize the office structure to improve service delivery. Some of the initiatives are to create a team structure and assign staff, create an own-motion team, and create an own-motion protocol. Next, under conduct thorough and accurate investigations, is the goal to establish effective performance measures. One of the initiatives is to review and redefine our performance measures.

We want to conduct thorough and accurate investigations, so our goal under this is to review internal processes and identify opportunities for efficiencies. The initiatives are to review and update processes on our intake, analysis, investigational, and administrative levels and complete investigations and make findings in a timely manner. Next, we would like to provide effective communication of our investigational findings with the goal of ensuring that communication with complainants and government authorities is consistent and effective. The initiatives here are to review our current contact points and create a recommendations database.

Under foster a positive work environment we want to build and foster a positive work environment at the Alberta Ombudsman's Office. Our goal is to define and validate what a positive work environment looks like. Some of the initiatives there are to research other best practices, involve personnel on positive elements and group norms, and ensure these are developed to reflect all personnel in the work environment. We want to fully integrate the Calgary and Edmonton Ombudsman offices. To do this we're developing and implementing integration options. We want to provide personnel with effective development opportunities to ensure they're well equipped to perform their duties. One of the initiatives we're doing here is striving to have all personnel receive a minimum of five days of professional development in a fiscal year according to their personal learning plan.

We intend to explore technology. The goal here is to ensure that we're utilizing technology and that the technology we have is utilized in a manageable and effective manner. The initiatives here are to conduct a needs assessment of technology and identify appropriate technological solutions. We want to maximize our available security in the technology area and maintain our credibility through secure technology. The initiatives here are to conduct a security risk assessment and provide guidelines to enhance the reliability.

Next, I would like to present on our budget for the upcoming year, the '13-14 fiscal year. For the 2013-14 fiscal year we are requesting an additional \$348,000 above the 2012-13 budget. This increase represents additional funding for personnel costs, including two positions, merit, cost of living increases for staff, and corresponding increases to employer contributions. As noted last year, the office had been in a holding pattern from a resourcing standpoint. Over the past year we've significantly increased our staffing levels, as was committed to you in last year's meeting. This has placed some pressure on our budget. In acknowledging the resourcing levels and the realistic ability of the

office to staff up and spend its existing budget allocation, last year our ask was for the 4 per cent cost-of-living increase awarded across government. This did not take into account any in-range salary increases for the employees.

**8:50**

The current complement of 23 employees was only reached towards the end of the third quarter of this year, yet our forecast is currently on track to spend almost all of our allocation. To just maintain the current levels, we will require an increase in funding. Many of our staff are not at the maximum pay grade, and meeting these obligations will further erode our budget. Going forward, we would also like to staff the last two positions to bring our office up to full strength, a complement of 25 personnel.

There is no increase for the supplies and services budget for 2013-14. Although our travel and advertising budgets have increased to support our current awareness and service excellence initiatives, this is offset by a decrease in budget for both contract services and materials and supplies.

The priorities identified in the strategic business plan show that we are focused on achieving results. To do this, we need to have a budget which will support our operations. As already identified, the biggest increases in our budget will be due to personnel-related expenses, which only stands to reason given that these comprise approximately 89 per cent of our operating budget.

In the supplies and services area our expenditures this year are over budget as we are evaluating options for legal services with the departure of our in-house legal counsel. However, legal services are a key component of our operations, so we have been contracting this service while the evaluation is ongoing. We are also contracting administrative support until there is clear direction from this committee on our financial ability to staff that position. We are also exploring with other legislative offices the opportunities to share services and maximize efficiencies while not impacting mandates. For example, we are currently exploring an opportunity for information technology sharing of the infrastructure servers with the other legislative offices.

The progress made to date and the initiatives currently under way demonstrate that we are being prudent in maximizing the funding we receive. To achieve our goals we will require an additional increase in our funding levels of \$348,000.

The last item I would like to bring up is that Associate Minister Scott has indicated that there is consideration being given to the Ombudsman being the commissioner for Bill 4, the public interest disclosure act. If this comes to be, we will need to present a revised budget for additional funding to support these additional duties.

That's the end of my presentation. I'm certainly open to questions.

**The Chair:** Thank you very much for the presentation.

Before we proceed with our questions, I'd like to acknowledge Mr. Sohail Quadri, MLA for Edmonton-Mill Woods. Welcome.

**Mr. Quadri:** Thank you.

**The Chair:** Now we'll open the floor for questions. Dr. Brown, please, go ahead.

**Dr. Brown:** I wonder if you could tell us how you would assess the service that you provided last year? I mean, from your standpoint. The clients have their perception, I guess, but how you would assess the service that you provided to Albertans as an Ombudsman's office last year?

**Mr. Loran:** Well, last year we were short eight positions, so I would have to say that we could have performed better in providing service. We did eventually get staffed up to our full complement in this fiscal year.

**Dr. Brown:** When did that happen?

**Mr. Loran:** Well, we reached 23, not our full complement – our full complement would be 25; pardon me – and that happened roughly in September, that we managed to have 23 staff sitting at desks.

**Dr. Brown:** Your forecasted budget was \$2.379 million?

**Mr. Loran:** Yes.

**Dr. Brown:** What were you short there in terms of your budget? In other words, what was the difference between your budget and the forecast in terms of your expenditures that you had planned to make? If you got yourself up to staff, was the reason that you were under your budget just the fact that the staffing came late in the year?

**Mr. Loran:** In this current fiscal year?

**Dr. Brown:** In 2012-13.

**Mr. Loran:** Yeah. The current fiscal year.

We had four staff leave over the course of the past year as well, so we had to not only replace those four staff but recruit into the other positions that were vacant. That's why there was such a time lag in bringing everybody on stream. The impact on our budget in having that delay was beneficial in the sense that this year we are having a \$29,000, \$39,000 surplus. We'd certainly be a lot more pressed financially had we staffed up earlier in the year.

**Dr. Brown:** Don't get me wrong. I'm not criticizing you for having a budget surplus. I think it's a good thing.

Thank you, Mr. Chairman.

**The Chair:** Mr. Eggen.

**Mr. Eggen:** Yes. Thanks very much for your presentation. My first question has to do with timely resolution of files that are brought to your office. I'm just wondering how the contracting out of legal services might impact the timely resolution of complaints to your office. I had noted that you did have those services in-house up till recently, and you're contracting them out. I'm just wondering if, perhaps, that disconnect or that one step removed aspect of contracting out might be impacting your turnaround time on files.

**Mr. Loran:** We're monitoring that area very closely because we are very concerned about timely service delivery and trying to improve that in our office. The reason we're currently contracting out the legal services as well is that we've discussed with the other legislative offices the opportunity for sharing. That's one of the areas we may look at sharing to see if there can be efficiencies gained by sharing a full-time legal adviser between offices if there's enough capacity or if the workload is sufficient. Should that not come to fruition, we will be exploring hiring or recruiting a full-time legal adviser. But currently it hasn't impacted our ability to get timely decisions from them on a contract basis.

**Mr. Eggen:** So what was the rationale for choosing to contract out legal services?

**Mr. Loran:** We didn't want to hire someone and then be in a position where we were negotiating with the other independent offices and have a surplus legal adviser. We wanted to be sure we had the opportunities to move either way. Should there be a desire with the other offices to share that service, they may already have someone on staff that we can use.

**Mr. Eggen:** Right. But you had one before, so I'm just wondering: was it to do with trying to save money, then?

**Mr. Loran:** No, I don't think it was a save money initiative. That individual decided to move on to other opportunities partway through this fiscal year. We saw that as an opportunity to do an evaluation with the other offices as to whether there was an appetite to share those services. If there is, great. If not, then we will move to staff that position on a full-time basis.

**Mr. Eggen:** Thank you.

**The Chair:** Mr. Wilson.

**Mr. Wilson:** Thank you, Mr. Chair. And thank you for your presentation, Joe. I appreciate it. My questions are around the employer contributions portion of the operating budget. Can you help me understand what all is entailed in the employer contributions line item?

**Ms Richford:** Yeah. Employer contributions are the benefits that we pay on behalf of our employees. It would be health and dental benefits and pension. Pension is actually one of the highest costs when it comes to the employer contributions. As well, there's the health spending account, and that is \$950 an employee. So that's pretty much what makes it up. Life insurance. It works out to usually about 20 per cent of an individual's salary above and beyond their salary. That's what we use as a budget.

9:00

**Mr. Wilson:** Okay. And with the addition of two new employees you're anticipating that going up by close to a hundred thousand dollars this year?

**Ms Richford:** Actually, it's only going up by about \$45,000 from '12-13. It was at \$435,000 as our budget, and it will be \$490,000 for '13-14.

**Mr. Loran:** The forecast amount is lower, so it's the actual amount versus the budget. Because our staffing levels were low, we didn't burn as much as we would have in that category.

**Ms Richford:** Right.

**Mr. Wilson:** Gotcha.

**Ms Richford:** So we budgeted for 23 staff this current year, and we're anticipating that given all of the movement in and out during the year, we'll be at 21 actual full-time equivalents.

**Mr. Wilson:** Okay. Final question: what percentage of that amount is the pension?

**Ms Richford:** What percentage of the employer contributions? I would say that it's probably at least 20 per cent because the contributions the employer pays on behalf of both management and the public service is about 12, 13 per cent of their biweekly pay.

**Mr. Wilson:** Thank you.

**Ms Richford:** You're welcome.

**The Chair:** Thank you.

Mr. McDonald.

**Mr. McDonald:** Thank you, Mr. Chair. The question I have is on measurements and targets. Were you able to achieve your target of going to every constituency in the province of Alberta last year?

**Mr. Loran:** We didn't have that as a target last year. Last year was an anomaly in that we didn't have a business plan. There was a gap in the leadership in the Ombudsman's office due to the retirement of the previous Ombudsman and the coming in of the new Ombudsman. I believe he arrived just prior to this committee meeting last year. There was no business plan prepared to present, so we've operated this current fiscal year without a business plan. That's a new initiative, getting out to all the constituency offices.

**Mr. McDonald:** So typically, Joe, you haven't been going out to offices in the past or just as needed or a drop-in?

**Mr. Loran:** Right. I think it was a little less formal. There probably wasn't a concerted effort, nor was there a tracking of which offices we visited and which ones we didn't. It would have been very sporadic in the past.

**Mr. McDonald:** Okay. That will be tracked from here on?

**Mr. Loran:** Yes.

**Mr. McDonald:** Thank you.

**The Chair:** Thank you.

Mr. Rogers.

**Mr. Rogers:** Thank you, Mr. Chairman. Thank you for the presentation. This is a general question. I'm curious. You mentioned that it's anticipated that your office will be responsible for the new commissioner under Bill 4, and I'm just wondering if you had any estimates of what you thought that might cost. You mentioned you'd likely have to come back to this committee for a revision. I realize this has yet to be developed, obviously. But assuming you take this role under your wing, so to speak, it could be a portion of a year, likely some portion of a year. I'm wondering if you have any thoughts as to what that cost might be, rough estimate, without trying to tie you down, sir.

**Mr. Loran:** I apologize if I left the impression that we're anticipating that that's going to happen. What I was trying to convey was that Associate Minister Scott had mentioned that we may be.

**Mr. Rogers:** I understand that.

**Mr. Loran:** We haven't had any formal discussions.

**An Hon. Member:** The bill hasn't passed.

**Mr. Loran:** Yeah. The bill hasn't passed. We haven't had any formal discussions with the department, so we really are in the dark as to what our role would be. We've reviewed the act, but we still have no idea what workload commitment would be required to that act.

**Mr. Rogers:** I appreciate that answer, sir. I realize we can't be presumptuous as to what the Legislature will do. That's the general direction that it's going. You know, I'm concerned.

You're already looking to up your complement to 25, which represents a little bit over a 10 per cent increase to this existing budget. You know, in the climate of restraint that we're in, I'm a little concerned where we'll end up, even if what we just talked about doesn't transpire. I did listen to your presentation in terms of the struggles to keep up with the workload. That's sort of where my thoughts are.

**Mr. Loran:** Okay. We're trying to get up to our established complement of 25. We're currently at 23. We don't currently have the budget to reach the approved complement. If Bill 4 gets passed and we do get the duties under our office, there will be additional work associated to it. What that work is and how much it is I really can't comment on it at this point.

**Mr. Rogers:** I appreciate that. Thank you.

**The Chair:** Thank you.  
Your turn, Mr. Bikman.

**Mr. Bikman:** Thank you. I've enjoyed listening to you this morning, and I appreciate your being here with us. As a new MLA I'm learning a lot and appreciate this opportunity to learn a little more. I have a couple of questions.

**The Chair:** Mr. Bikman, can you speak into the mike? We can't hear you.

**Mr. Bikman:** Can you hear me now? I feel like I'm doing a Verizon commercial.

Okay. About the independence of your office has there ever been a sense that the government or someone from the government has tried to influence you in any way?

**Mr. Loran:** No.

**Mr. Bikman:** Good.

How much of your time would be spent screening and verifying the validity, listening to the concerns and then seeing, first of all, how valid they are? Do you have some sort of a template or a guideline for determining validity?

**Mr. Loran:** We have what we call an intake process. Every day we have one of the staff assigned to do intake duty. So they take the calls coming into the office. They do a quick analysis to determine if it's jurisdictional or not. They try and help the individual out if it's not. Then we require complaints to be in writing, whether that be an e-mail or other type of written submission. So we have an analytical unit that then does an analysis of the complaint to identify what the issues are and, again, whether there are any jurisdictional challenges and what the appropriate avenues for investigation are, and then it rolls out to our investigators.

**Mr. Bikman:** Can you give us an example of the jurisdictional issues like where you would have to help somebody because that wasn't within your purview?

**Mr. Loran:** It might be a complaint about an insurance company, or it might be a complaint about a mechanic and the work they did on their vehicle. It may be a complaint about a bank other than the Alberta Treasury Branches.

**Mr. Bikman:** If a citizen of a local city, town, or village was complaining about the problems they were having with some level of municipal government, would that be something that you would look at?

**Mr. Loran:** No. That's outside of our jurisdiction as well.

**Mr. Bikman:** Okay. Whom would you send such a person to?

**Mr. Loran:** Well, depending on the circumstances we have a database of people we can refer them to, not only organizations but individuals as well within those organizations, to get their concerns addressed.

**Mr. Bikman:** What are the kinds of things, then, that you would actually respond to? What is an ACR, again?

**Mr. Loran:** Alternate complaint resolution.

**Mr. Bikman:** Okay. And files carried forward – oh, formal investigations: 153 were conducted and completed?

**Mr. Loran:** Yes.

**Mr. Bikman:** Okay. Obviously, you can't tell us details, but in general what kinds of things do you then take on?

**Mr. Loran:** It may be something as straightforward as an individual in a provincial correctional institution who is unable to access medical services, or it may be a complaint about a Workers' Compensation Board decision or a decision of another board or authority or one of the colleges or professional associations.

**Mr. Bikman:** Okay. What would you say your biggest successes have been and your biggest disappointments in the past year?

**Mr. Loran:** Well, our biggest disappointment is probably the timeline on our service, which we're focusing on through a number of different initiatives. Our biggest successes have been in the same light some of the timeline issues we've had. We've started moving forward.

**Mr. Bikman:** Have you been able to compress start to finish?

**Mr. Loran:** Yeah. Right, and deal with some of the old files that had been lingering in the office and hadn't been dealt with appropriately.

**Mr. Bikman:** Do you have an average start to finish currently and what your goal is?

**An Hon. Member:** Could you speak into the mike? We can't hear you over here.

**Mr. Bikman:** Okay. All right. I'll use my 1-900 tone of voice.  
Anyway, what did I ask you?

**9:10**

**Mr. Loran:** If we had an average timeline for opening. I don't know what that might be. If you'd like, I can commit to getting that information to you.

**Mr. Bikman:** I'd be interested.

Do you have goals? Is that part of your targets for resolving issues? Within 90 days or six months?

**Mr. Loran:** Well, we do have some general statistics in our annual report.

**Mr. Bikman:** I see that. My associate has just pointed out to me that on page 5 it shows 90 per cent of files completed within a year.

**Mr. Loran:** Yeah.

**Mr. Bikman:** Okay. Good.

**Ms DeLong:** When looking at the business plans, I do find it strange that you don't have your average response times in terms of how quickly you're processing things. I don't know whether you have further information. You were saying 90 per cent would be done within a year?

**Mr. Loran:** Yes.

**Ms DeLong:** What per cent are done within a week?

**Mr. Loran:** Of all inquiries or formal investigations?

**Ms DeLong:** All inquiries.

**Mr. Loran:** Well, 90 per cent of all inquiries are handled within 24 hours.

**Ms DeLong:** Excellent. Excellent.

I've got a couple of questions and then a supposition for you. First of all, how many of the calls that you're getting and the written complaints that you're getting are actually coming from constituency offices or were recommended through constituency offices?

**Mr. Loran:** I'm not sure that we track that figure. I haven't been there long enough to have a good sense of that. We're certainly hoping to enhance our work with the constituency offices in dealing with problems through this outreach that we've undertaken with them.

**Ms DeLong:** I know that in my office we will write up something for a constituent because often we have people who really cannot write. So, you know, we'll do that. Do you have any sort of a service or assistance like that?

**Mr. Loran:** Absolutely. Yes.

**Ms DeLong:** Oh, okay. Excellent.

Now, here's just supposing. If you had to be limited to a 2 per cent increase this coming year, what actions would you take? How would your plans change?

**Mr. Loran:** Well, we certainly wouldn't be able to hire any additional staff to move us up to our full complement.

**Ms DeLong:** Does that mean that you would be using more of your management staff to do more of the processing?

**Mr. Loran:** No, I don't think we would. We're reviewing all of our work processes. We're trying to find efficiencies there, but I think at the end of the day, should we decide we needed to hire our legal adviser full time, we wouldn't be in a position where we could commit to that given a 2 per cent increase.

**Ms DeLong:** But you were saying that you might be able to get a legal person hired that would be working for several of the LAO offices. So you'd be going in that direction anyway, wouldn't you?

**Mr. Loran:** Certainly, that's our intent, but there's no commitment from the other offices.

**Ms DeLong:** I do notice that in this year and the previous year contracting services are quite high. I wonder if you could just give me an outline of all the kinds of contracting services that you're using?

**Mr. Loran:** Currently our legal services are being contracted out, so that's a significant expense. We have an HR consultant that we've brought in to assist us through the hiring of the eight positions that were vacant plus the four that turned over, so there were some significant costs involved in that. We do at times find ourselves in a position where we have to contract outside legal counsel to represent us on legal matters where our office is being taken to court.

Now, we contract out IT services, and I'm not sure if that's captured under – pardon me. That's under technology.

**Mrs. Leskiw:** Good morning. I was just interested about the files carried over. How does that work? In 2009 we had 305 files. All 305 were taken care of the following year, and then the 236 files in 2010-11 were all taken care of this year. Therefore, the 284 were new files that are going to be taken care of next year. How does that work?

**Mr. Loran:** Well, not necessarily. It'll depend on the complexity of the file, the legal issues involved, as to how long an individual file takes. I couldn't say that, yes, every year that's a new batch of files being carried over. There are certainly a few in there, very few, that are from the previous year that carried forward over a period of a year.

**Mrs. Leskiw:** Do you have a breakdown? I would be interested to find out how many of the files of this year's 284 – when that file was started to be worked on. Are any of these files two years old, three years old, six months old?

**Mr. Loran:** I do have the information here on our oldest file – just let me flip to that – from 2006-2007.

**Mrs. Leskiw:** Those are reflected in the 284 for the 2011-2012 year?

**Mr. Loran:** Yes.

**Mrs. Leskiw:** What takes so long for these files? What year did you say, two thousand and what?

**Mr. Loran:** It's '06 and 2007.

**Mrs. Leskiw:** Okay. That's five years.

**Mr. Loran:** Yeah. These relate to the Human Rights Commission issue, which I alluded to at the beginning of the presentation.

**Mrs. Leskiw:** Okay. Thank you.

**The Chair:** Mr. Quadri.

**Mr. Quadri:** Thank you. Actually, first of all, I just got visited two weeks ago. My office was visited, and I got the letter, so I know the department is working, for sure. I think you must have mentioned it before, but how many people do you have on hand right now?

**Mr. Loran:** Twenty-three.

**Mr. Quadri:** Twenty-three. And you are asking for four more?

**Mr. Loran:** Two more.

**Mr. Quadri:** Two more. All right. There was talk that you used to have a counsel as your employee. Now you're retaining the services.

**Mr. Loran:** Temporarily. Yes.

**Mr. Quadri:** What is the most effective way?

**Mr. Loran:** That's what we're trying to determine. We didn't want to be locked into having a full-time position until we made that determination.

**Mr. Quadri:** Twenty-one right now, and then you'll need two more.

**Mr. Loran:** No. We're at 23.

**Mr. Quadri:** Sorry; 23 and two more, so 25. Okay. Thank you.

**The Chair:** Mr. Eggen.

**Mr. Eggen:** Thank you. Further to Mr. Bikman's comments on looking for tracking of where the complaints are coming from, I think that in the past this committee has asked if your office might be able to break down where complaints are arising, not just what ministry but what area in the ministry that complaints might be coming from. For example, you know, with the Solicitor General you could break that down into any number of other subcategories, so I'm just wondering. I think that information would be useful for us to pinpoint areas of concern and also just to evaluate where your time and effort and, ultimately, money is being spent as well. Have you been endeavouring to do a subbreakdown of, you know, other themes besides ministries in complaints that arise and come to your office?

**Mr. Loran:** Yes. I currently have a spreadsheet which outlines the various boards, agencies, commissions, and departments and then subcategories within those. We're further exploring this, and one of the areas we're exploring within our case management system is how to better track some of these subcategories so that we can do statistical data mining on a better level and use that to provide strategic focus for our office.

9:20

**Mr. Eggen:** Can we have some version of that at some point? I think that would be a useful thing so that we could see where it's coming from.

**Mr. Loran:** Certainly. We can provide you with the breakdown of files that we currently have.

**Mr. Eggen:** Thank you. That would be very useful. Further to that, in regard to complaints have you done a multiyear tracking analysis of the files coming into your office and resolutions so that you can have some idea of what your capacity is on average? I know that files are widely various in terms of their complexity and so forth, but if you take an average over many years, do you have a sense of what your capacity is in regard to this workload chart? Seeing where things are coming in and going out, do you have a sense of where your ceiling is on average? What's your capacity or quota?

**Mr. Loran:** Well, as you said, capacity is sort of a nebulous thing to identify because of the differences in the investigations. On average our investigators are currently carrying a caseload of about 15 files.

To be more timely and efficient, we believe that we should try and get that down closer to 10 as an ongoing caseload per investigator. That would allow them to manage issues in a quick and much more timely fashion.

**Mr. Eggen:** How many investigators, then? Ten times how many?

**Mr. Loran:** I don't know. If we're running an average of 16 files right now with 12 investigators . . .

**Mr. Eggen:** Okay. Good.

Then one last one. Sorry it's not related, but to whom do you contract your legal services at this point?

**Mr. Loran:** Currently we're using Mary A. Marshall Professional Corporation.

**Mr. Eggen:** Thank you.

**The Chair:** One last question. Mr. Wilson, go ahead.

**Mr. Wilson:** Thank you. I'd like to refer you to page 7 of your strategic business plan. Specific to the redesign of your logo, website, and promotional items, can you let me know what cost you anticipate or have budgeted for this rebranding initiative?

**Mr. Loran:** I don't have a specific number available, but it's not a significant amount. I would hazard to guess – I'm not sure – it would be \$2,000 in total.

**Mr. Wilson:** I'm sorry. Say that again.

**Mr. Loran:** I'm not sure if it would be \$2,000 in total.

**Mr. Wilson:** Okay. For all three of the initiatives including reprinting all of your promotional materials?

**Mr. Loran:** Well, we only order promotional material as we – we don't stockpile it, I guess is what I'm trying to say.

**Mr. Wilson:** Okay.

**Mr. Loran:** So if we come up with a new logo, it's just a matter of changing the printing template.

**Mr. Wilson:** Okay. Because we've heard some horror stories in Alberta about some exorbitant amounts of money being spent on needless rebranding, I just wanted to make sure.

**Mr. Loran:** No, we're not going there.

**Mr. Wilson:** Thank you.

Thank you, Chair.

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

Thank you, Mr. Loran and Ms Richford. Thank you for your presentation. I hope you can join us for lunch today, and for your information I want you to know that the decision of the committee on your budget will be sent out sometime next week. Thank you.

**Mr. Loran:** Thank you very much for your time. I appreciate it.

**Ms Richford:** Thank you.

**The Chair:** We can take a five-minute break.

[The committee adjourned from 9:24 a.m. to 9:31 a.m.]

**The Chair:** Good morning, Auditor General, Mr. Olson, and Ms Eng. Welcome to our committee. Let's go around the table to introduce ourselves. Let's start with the deputy chair.

**Mr. McDonald:** Everett McDonald, Grande Prairie-Smoky.

**Mrs. Leskiw:** Genia Leskiw, Bonnyville-Cold Lake.

**Mr. Rogers:** George Rogers, Leduc-Beaumont.

**Mr. Wilson:** Jeff Wilson, Calgary-Shaw.

**Mr. Bikman:** Gary Bikman, Cardston-Taber-Warner.

**Mr. Olson:** Jeff Olson, Assistant Auditor General.

**Mr. Saher:** Merwan Saher, Auditor General.

**Ms Eng:** Loulou Eng, senior financial officer.

**Mr. Eggen:** Good morning. David Eggen, MLA for Edmonton-Calder.

**Mr. Quadri:** Sohail Quadri, MLA, Edmonton-Mill Woods.

**Ms DeLong:** Alana DeLong, MLA for Calgary-Bow.

**Dr. Brown:** Neil Brown, Calgary-Mackay-Nose Hill.

**Mrs. Sawchuk:** Karen Sawchuk, committee clerk.

**The Chair:** David Xiao, MLA for Edmonton-McClung. I'm also the chair of this standing committee.

Auditor General, before you proceed with the presentation, I would like to ask that the last 20 minutes be left for questions from the committee. Please proceed with the presentation.

#### Office of the Auditor General

**Mr. Saher:** Thank you very much, Mr. Chair and members of the committee. We are pleased to be here this morning. I'm sure that we will get through our presentation to allow plenty of time for your questions. What I'll do is ask Jeff Olson to make our presentation to you. You should all have received from us and have in front of you some slides that Jeff will be speaking to. Without any further ado, I'll ask Jeff to make our presentation.

**Mr. Olson:** Thank you, Merwan. Good morning, Mr. Chairman and committee members. As Merwan mentioned, in that package that we handed out, right at the top you'll see our slide presentation. I'd like to take 15 to 20 minutes of your time to go through that slide presentation. On the next slide, number 2, the presentation, or agenda, has three parts. We talk about the fiscal year 2012 results and performance information, the 2013-16 business plan, and finally our 2013-14 budget request.

Keep in mind as we turn to the next slide that we are talking about our results for the year ended March 2012 and not the current year that we're in right now. If I can have you go to slide 3, there's a table there listing five years of our results.

The Legislative Assembly funds our operations. For 2011-2012 it provided \$23.7 million for expenses, including \$975,000 for supplementary supply and \$155,000 for capital investment for a total of \$23.8 million. Last year we overspent by a small amount, \$94,000, which works out to about .4 of 1 per cent.

Taking into context the last five years, the office has actually returned over \$1.7 million to the Legislature, but you can see from the table that a small surplus or, in this case, a rare small deficit

can happen in any one fiscal year. That's really because of our planned audit work, the fact that our audit work actually spans over two fiscal years. Specifically and for an example, audit work over a year-end may be deferred, delayed, or rescoped if departments or colleges are not ready for a particular audit. That has a big play on why we could have a surplus or deficit any one particular year.

On your next slide – and I think you've seen this in an earlier presentation that we made to you, but it's very important to keep it in mind – the graphic illustrates two important factors that drive our financial needs for the past year, our current year, and for future years, actually. The first factor is that major patterns of our spending are on people costs. The reality is that as a professional auditing office salary and benefits plus professional service contracts for agents and temporary services represent about 90 per cent of our total operating expenses. The second factor would be that any government decision on salary and benefits for the public service would have a direct impact on our budget request.

The next slide, slide 5, talks about our statement of operations for the year ended March 31, 2012, which is found in our results and analysis report that was also provided to you. It's probably the key financial report.

This table in the slide is set up to identify the larger factors that led to our \$94,000 deficit. From the table you have two take-aways. First, the cause of the small overage can be linked directly to a \$400,000 increase in temporary staff services. The reason for the increase is really twofold. First is the operational consequence of meeting the resource demand for doing performance measures work required by government to be done by the June 30 deadline. This used to be done in the summer. Now it's been moved up to spring, and we're already at that time of the year fully working on annual year-ends, so we ended up having to dip into more temporary services. The second part is that we had an unfortunate increase in our staff turnover rate, particularly at the senior levels. So in both cases this drove up our requirement for high-cost temporary resource services. Second, you can see that we tried to balance this cost pressure by deferring capital IT purchases and managing professional and training fees, materials, supplies, and agent fees.

On the next slides, 6 and 7, I want to talk to you about our work output: the major system audits for the fiscal year 2011-2012, the reports that were provided to you, the Standing Committee on Legislative Offices, and the Assembly in October in 2011 and April 2012. These large system audits, both new and follow-up audits, are provided for your information, and we can discuss them in more detail if required. The cumulated cost of these stand-alone system audits accounts for 21 per cent, or about \$5.1 million, of our operating costs.

The next slide deals with the March 2012 AG report. The focus was on the 21 public postsecondary institutions that account for a significant portion of government funding, in fact, about \$4.5 billion in investment annually. This is a significant annual investment. For boards to effectively govern, they need timely and accurate financial information. Therefore, in this report we actually created a report card that compares public postsecondary internal controls between each of the institutions, and this provided boards and their management – so they can focus on improving their stewardship of those organizations.

But just as significant as these reports are the annual recurring risk-based assurance audits we do. These are typically our financial audits that we do. They serve all Albertans by providing independent assessment to help the Legislative Assembly hold government accountable. This represents the lion's share of our

operating costs at about 79 per cent, or \$19 million. The details of that spending on each department are found on our schedule 1 of our audited financial statements. If you want to go to that later on, we can discuss if you want.

If I can now turn to our next slide, 8, we discuss our next agenda presentation item, and that's our 2013-16 business plan. The elements of our business plan are illustrated in this chart, and I'd like to discuss it in the next few slides. The reason I wanted to spend a few minutes on this is because it's the business cycle that drives our business plan, which in turn drives our budget request.

Looking individually at each of the pieces of the cycle, our endgame, or you could say our goal, is to maximize relevance in our business cycle; in other words, maximize the congruency of the three Rs in this chart. To do that our audits must be relevant – our work must be relevant to the Legislative Assembly, you, and all Albertans – and reliable. The Legislative Assembly and Albertans must be able to count on our work. Lastly, reasonable cost. We must meet the challenges of producing relevant and reliable work at a reasonable cost.

On the next slide you can see that to meet this goal operationally, we must manage some key risks. Those key risks are – and we've spent some time looking at this. Input risk: do the skills of our staff and agents and contract experts match the audit risk in our audit work? For process risk the key one there is: is our audit project management effective? Are we cost effective? Output risk, I think, is the most important. Have we maintained independence and objectivity?

**9:40**

On the next slide is the next element and probably one of the most important, which is the strategies. Strategies are necessary to manage and minimize our risks and also to maximize our goal of increased relevance in our work. I'll quickly touch on the main strategies in this business plan. They are to spread oversight of systems audit projects among the four audit division Assistant Auditors General; to build our capacity to do systems audits by freeing up staff from financial statements audits, which is the lion's share that we do currently, at 79 per cent – if we can free up some of that time to systems audits, that's our goal there – and to use findings from external independent peer review to improve current audit and operational processes.

On the next slide there are more strategies: continue our use of internal-sector auditing partnerships to assist in deciding on priority system audits and review our optimal staff mix. What we're looking at there is type – is it better to use internal staff or external resources? – and level. For example, we're introducing accounting technicians into our mix. The final one is mix, to challenge lower staff levels to do more complex work in the test audits, freeing up our senior staff to do system audits. Finally, decrease the backlog of follow-up audits in order to deliver more new system audit projects.

The next element in our business plan, slide 13, is performance measures and accountability. That's really what the business plan is all about. As we mentioned, last year in our business plan – I know most of you weren't here – we asked all staff to help review our risk management process. We made that commitment, and that happened. The key deliverable was a review of our performance measures as these measures help us and stakeholders – that's you – understand our performance. I guess, simply put, it really is about all our strategies being successful. Are they successful? How would we rate our performance on those strategies? The risk management review helped us to confirm, redefine, and develop 21 measures, eight externally and 13 internally. Annually we will

continue to review those performance measures for external reporting.

On the next two slides we have eight external performance measures, with the results provided in the slides. Since our goal is to maximize relevance, it shouldn't be any surprise to you that five of the eight are related to relevance. The one I'd have you focus on is the number of recommendations that government accepted in our AG report, which is 1(a). In fact, that 100 per cent in 2011-2012 is the second year that we have exceeded our target of 95 per cent. In 1(b), the recommendations not implemented within three years, we have 42, which is about the same as last year. We'll discuss these further in a later slide. Finally, in 1(d) you can see that our strategy to increase relevance by focusing more resources on systems audits is working. In fact, as of our second quarter in 2012 we are on track to beat our target of 20 per cent in systems audits. We figure we'll do better than that with 21, 22 per cent. That's what we're after.

On the next slide we talk about reliable auditing. Note that we're subject to the external Institute of Chartered Accountants' review of our audit work. That's done every three years. The next one, actually, will happen in January, February, March of this coming year. We expect to add another measure there. What you're going to be seeing in the next business plan is a peer review measure. That one we're excited about because I think it will actually measure our success in all three Rs: relevant, reliable, and reasonable costs.

Under reasonable cost, 3(a), staff turnover rate, is a cost driver. We target to be under 20 per cent. Item 3(b) is a measure that will illustrate our success in our strategy to build our capacity to do system audits by freeing up staff from financial statements. It requires effective project management, which is also a very strong cost control.

On the next slide, to complement our strategies and business cycle and improve our chances for success, we have four priority initiatives listed in the business plan. I'll quickly touch on them.

A results analysis project: we'll conduct a stand-alone system audit looking at ministries to see how they prepare their results analysis sections in ministry annual reports.

Independent review: we've talked about that a couple of times. That's when we'll continue to execute our plan to be ready for an independent peer review. The review will be commissioned, provide conclusions on whether we do the relevant, reliable work at a reasonable cost, and will be completed by July 2013.

Staff development: creating an organization that thrives in dealing with challenges and new initiatives while delivering extraordinary performance to our stakeholders is our aim here. This is probably one of the most important outstanding recommendations. We talked a little bit about that in one of our measures.

As outlined in the report of the Auditor General of October 2012 by Merwan, we have 165 outstanding numbered recommendations. Now, numbered recommendations require a formal public response from government. It's our intention to focus on 25 of the numbered recommendations more than three years old, that departments have said: "We're ready. Come in. Let's audit this." These follow-up audits will be completed prior to December 2013.

On the next couple of slides what we have, really, for you is probably the most important part of any business plan: our book of work for the year ahead. It comes from a large inventory of audits to be done. I'm not going to necessarily go along and discuss each and every one of them, but you can see some of them of interest: Alberta Health Services expenses, infection prevention and control at Alberta hospitals, Campus Alberta.

On the next slide – I'm not going to go through them; they're there for you to read and move us along here. Many of these of these follow-up audits that you see here relate to those 25 that we were just talking about, outstanding recommendations.

Now, the last item, on slide 19, is our budget request for 2013-14. Now that we've explained our business plan, we can discuss our budget request because it's really what's required to deliver on that business plan. For the 2013-14 fiscal year we're requesting \$25.6 million. This represents a 2.7 per cent, \$680,000, increase to operating expenses and \$560,000 for our computer fleet replacement. The overall increase was 3.8 per cent, or \$985,000.

I'd like to help out by providing some details on the next slide of the major factors that are driving that increase. That's on slide 20. The 2.7 per cent increase in operating expenses is attributed to maintaining our manpower resources. No surprise there when you consider our pie chart, that it's all driven by that human resource factor.

The net increase to our salary and wages is 4.9 per cent, \$685,000. Of that 4.9 per cent, 3.1 per cent relates to student growth and other salary increases and realistic assessment necessary to maintain our workforce in a competitive environment, and 1.8 per cent of that 3.1 per cent, \$255,000, relates to a shift of resources. This is basically a wash here because what's happening is that it involves a shift from the more expensive external accounting firms for agent and temporary audit services to internal resources. That's about three FTEs. You can readily see this as our budgets for agent fees and temporary services have dropped by \$195,000 and \$120,000 respectively. That's the offset to that.

Employer contributions – no surprise there, I'm sure – have increased by \$235,000. Those benefits are driven by salary base but also by various employer rate increases like pension plans.

Capital investment will increase by \$305,000. That relates to our computer fleet. This happens about every three years. It's related to the fact that our warranty expires on all of our computers. These are the tools that our staff use when they go out to do their audits. The warranties expire this year, so it's time to replenish those computers, but this only happens every three years.

In summary, we're asking for \$680,000, a 2.7 per cent increase in our operating budget, and an increase of \$305,000 for capital.

I'd like to stop now and allow time for questions. I want to thank you, Mr. Chairman and committee members.

**The Chair:** Thank you very much for the presentation.

Dr. Brown, go ahead.

**Dr. Brown:** Thank you, Mr. Chairman. Mr. Saher, I'd like to ask you what the process looks like to develop these systems audits and performance audits. How do you pick those topics, and to what extent, you know, are you influenced by headlines in the newspaper and so on?

9:50

**Mr. Saher:** Thank you for the question. I'll describe the process at the highest level in a little more detail to you, but the endgame is sort of represented by three thoughts that we have on where the focus of the audit office should be in terms of the discretionary systems auditing that we do. That's that we should focus on governance and ethical behaviour, safety and welfare of Albertans, and the security and use of the province's resources. Those are three broad buckets, if I can put it – in the detailed decision-making we come back and say: have we found a book of work that can be reconciled to those three main objectives?

When I became the Auditor General, I through my own experience and belief of what would be useful to Albertans concluded that in the years ahead, the years now, and for the next few years the focus of the office should be on maintaining within those three main areas our focus on health matters, pensions, aboriginal matters, capital planning, the environment, and the government's results analysis. That sets the broad picture of what we're trying to achieve.

**Dr. Brown:** Who makes that decision, then? Do you have a committee that would discuss that?

**Mr. Saher:** Yes. We have an office management committee, which comprises myself and five Assistant Auditors General. Our business plan is reviewed and endorsed by that committee, and our business plan, in effect, annually reconfirms that at the highest level the approach that we're going to take to systems auditing is still valid.

But if I can drop down, Mr. Chairman, and take a few more minutes on detailed process. We will receive input in terms of what we shall do from MLAs directly writing to us. From listening very carefully to debates in the House and especially at Public Accounts Committee, we get a sense of what it is that MLAs from their perspectives would find useful for the office to do. We also receive directly from Albertans requests to do work. Our own staff, through the work we do in our financial audits, is in fact probably one of the best sources of information and intelligence in terms of what would make good systems audits. These are our financial auditors, many of whom are also trained in systems auditing. As they do that work, they observe the operations of a government organization or agency. I mean, they're focusing on auditing the financial statements, but they're also getting insights into what the organization might be struggling with in terms of it being successful in meeting its goals. That is another input.

We take all of these ideas and build internally what we call a systems audit inventory. The inventory is essentially an inventory of ideas. We then go through processes that involve senior people in the office whom we've organized into sector groups, the sectors being the same as the Legislature policy committees, focusing in on saying: from this inventory what would be the best audits for the office to do now in terms of being useful to Albertans and responsive to issues of the day but also not being obsessed with the issues of the day, taking a longer term view? Where would we add value if we looked in at systems that have to be successful over long periods of time; for example, capital planning, where we believe we can add value?

That process boils down into decisions as to which audits we will pursue. In the slides that we gave you, we've given you insight into the ones that we're currently focusing on.

**Dr. Brown:** Thank you very much for that response. I notice, Mr. Saher, that you have on your upcoming stand-alone system audits the public-sector pension risk management. As you know, I've mentioned that in previous meetings, and I'm pleased to see that on there. I wonder if you could elaborate a little bit on where you see that particular initiative going because it's been a concern of mine for some years to find benefit pension plans in the province of Alberta given that the low rates of return in the marketplace these days are becoming an increasing liability for taxpayers. I wonder if you could elaborate a little bit on what you foresee the scope of that particular endeavour to be.

**Mr. Saher:** Thank you. A year ago we told this committee that we were about to embark on what we call a knowledge of business project to gain a better understanding of the public-sector pension system in Alberta. We've nearly completed that work. The purpose of that work was to establish what the best systems audit, if any, would be. We came at this from a risk perspective, saying: what are the risks to the public-sector pension system in Alberta? What risks am I referring to? At the highest level the risk would be the risk of sustainability, which is my way of expressing what you've just expressed, Dr. Brown. Are the pension plans as they're currently designed sustainable over the long term? Who owns the risk? Is the risk wholly with the government? Is the risk shared between government and employees?

We came at it from a risk perspective. Who owns the risks? If we can get a good handle on what the risks are and who owns them, then we can look for the systems that are designed to manage those risks because that's what the work of the office is, to establish whether systems designed to achieve success are working. We believe that we've now got a very good idea of what the risks are, who owns them.

For example, it's not just the government as an owner. Risks are essentially owned by the employees themselves. As an employee you have a risk as to whether or not the pension promise that you believe will exist when you retire will in fact materialize. Employers share in this risk because it's employers who fund. I mean, it's the government at the highest level, but different employer groups actually fund the employer pension plans. There are current employees, future employees, the government as a whole. The unions are involved and have a view, have a vested interest. I'm just trying to think who else we identified. The pension plans themselves, the boards of governance of the pension plans, are very much themselves risk owners.

We believe we now have a good idea of the risks and a much better idea of the systems that are in place, so, Dr. Brown, we are about a month away from completing our knowledge of business. I've committed and within the office am challenging my colleagues that we must convert that knowledge into an audit, if there is an audit to be done, as soon as possible. If that audit is to be relevant, it needs to be done now and not in two years' or three years' time. I can give you some assurance that we are making progress. If, for any reason, we conclude that there isn't an audit to be done, we would explain that we found systems that we believe are operating satisfactorily and that there would be no added value in us doing an audit.

**Dr. Brown:** Just one brief follow-up if I could, Mr. Chairman. Would this audit process include in any way some sort of relevance or comparability to the private sector, which as you know has devolved from a defined benefit plan by and large to a defined contribution system? Secondly, would the publicly funded institutions such as the health services and the universities and so on be part of your system audit?

**Mr. Saher:** Yes. If I take the second piece first, the large provincial agencies, Alberta Health Services, the universities: they're very much a part of the audit and have been very interested in the project we're doing and in providing their insights. I mean, they see themselves as holding risks. They are the employers that in fact bear the costs of the promise from the employer point of view, so they are very much involved and would be a part of the audit.

With respect to comparisons to the private sector, those comparisons will be made by the audit team. I mean, if there are insights in terms of best practices or, if you will, descriptions of

the realities of today that are applicable in the public sector, certainly our audit would be informed by that, but I want to make the point that the audit office is not taking on responsibility for managing sustainability. Our job is to make sure that those that have the responsibility and authority and accountability for managing public-sector pensions are doing it well.

10:00

**The Chair:** Thank you.

**Mr. Eggen:** Thanks very much for your presentation and explanations thus far. I guess I have a couple of questions that relate to each other. I've looked, first of all, at some other jurisdictions, other provinces and the federal Auditor General, and have a sense of their budget sense, their reach, so to speak, and I'm just wondering how you view our budget and our capacity here in this province compared to other jurisdictions in terms of rating them, I suppose.

**Mr. Saher:** If I could just ask a clarifying question.

**Mr. Eggen:** Yes.

**Mr. Saher:** You'd like me to comment on the audit office's ability to do its work?

**Mr. Eggen:** Yeah. Compared to some other jurisdictions.

**Mr. Saher:** Across Canada the Auditors General of the provinces and the federal Auditor General have a very close working relationship through a group that meets regularly in order to share knowledge, insight, and the idea of serving all Canadians in that we don't reinvent wheels. If one audit office has discovered a good way of doing something, you know, we share amongst each other. I just give you that as background to indicate that the things I'm about to say come from a close working relationship with other Auditors General in Canada.

Essentially, we all have exactly the same legislation. We all have a performance audit mandate. "Performance audit" is the term that's used more often in Canada today than systems auditing. We call it systems auditing, but it is performance auditing by the term used generally across Canada. Others use the expression "value-for-money auditing." We all have mandates to do that. One big difference is that the capacity of each office as dictated by their Legislative Assembly, the way their legislation is set up, differs.

For example, the Ontario audit office, if you look in at its work profile, is almost the reverse to ours. About 70 per cent of the Provincial Auditor's resources go into systems audits and only 30 per cent into financial attest auditing. That's essentially reversed here in Alberta. The difference is that the mandate we have here in Alberta as given to us by the Assembly over time through the Auditor General Act was to make the audit office the auditor of all government departments and all provincial agencies. That was the view, that Albertans would be best served by having all of the audit activity conducted by one audit office. Under their own legislation in Ontario many of the Crown corporations have the right to appoint their own auditor. The Provincial Auditor is the auditor of the consolidated financial statements of Ontario, but he is having to rely on the work of other auditors.

I put that forward because in varying degrees the extent of financial auditing that is dictated by the audit act does drive what the audit office does. I'll leave it at that as being, I think, the fundamental difference. To the extent that we're doing financial auditing or doing performance auditing or systems auditing, we do

it in the same way. It's just that the scope of the work is dictated by the Auditor General act in each jurisdiction.

**Mr. Eggen:** Yes. Thank you. The reason I say this is that, considering the degree of responsibility we place on your office as the auditor of each of these ministries and all government activity – I know we've discussed this before and with your predecessor – it just seems as though we are underresourcing your office.

Further to that, I'm just curious to know if you could maybe identify what comes to mind: of all government activity for which you are responsible for some systems audits, in terms of financial activity, in terms of size what aspects of our government's operations are most wanting, that you are unable to do an audit on because of your capacity? What are we missing?

**Mr. Saher:** Well, I'll do my best to answer that question because there is one view – and in a way you're expressing that view at the moment – that I as the Auditor General and my colleagues should come here and request a large budget increase to employ more people, the logic being that if we were to do that, we would be able to do more systems audits and that would be added value to Albertans.

I take the view that it would be premature for my office to make that request because it's not simply that more bodies equals more output. I come back to those three Rs that we're using in driving our business: relevance, reliability, and reasonable cost. If we were to request more people at this time, I couldn't guarantee the reliability of that additional work. Why? Because it takes time to build the senior staff resources able to supervise and do credible systems auditing. It's not a resource where I can just go out into the marketplace today and say: I need five qualified performance auditors to come into the office to lead systems audits. These people are just not available. We build them from within, generally speaking, and we can at a measured pace bring in people from outside capable of doing the work.

The strategies that Mr. Jeff Olson talked about are that we do want to grow our capacity to do systems auditing, but there are some things that have to be done first. Until I am satisfied that we have gone through the strategies that were outlined and have been successful in implementing them, I don't believe that the Alberta audit office is in a position to make a credible request for additional systems audit staff.

**Mr. Eggen:** Well, I think that part of the function of this office is to make those systems audits, but part of it as well is that the various government agencies, the sum total of all government activity, know that you can potentially come and do that thing. It's sort of the policing aspect and security aspect of the office. I mean, we should always presume the best of people but expect less than so.

If an agency, for example, managing our energy resources and making an account of oil being taken out of the ground or bitumen or so forth – there's a lot of money involved; there are many billions of dollars – can reasonably presume that our auditing capacity is insufficient to perhaps account for that resource properly, then it makes it easier to have problems, right?

Over time you could build that capacity, right? We could give you that resource, and you could build those trained people. It would take time, but I think that the investment is worth it. I say this most respectfully, of course, but I think you know what my view is on this.

10:10

**Mr. Saher:** Mr. Chairman, could I have a follow-up on this?

**The Chair:** Briefly.

**Mr. Saher:** Yes. I respect the point of view you have, and I'd like to say to you that, in fact, we're building a business plan that's designed in time to expand the ability. You will see that the strategies in our business plan, if you care to read them later in more detail on page 5, are all designed to improve our capacity to do systems auditing. I believe that within a year or two I'll have the evidence that we are well positioned to be able to take on more performance auditors, more systems auditors, with a view to greater coverage.

But the fact that we are the auditor of all government departments and provincial agencies, I think, does provide that watchdog point of view that you expressed. I think it would be very dangerous for any government department or provincial agency to assume that they could wilfully and knowingly drop their standards or behave in an egregious manner on the grounds that the audit office is unlikely to be able to find the time to look at their operations.

**Mr. Eggen:** Thank you.

**The Chair:** Thank you.

Mr. Quadri.

**Mr. Quadri:** Thank you. I always find, you know, in meetings that the audit department is very knowledgeable, and I learn so many things about that. Thank you very much for the enlightenment. I have a question on your slide 3. It says, "\$1.7 million – total returned funds over 5 years." I'm just a little confused here.

**Mr. Olson:** Yeah. Essentially, what we're trying to point out there is that even though we had a deficit this current year, a small one of \$94,000, in previous years we've actually had some surpluses, and you can see how they've ranged. They've all been around 2 per cent to, at the most, 3 per cent. What we're trying to show is that over that time we did have good stewardship, that actually we returned \$1.7 million. It's not a large amount when you consider it over five years, but we have returned that amount over five years to show that we do have that good stewardship. Hopefully that answers it.

**Mr. Saher:** If I could just supplement. It's a two-edged sword. If I go back to the previous questioner's line of inquiry, it would be: well, why didn't you spend all of that money? We can't spend it if we cannot marshal the resources with the right skills put together to do an audit, so we won't try to do an audit just to spend money. This illustrates that if we are unable to spend the appropriation that we have, we simply return it.

I think that all of us would wish that the numbers were lower. If you look across the returns, we would really like to be able to manage year by year to not have to return any. We'd also like to manage that we don't overspend. It's just simply a graphic over five years to give you some sort of picture as you're looking at our current request of how previous requests have worked out.

**Mr. Quadri:** Now, you're asking for almost a million-dollar increase for '13-14, right?

**Mr. Saher:** It's \$680,000, excluding the capital.

**Mr. Quadri:** So it's close to \$985,000, right?

**Mr. Saher:** Yes.

**Mr. Quadri:** So, now, \$1.7 million you already have. Do you think that will be – you know, if you look at last time you had your computers, 2010, maybe three years ago . . .

**Mr. Saher:** If I could just try and clarify. This \$1.7 million, this is just telling you what has happened in the past. This \$1.7 million is not available to us now. The process is dealt with year by year. If I start with the first column, at the end of 2008 we returned to the Assembly or, in a sense, we didn't use \$408,000. Now that year is shut, and we move forward. It is dealt with year by year.

**Mr. Quadri:** So it's not that those funds are sitting somewhere.

**Mr. Saher:** No.

**The Chair:** Fiscally, whatever is left over will go back to general revenue. Okay. Thank you.

Mr. Bikman.

**Mr. Bikman:** Thank you. I want to make sure that everybody hears me, especially those that are behind my back.

How does your own department's compensational package compare with the private sector? You've identified that it's the largest single expense, as it logically would be. How does it compare?

**Mr. Saher:** I'll divide that into two pieces. We are a very large training office in the province. We have a large number of students that we train in the CA program and also in the CMA program and the CGA program but primarily in the CA program. The business logic of doing that is that those students who are learning the profession of auditing become the primary workforce in executing the financial statement audits that we do.

They are remunerated at market rates. We go to all of the universities in Alberta and have gone outside to recruit our student intake. Those students look at the market very, very closely. They don't have to join us. They can join a public accounting firm. So they are right on top of what the market rate for a new student is. We are comparable. We have to be comparable to attract the best students, and we do very well with those that join the office. So for the student levels we are exactly at market.

With respect to once people qualify as professional accountants, if they decide to stay in the office and join our management ranks, we have integrated our staff levels and our way of looking at a professional audit office into the classifications that the public sector uses. We use the public-sector scheme to drive our remuneration practices. We are always looking outside, taking a weather watch, if you will, at: what are comparable professionals earning in the private sector? We don't pay directly comparable rates as the private sector because we find that we can attract excellent professionals who want to make a career in auditing within the public service and are prepared to, if you will, forgo some element of salary for what they perceive to be intrinsic benefits of working in this environment. But we don't push that. There's only so far you can, if I can use the language, push that, you know, "Come and work for the public sector in the audit office and accept 20 per cent less than you could make elsewhere." That doesn't work. So we are always looking to what the private sector is paying.

Our request in this budget, for example, is based on our assessment of what will be necessary for us to retain the senior level employees that we have given that we do operate in a competitive market.

**Mr. Bikman:** Did you mention – I can't remember – the average turnover within your department?

**Mr. Saher:** It sort of varies by level. The composite goal is no more than 20 per cent. In fact, you'll see that in the past fiscal year, the year ended March 31, 2012, it was up to 22 per cent. We had a high year, higher than usual, at the higher levels in the organization, which comes back to, I think, one of the previous questioners. That ability for us to do more systems auditing is dependent on that skill level.

Yes, we do have turnover, but through my experience, once a professional has decided that, yes, they're actually going to make their career in the Alberta legislative audit office, the vast majority stay. We have a phenomenon. We train students. We don't expect them all to stay. Some do stay. Many leave. They go and pursue their career in the private sector and then come back. So they're making a very informed decision, having experienced both worlds. We have a great deal of stability at the senior levels in the office.

10:20

**Mr. Bikman:** Thank you. I'd like to move now to systems and the role that you see. We know that accounting information, in order to be of value in making management decisions within the departments that you audit, needs to be timely. Feedback is rather useless if it's too historic. I'm just wondering if you could comment on the effectiveness you're finding within management information systems, then, of using accounting to provide decision-making information.

**Mr. Saher:** We can be assured in Alberta that in terms of timeliness we are leaders in Canada. Alberta's consolidated financial statements are produced by the 30th of June each year, which is a tremendous achievement on management's part. All of the agencies and departments have to have completed their financial statements and had them audited by us to achieve consolidated statements by the 30th of June. There is no timeliness problem, in my estimation, in Alberta.

The question is: how is that information used? That's why in our business plan we have this focus. We call it a results analysis focus. A set of financial statements by itself simply confirms that the assets and liabilities are correctly stated and the revenues and expenses are correctly stated. But what does that mean? That has to be coupled with the performance information that one finds in the annual reports of agencies and departments.

We believe that the quality of the results analysis can be greatly improved. We did some work last June – actually, it came out in our July 2012 report – on the quality of the variance analysis. This is using financial information together with performance information to determine success in achieving objectives. The quality of the variance analysis was not adequate. We had recommendations that it needed to improve, and we're going to make that a focus of the audit office's work, which is really to say that we as an audit office invest a lot of time in telling Albertans that the financial statements that you get are of good quality. But that just isn't enough. You need to know: what does that mean, that the use of resources was correctly stated? What was achieved? What have we learned, and what should be different in the future? To repeat myself, we want to focus audit effort in helping the government improve its analysis.

**Mr. Bikman:** Thank you. Now, the work that you perform is, in a sense, an inspection, and I've always believed and been taught that you can't inspect end quality. The inspection can show where deficiencies exist so that the systems can be redesigned. Systems

are perfectly aligned to produce the results they get. If the results are inadequate, you can point that out, but ultimately it comes back to the systems being tailored and tweaked or completely redesigned where necessary.

**The Chair:** Mr. Auditor General, if you can provide very brief comments on that.

**Mr. Bikman:** I'm sorry. Have I taken too much time? But you could hear me, though, right?

**Mr. Saher:** I believe I understand where the questioning is coming from. That's why I believe that the Alberta audit office act was so well written back in the late '70s. It gives us a systems audit mandate. It was written by people that understood that the success of an organization, its outputs are wholly dependent on the quality of the systems that it uses, which is, I think, exactly what you said. That's why our focus is on systems. When we do financial audits, we have an output as a by-product. It's primarily how the financial information systems can be improved, how the control systems can be improved. All of those recommendations are designed to help organizations be more successful.

**Mr. Bikman:** Thank you.

**The Chair:** Mr. Wilson.

**Mr. Wilson:** Thank you, Mr. Chair. I will be brief. Thank you, gentlemen and madam, for being here today. I believe that the value you do provide to Albertans is very high, and I appreciate the stewardship of the budget that this office provides you. I think that you are proving yourselves to be quite good at what you do.

I do want to just touch base quickly on the expenses of capital investment due to the computer fleet – if we could just go to that for a moment – and your expectation of the fleet being entirely replaced every three years. Breaking down the per-computer cost on the analysis there, you've got over \$2,000 per employee per computer. Can you help me understand that and perhaps what the negative impact would be if this cost were deferred for one year? I know that as MLAs we're on a four-year cycle. The PCs don't stop working. So if you could just perhaps expand on that.

**Mr. Olson:** Yes, gladly. It's a good question. One of the things that we found is that the reason why we chose every three years is because the warranty is out. We've seen through our practice over the number of years that when that warranty goes out – and these are the tools that go out there. These computers really get used very aggressively, I guess you could say. Not thrown around, I'm talking about, but they do get used. At that point in time they start to break down. When that happens, there is a cost to those repairs and that. There is a cost benefit that comes out of that.

The other reason that is most important about why we want to do it all at once and not do it, you know, a little bit each year, an evergreen kind of thing, is that it's best to do that all together because our methodology and the systems that we use can be placed in there, all done at once, and there's a cost savings to that coupled with the fact that we can get our best deal by doing one, and we use the government plan, of course. It works a lot better for those three reasons, why we do that.

Thank you.

**Mr. Wilson:** Thank you, Mr. Chair.

**Mr. Saher:** Mr. Chair, can I just supplement? What Jeff has said is really important from a business point of view. We're talking about front-line auditors who actually do that. All of our audit evidence is

assembled and worked on electronically. Our audit teams need to be using the same hardware, configured the same way. There are huge operational inefficiencies in us not replacing the whole fleet in one fell swoop every three years.

**Mr. Wilson:** Thank you.

**The Chair:** Thank you.

Thank you, Mr. Auditor General, Mr. Olson, and Ms Eng, for your presentation. I would like to invite you to join us for lunch if you can make it. For your information the decision of the committee about the office's budget will be sent out sometime next week. Thank you very much again.

**Mr. Saher:** Thank you for your time.

**The Chair:** Let's take a five-minute break. We need to set up the PowerPoint. I hope everybody can come back in five minutes sharp.

[The committee adjourned from 10:28 a.m. to 10:36 a.m.]

**The Chair:** Good morning, everybody. First of all, I'd like to welcome the Chief Electoral Officer, Ms McKee-Jeske, Mr. Westwater, Mr. Sage, and Ms Griffiths. Welcome to our committee.

Before we start, let's go around the table and introduce ourselves. Let's start with the deputy chair.

**Mr. McDonald:** MLA Everett McDonald, Grande Prairie-Smoky.

**Mrs. Leskiw:** Genia Leskiw, Bonnyville-Cold Lake. I'm glad to see you've recovered from our stint in Ukraine as election observers.

**Mr. Rogers:** Good morning. George Rogers, Leduc-Beaumont.

**Mr. Wilson:** Jeff Wilson, Calgary-Shaw.

**Mr. Bikman:** Gary Bikman, Cardston-Taber-Warner.

**Mr. Westwater:** Drew Westwater, director of election operations and communications, Elections Alberta. Good morning, Mr. Chairman and members.

**Ms McKee-Jeske:** Lori McKee-Jeske, Deputy Chief Electoral Officer, Elections Alberta.

**Mr. Fjeldheim:** Brian Fjeldheim, Chief Electoral Officer, Alberta.

**Mr. Sage:** Bill Sage. I'm the acting director of election finances.

**Ms Griffiths:** Teresa Griffiths, assistant to the director of operations.

**Ms Notley:** Rachel Notley, MLA, Edmonton-Strathcona.

**Mr. Eggen:** David Eggen, MLA, Edmonton-Calder.

**Mr. Quadri:** Sohail Quadri, MLA, Edmonton-Mill Woods.

**Ms DeLong:** Alana DeLong, MLA, Calgary-Bow.

**Dr. Brown:** Neil Brown, Calgary-Mackay-Nose Hill.

**Mrs. Sawchuk:** Karen Sawchuk, committee clerk.

**The Chair:** David Xiao for Edmonton-McClung. I'm the chair of the committee.

Before I invite the Chief Electoral Officer to do the presentation, I just want to remind everyone to keep your BlackBerrys off the table because that could interfere with the sound system.

Also, I would like to ask the Chief Electoral Officer that the last 20 minutes be left for questions from the committee. Please proceed with your presentation.

### Office of the Chief Electoral Officer

**Mr. Fjeldheim:** Well, first of all, good morning, Mr. Chairman and members of the committee. Thank you once again for having us here today. Bill Sage is with me today. Our director of finance is on long-term medical leave, so Bill is helping us out.

Today we have slides, and I believe they've been distributed to you as well. We plan to provide you with an update on the past year's activities and provide you with information on anticipated expenditures for our 2013 fiscal year. We also want to update you on our plans for the upcoming year and present our budget request to implement those plans.

As part of our presentation on the past year's activities we'll provide highlights from the reports on the 2011-2012 enumeration and general election, the 2012 Senate nominee election, and the 2011 annual report on the Election Finances and Contributions Disclosure Act.

We will conclude with a review of our updated service plan.

I will begin with the past year's activities. Budget expenditures in 2012 were largely related to elections. The beginning of the fiscal year fell within the campaign period, which began on March 26, 2012, with the issuance of writs to the 87 returning officers. As you know, those returning officers had supervised over 5,500 enumerators in a door-to-door enumeration in the previous fiscal year, which resulted in the collection of 2.066 million names on the list. They were distributed to the political parties in October '11 in preparation for a possible fall election.

That list was later enhanced using information from Elections Canada in the national register of electors and information held by the health insurance and motor vehicles licensing here in Alberta. Throughout that process we confirmed another 300,000 names on our list, which was released to political parties in January 2012 for distribution to candidates. That same list in the form of poll books was provided to returning offices for use by election officers on polling day.

The background information is intended to provide a context for the election. Preparation of the list of electors is a key element in conducting a successful election. A number of you noted in our last meeting that the election had run quite smoothly in your electoral division. We attribute a lot of that to the fact that we had a current and complete list of electors.

Across the province returning officers received nomination papers from 429 candidates representing all nine registered political parties. Electors received information via five main communication channels: mail, radio, newspaper, local signage, and electronic means, including our website, e-mailed notice of the election call for those who signed up for the service, and for the first time key messages were sent and responses provided via social media. That was via Twitter. This allowed for communication through more avenues than in previous elections. Electors received information on the candidates and parties involved in the election as well as information on where and how to participate.

One of the legislative amendments allowed for all electors to vote at the advance poll as a matter of convenience. There were no restrictions on voting in advance. In other jurisdictions that have open access to advance polls, there has been no material increase in the number of advance polls. In an abundance of caution we

increased the number here in Alberta from 162 to 222 across the province, doubling them in many electoral divisions. The advance poll turnout in 2008 was almost tripled here in Alberta, so in spite of our preparations, we were inundated with people at the advance polls. That area will be targeted, certainly, for increased staffing at the next election.

Another legislative amendment involved the oversight of third-party advertisers, an activity that was managed by existing staff. The volume of inquiries exceeded our expectations there as well. I'd recommend additional resources to assist with that activity in the future.

Our office sponsored a visitors' program and hosted representatives of eight other jurisdictions. Representatives attended from Elections Canada and from coast to coast. They were particularly interested in the administration of two parallel elections on one day since the possibility now exists that other provinces may adopt legislation to elect Senate nominees as well.

Election day proved to be extremely busy, with over 1 million voters casting ballots at the 6,600-plus polling stations across the province. In fact, our voter turnout of 54.37 per cent was the highest since 1993 and reversed the trend of declining voter turnout that has become evident across North America and other mature democracies. I'm obviously pleased to see the increased turnout although I don't think that the efficient management of the election is the sole reason for the increase. I guess people here might not either.

Our move to an independent server fully supported the traffic from the public, the political parties, the media, and the returning officers without any interruptions or delays of services. Your predecessors, some of whom are still on this committee, are to be thanked for approving the necessary funding to support this level of service and appropriate disaster-recovery initiatives. Expenditures in the IT area represent a significant proportion of our total budget but are necessary if we are to guarantee the level of service needed to support the over 1.25 million hits that we had on election day.

**10:45**

Election period support to the public was provided through a two-tiered call centre, which was doubled in size from 2008. I am pleased to say that the operators were able to keep pace with the call volumes, including the 8,000 calls that were received on polling day.

Typically callers inquire about polling place locations, voter qualifications, and whether their names appear on the list or not. Callers sometimes voiced concerns as well, and the most common concern throughout the election period related to the automated calls from political participants, particularly due to the frequency, timing, and the fact that they continued to receive calls after asking that the calls stop. We were unable to resolve these concerns to the callers' satisfaction since they are permitted by our legislation and not prohibited by CRTC guidelines. These calls may affect electors providing telephone numbers for inclusion on our list of electors in the future. For the first time we had a significant volume of callers requesting the removal of their telephone numbers from subsequent lists of electors.

Counting two sets of ballots, particularly in the large advance polls, took a considerable amount of time. Election officers worked between 14 and 20 hours on polling day to conclude the count, and we owe them a debt of gratitude for their commitment. I very much, once again, appreciate the previous committee and members that are still here from that previous committee for the increases in pay that were provided prior to the election.

Increasing the number of advance polls for the next election, particularly if two parallel elections are held, will help limit the demands placed on election officers. I am pleased to say that enhancements to our payment system featuring online approval by returning officers proved to be extremely responsive. Cheques were produced for over 95 per cent of the election officers within two weeks of polling day.

Postelection wrap-up activities were conducted as prescribed by legislation, with a number of candidates reviewing election material by requesting poll books.

A judicial recount was requested in Calgary-Fish Creek. All ballots were counted under the supervision of a judge, and the results of the election were upheld. No petitions were filed with the court regarding the undue return or election of a candidate as a Member of the Legislative Assembly.

Another postelection wrap-up activity is the development of the post polling day list of electors, which was made available to all registered parties and MLAs. That list contained the names of 2,387,485 electors, which we compared to the list prepared for the election to calculate the list quality. Between January 12 and July 12 the list increased by just over 122,000 names, largely due to the addition of electors at the polls on polling day. Given this increase we would calculate the quality of the January 12 list of electors, the one that was used by you folks for the campaign and election administration, to be 95 per cent when assessed for current coverage and currency. That means that for every hundred voters who voted, five were sworn in.

Postelection assessments include debriefing returning officers and advisers. Their input is extremely valuable as we work to improve the resources we provide to them so service on the front lines can continue to be improved. A returning officer's appointment expires four months after polling day, so all activities were concluded and all supplies returned by August 23.

Following the election our focus moved to reporting requirements under the Election Finances and Contributions Disclosure Act. A number of factors combined to result in a very demanding workload in the finance area within our office over the past year. All political parties and constituency associations are required to file annual financial statements for the previous year to March 31. To facilitate that, our staff sends out reminders, responds to inquiries, and assists volunteers in completion of financial statements, including a personal line-by-line review when the volunteer requests it.

Although constituency associations' financial statements on the old electoral division boundaries are not due till March 31, '13, for the January 1 to the March 25 period, just prior to the election, we encouraged early filing to facilitate reconciliation and transfer of funds that were formed on the new boundaries. We assisted volunteers in all aspects of this process, and at this time 155, or 40 per cent, of the constituency associations that are required to file have filed so far, so only 40 per cent.

We completed a preliminary review of eight annual financial statements submitted by political parties by the March 31, 2012, deadline and completed a preliminary review of another nine campaign financial statements that were filed by political parties for the provincial general election by October 23, 2012. Moving forward, we'll complete a detailed review and reconciliation of those statements.

Between those two filing deadlines we received 418 properly completed candidates' campaign period financial statements by the August 23 filing deadline. All candidates registered under the Election Finances and Contributions Disclosure Act are required to file whether or not they filed nomination papers with the

returning officer. Our rate of compliance was high due in part to the diligent efforts of my staff in issuing repeated reminders; 97 per cent of candidates met the filing deadline.

Those that didn't were identified in a report sent to the Speaker of the Legislative Assembly and were advised that they would be ineligible to participate in elections for an eight-year period unless they sought relief from the court. That process is under way presently for a number of candidates, with the window period for relief ending 60 days from the October 23 filing date, the date on which the Speaker tabled the report in the Assembly.

Thirteen candidates and three political parties involved in the Senate nominee election were subject to the same requirements and the same filing deadlines. In addition, five third-party advertisers were subject to the October 23 deadline.

Following a legislative change candidates with a deficit on their campaign financial statements are required to file additional financial statements demonstrating the manner in which the deficit was retired. Nineteen candidates are required to file an amended financial statement by December 23 and may request an extension to March 23 to allow additional time to eliminate the deficit.

In total we received 989 financial statements over a seven-month period, a daunting workload for our three-person finance area. Additional statements will be received, and a certain proportion of financial statements are always in need of correction, so amended statements will be received and reviewed as well.

In addition to the ongoing activities of education and support for the political participants, review and posting of financial statements, and response to general inquiries, we have logged an unprecedented number of investigational requests. Some of these are resolved through an explanation of the legislation. Some of these require a follow-up and clarification by the persons or organizations involved. I'm sure you have observed that the profile of this office has increased greatly in the past few months along with expectations for prompt resolution of alleged violations.

This increased scrutiny is made possible through the timely online disclosure of financial statements posted by our office. We have an internal target of 72 hours for the posting of financial statements. That posting occurs before a detailed review is completed, so statements appear just as we receive them, warts and all. This is indicated clearly on our website, where the original financial statements are distinguished from the final financial statements. This increased scrutiny has resulted in a steadily increasing number of inquiries to our office from political participants who want to ensure that contributions are made and financial statements are completed in compliance with the legislation.

Political parties, constituency associations, and candidates have volunteers across this province who have limited understanding of the legislation and are scared to make a mistake. These inquiries are handled on a priority basis since compliance through education is an important goal of Elections Alberta. We want to help these people.

**10:55**

In the past we have been asked whether we have sufficient staff and resources to review financial statements, respond to these inquiries, and resolve investigations on a timely basis. In the past we've been able to keep pace through the efforts of existing staff supplemented by wage or contract staff when needed. Given the increases we've experienced, however, we will require additional

resources in this area. That will be addressed in our budget presentation.

That concludes my overview of the past year's activities. Now I'll ask Lori McKee-Jeske to provide a brief summary of the reports on the 2011 enumeration and 2012 election. Following that, Bill Sage will provide a brief summary on our annual activities under the election finances legislation.

Thank you all very much.

**The Chair:** Please proceed.

**Ms McKee-Jeske:** Thank you. I would like to offer a few brief comments on the two reports that have been prepared and tabled in accordance with the Election Act, but I'll do my best to avoid repeating information that has already been shared in the portion of the presentation that dealt with the current year's activities.

The report of the Chief Electoral Officer on the 2011 provincial enumeration and the 2012 provincial general election spans a time period of over a year. It begins with the creation of the May 2011 list of electors that was updated through our door-to-door enumeration process, and it ends with the distribution of the post polling day list of electors in July 2012. The report begins with the enumeration, featuring an overview of the means by which the register of electors is updated on an ongoing basis and providing specific detail on the conduct of the door-to-door enumeration that took place in August and September of 2011 as well as a communications plan that was designed to notify and engage electors in that process.

Looking at the enumeration by the numbers, we had over 5,500 enumerators working in over 6,300 polling subdivisions, who collected information from over 1.25 million residences across the province. Our post enumeration data analysis showed that over 719,000 electors indicated that their registered data was correct when we went to their doors. Over 588,000 electors remained at the same address but required changes or provided additional information to us. Depending on the change required, most of that latter group of 588,000 would have been found on a list of electors and could have voted without delay, bringing the viable records that we started with to about 1.3 million, or about 63 per cent, before the enumeration took place. Over 758,000 names were added to the register following a move or the attainment of either age or citizenship or residency requirements, and almost 599,000 were deleted from the address at which they had previously appeared.

That's the good news. That represents enumerators' efforts that resulted in register enhancements.

The bad news. There were 331 polling subdivisions that were unenumerated or underenumerated for various reasons. That's about 5 per cent of the total number of polling subdivisions across the province. The main reasons that were cited were either electors being away from home, electors refusing to answer their doors when the enumerators made repeated visits, and enumerators not completing their work. During our last meeting we discussed a number of issues that will affect the viability of conducting a door-to-door enumeration in the future. These challenges are addressed as well in detail in the report.

At the conclusion of the enumeration we had the names of just over 2 million electors included in the register. Ninety-four per cent of them had provided birth date information, 96 and a half per cent had provided gender information, and 81 per cent had provided telephone numbers to us. The first two components are particularly important for identifying electors to allow for future automated updates. We have to be able to identify an elector in

order to move them to a new address using the data sources that are available to us.

The election portion of the report, again, provides specific detail on preparations, conduct of the event, and the communications plan that was designed to notify and engage electors. Outreach programs targeted groups that have experienced difficulties in accessing necessary election information in the past. Those groups include Canadian Forces, disability community, ethnocultural communities and new Canadians, First Nations, homeless, incarcerated, law enforcement agencies, multi-unit dwelling associations, postsecondary institutions, seniors groups, and work camps. The implementation of the election period allowed us to plan our communications with those groups and provide them with necessary information on a timely basis. By providing them with that information in advance of the election, we were able to facilitate participation by their members.

Our outreach efforts also included attendance at three campaign colleges, a service that we offered to all political parties. In addition, we provided open sessions in Calgary, Edmonton, and Red Deer, which were attended by approximately 400 candidates, chief financial officers, and other party representatives interested in the legislative requirements for campaigning. Brian has already addressed the outreach efforts that we directed to electors, so I won't repeat our activities in that area.

While it's difficult to quantify the effectiveness of our communications, the fact that there was an increase of over 344,000 voters, when compared to the 2008 election, accompanied by a decrease of 2,000 polling day phone calls may indicate that a greater proportion of voters received necessary information in advance of polling day.

The report highlights the legislative and procedural changes and the challenges that we experienced. Many challenges related to explanation of the new electoral division boundaries and the names, complaints about the demon dialers, that Brian had mentioned, and co-ordination of the two elections.

Looking at the election by the numbers, we had almost 17,000 election officers staffing 222 advance polling stations and 6,676 polling stations across the province on polling day. This provided electors with a window period of 44 hours to cast their ballots, in addition to special ballot availability for those electors unable to attend advance or polling day polls.

Electors were able to choose from 429 candidates, representing all nine political parties. Electors in Calgary-Hawkwood had the most choices available on the ballot, with eight candidates to choose from. In total, almost 1.3 million electors cast ballots, producing a voter turnout of 54.37 per cent.

The bulk of the report provides a poll-by-poll breakdown of results and polling subdivision maps to allow for a geographic view of voting patterns. As always, past election results are included for ease of reference. Brian has already addressed postelection activities which also appear in detail in the report.

Next we have the report of the Chief Electoral Officer on the Senate nominee election. Again, it provides specific detail on preparations, conduct of the event, and the communications plan designed to notify and engage electors, which mirrors activities conducted in support of the provincial general election. A significant difference in the conduct of an event under the Senatorial Selection Act is that the Chief Electoral Officer acts as a returning officer. He receives nomination papers, registers and provides support to candidates, has ballots centrally printed and distributed to all electoral divisions, and collects official results by electoral division for inclusion in the tabulation of official results. By the numbers, electors cast almost 1.3 million ballots, containing almost 2.7 million valid votes. You will recall that a

valid ballot could have one, two, or three candidates selected. On average, electors selected two candidates on each valid ballot.

Official results by electoral division appear in printed form in the report, and poll-by-poll results are provided on a CD. In addition, past election results for the one Senate nominee election conducted in conjunction with a provincial general election and the two that were conducted in conjunction with municipal elections are included.

Now Bill Sage will provide an overview of the 2011 annual report. Thank you.

**11:05**

**Mr. Sage:** Thank you. A copy of the report: I think everybody has received it. The 2011 annual report of the Chief Electoral Officer was tabled November 6, 2012. The contents of this report represent many hours of diligent effort on the parts of chief financial officers for both the parties and constituency associations, which are summarized in this report. Their contributions are acknowledged with our appreciation. Section 1 of the report provides relevant information on the annual activity, including contributions for parties and constituency associations, in the 2011 calendar year.

As an overview, there were nine registered political parties at December 31, 2011. Six of these parties met their annual financial filing requirements by the due date. Two other parties have now satisfactorily met this filing requirement. One party, which was registered in the last four months of 2011, is not required to file their financial statement until March 31, 2013. That party is the EverGreen Party of Alberta. Two registered political parties filed annual financial statements under the Senatorial Selection Act by March 31, 2012, and one third-party advertiser registered by the end of December 2011 and filed their annual financial statement by March 31, 2012.

There were 378 registered constituency associations at December 31, 2011, of which 356, or 94 per cent, met their filing requirements by the due date. There was one constituency association registered in the last four months of the year, and they are not required to file a financial statement until March 31, 2013. We appreciate the efforts undertaken by these constituency associations in this regard and assume that our reminder letters along with our ongoing support to the chief financial officers have contributed to this high level of timely reporting. Twenty-one constituency associations filed after the due date.

By June 30, 2012, we had completed a final review of 90 per cent of the financial statements for the 377 registered constituency associations. The remaining 34 statements for this period have not yet been finalized. The 2011 annual reporting indicates that parties received contributions totalling nearly \$5.8 million, constituency associations received contributions totalling approximately \$2.2 million, for a grand total of approximately \$8 million in 2011.

The second section of the report provides general information on funds held in trust, public files, and events of interest since January 1, 2012. At this date there are no funds being held in trust by this office. The public files include financial statements filed by parties, constituency associations, and candidates and are maintained in our office. Similar information for interested readers is available on the Elections Alberta websites.

Events of interest since January 1, 2012, include a number of amendments that have been made to the act as sections of the Election Statutes Amendment Act, 2010, have come into force. The report provides highlights on significant changes that came into force on March 26, 2012, that affected political entities. As resources are prepared and implemented, they are made available through our office and are updated on our website.

Section 3 of the report provides the annual audited financial statements ended March 31, 2012, for the office of the Chief Electoral Officer.

I trust my summary for the 2011 report has provided insight and understanding of our activities and our supporting role to the various stakeholders, including parties, constituency associations, candidates, and, most importantly, all Alberta.

Thank you.

**Mr. Fjeldheim:** Thank you, Bill, for that very adequate presentation.

I'd like to begin with an explanation of the 2012-2013 forecast. When compared to the 2012-2013 budget, you will note that we are planning to surplus almost \$5 million. Most of this, of course, is due to early election preparations that occurred in the previous fiscal year. As you know, the election could have been held in the 2011-12 fiscal year, so that was the first year for which an election budget was approved. Conduct of the election prior to March 31 would have followed the same timeline as the '08 general election.

Between the two fiscal years expenditures totalled \$13,631,864, of which 80 per cent, just over \$10 million, relates to regulated fees paid to election workers and polling places. This is approximately \$1 million less than our projection. The variance is largely due to prudent fiscal management – for example, we use Computers for Schools; we are given those computers for our use during the election, about 350 of them, and then we return them, refurbished of course, to Computers for Schools – and lower polling place rentals and staff costs in a number of electoral divisions.

We overspent in the contract services line item since legal fees and investigative services exceeded the budgeted amount. This amount is hard to predict since the number of court cases, legal opinions, and investigations is beyond our control. Contract services has been adjusted for the fiscal year to allow for an ongoing increase in the activity in these areas.

A portion of the surplus, \$870,000, is anticipated for each fiscal year in which there is no by-election held. We always budget for three by-elections – that has occurred in the past – and, of course, we want to be prepared. Obviously, if there are no by-elections, there is no expenditure, and the money is returned.

Next, I would like to provide an explanation of the '13-14 estimates before you. This is the worst possible time for us to provide you with an accurate projection. As you all know, this week amendments to our legislation have been presented in the Assembly. For example, one of those is quarterly reporting of financial statements. Presently we do the reporting once a year, so for the constituency associations, for example, that's over 400 once a year. Now, we're going to be doing that five times a year. That has, obviously, quite an impact on our office, so we'll be looking for direction from this committee down the road, once this legislation is passed, for adjustments on our budget, depending again on what legislation is passed by the Assembly.

The '13-14 postelection year is the year in the election cycle in which data is gathered, activities and programs are assessed for effectiveness, and areas of improvement are identified. That, of course, lays the groundwork for election planning at the same time that postelection activities prescribed by legislation are completed.

The document before you follows the standard budget template we've been instructed to use. Using that template demonstrates significant decreases since we're moving from an election year to a nonelection year. It's always difficult to draw a relevant comparison, but I can tell you that we've based our estimate on our last, what we call, steady-state budget – that was in '10-11 –

with appropriate adjustments, as we did in last year's presentation. I will highlight the main expenditures for each line item.

Manpower has been adjusted for the standard 3 and a half per cent increase and the institution of the spending accounts.

Travel is mainly related to supporting our outreach program, travel related to conference attendance, potential by-election travel, and so on.

Advertising is mainly related to the promotion of our Voterlink application, where you can register online and check to see if you're on the list of electors, and for statutory advertising for potential by-elections.

Insurance is calculated by the risk management company.

Freight and postage supports ongoing operational requirements, including the distribution of reports.

Rentals is mainly related to our office equipment and space for potential by-election office space and polling places.

Telephones and communications is pretty straightforward, I think.

Repairs and maintenance for our office are minor things not covered by our lease.

Now, contract services is mainly related to investigative staff, \$290,000; legal fees, \$200,000; online training development, that's \$50,000; website maintenance and upgrades – that's an ongoing thing – is \$40,000; printing services for all reports, forms, and guides, \$33,000; our annual data security audit, which is required because we get information from Health and drivers' licences and so on; and finally, the update of our outreach materials is \$15,000. So that's how that contract services total is arrived at.

#### 11:15

Technology service is mainly related to the hosting of our website, management of our server room, and data-processing services, which primarily relate to updating the register of elector information. That's an ongoing thing.

Hosting is a nominal amount, covering working sessions for guests from other jurisdictions and potential by-election work sessions.

Materials and supplies is comprised of computer licences and computer evergreening as well as the purchase of office supplies.

One of the computer licences will allow us to produce a new application that will allow for the geospatial location of an address on a map. This will provide the user with a visual representation of the electoral division and polling subdivision of the address. This will be particularly helpful in providing information to electors with rural addresses since the variable forms of addressing protocols limit the effectiveness of a tech search. It's quite technical. Anyway, these slides illustrate the information that is to be provided online using this new application. You'll see that the user has the option of entering a civic, municipal, 911, or Alberta township system address or a postal code. The application locates the address on a map and provides information; in this example, electoral division, polling subdivision, name of the MLA with particular affiliation. During an election, of course, this would provide polling place information, where to vote.

Equipment and inventory purchases are largely comprised of the server replacement project and additional development of our election management system, which is capitalized, and the amortization, I understand, is a standard calculation based on capital expenditures.

Finally, in slide 46 I would like to draw your attention to line 17, where the number of FTEs shows an increase from 16 to 18 full-time equivalencies. As mentioned previously, this is necessary to keep pace with the steadily increasing activity in the finance

area. Both positions will provide front-line service to political participants and others with an interest in financial compliance. There will be no net increase in the basic wage and salary component, largely due to flattening the organization and reassignment of duties in other areas. That 12 and a half per cent you see on that sheet relates to people, not dollar increases; 16 to 18 is a 12 and a half per cent increase in the FTE number, not the dollar number.

Now I'm going to call on Drew Westwater to preview our updated service plan.

Thank you.

**Mr. Westwater:** Thank you, Brian. Good morning, Mr. Chairman, and members of the committee. Today I'll be presenting a brief overview of the 2013-14 to 2015-16 service plan for Elections Alberta.

As a way of background for the information of you, Mr. Chairman, and the new members of the committee, with apologies to the returning members of the committee, I'd like to explain how the service plan is created at Elections Alberta. We build our service plans based on the four-year election cycle, following each provincial general election. The most recent provincial general election, as you know, was held this year on April 23, 2012. The next provincial general election will be held between March 1 and May 31 of 2016.

The service plan before you today reflects the activities we will be undertaking and are necessary to achieve our organizational goals and strategies in each calendar year of the election cycle to effectively deliver the successful provincial general election in 2016, also to be election and by-election ready at all times throughout the four-year mandate; to oversee the annual financial reporting requirements of the parties, constituency associations, and third parties; and to meet our ongoing day-to-day responsibilities in each of those calendar years as determined by the Election Act and the Election Finances and Contributions Disclosure Act.

All activities are undertaken in our service plan to support our three identified organizational goals. I'll just repeat them: to increase the efficiency and effectiveness of election administration, to increase services and accessibility for stakeholders, and to increase Albertans' awareness and knowledge of the electoral process. Within each of these three identified organizational goals in our service plan, we have identified key strategies for success. The details of these objectives are listed in our service plan for the next three years.

Year 2013-14 of the election cycle is dedicated to feedback and evaluation of election products and services which were provided in our most recent general election from all our identified stakeholders. This exercise provides meaningful input into identifying what products and services work well and what areas need further improvement by 2015-16. In addition, we undertake research, assessment, and evaluation of best practices and benchmark activities of other electoral agencies across Canada and internationally that can be documented and introduced into the electoral process and environment here in Alberta within our existing or future legislation.

Year 2014-2015 is dedicated to identifying, updating, building, testing, implementing, and documenting necessary amendments to existing policies and procedures, our programs and services that we offer to Albertans, that achieve our organizational goals and build the foundation for electoral process improvements at the next provincial general election.

The third year of our service plan, 2015-16, is dedicated to finalization of all our event readiness preparations, including the acquisition of election officials, election supplies and materials,

election training programs, IT system enhancements and election management tools, contracted service providers, register of electors enhancements, and stakeholder workshops and training programs and outreach program initiatives are launched in those years.

In addition, as we've been asked previously, we've included performance measures in our service plan that are identified to indicate the level of achievement attained within each of the three identified organizational goals over the three-year service plan cycle that we have before you today.

Thank you, Mr. Chairman and members of the committee, for the opportunity to present an overview of our service plan. I'll turn it back to Brian.

**Mr. Fjeldheim:** Good. Thanks, Drew.

Thank you, everyone. That concludes our presentation. We'd be pleased to try to answer any questions that you may have.

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

I open the floor for questions. Mr. Eggen, please go ahead.

**Mr. Eggen:** Thank you, Mr. Chair, and thank you for your presentations. Illegal financial contributions are a huge problem in Alberta, and we need to start enforcing that law. According to your own records you have put out administrative penalties or letters of censure in a total of 51 cases, with another 10 outstanding cases to investigate. Presuming the new elections act will be proclaimed by January 31, I wanted to know how many of these 51 cases will the public get to see finally.

**Mr. Fjeldheim:** Thank you. Our understanding of the new legislation is that it will go back three years. If it is proclaimed January 1, then it will go back to January 1, 2010. We would then release information on those files where the – what word am I looking for here?

**Mr. Eggen:** Offence.

**Mr. Fjeldheim:** Thank you – where the offence occurred in those three years. I've heard in the media that there is some confusion. Our last press release of July 9, 2012, said that the cumulative result is 37 that we have done a penalty on, and at that time there were 20 after April 22, 2010. So if the legislation – again, that's up to you people in the Assembly – goes back three years, it will be from January 1, 2010, onward. Have I answered that?

**Mr. Eggen:** I'm trying to filter through this. Then you're suggesting that 20-some of the 51 cases will be made public?

**Mr. Fjeldheim:** Yes, 20-some at this time. There are still some that we're working through. Some of those will still be previous to 2010 and some after.

**Mr. Eggen:** Well, if we're then proclaiming back to June, as the proclamation date goes later, we're going to lose more and more of these cases for public scrutiny. Is that kind of the idea? It seems logical, then . . .

**Mr. Fjeldheim:** Well, I'm assuming, again, January 1. So then we start January 1, 2010, if the legislation is proclaimed on January 1.

11:25

**Mr. Eggen:** Yes. Thank you.

As your investigations have been showing, there have been a startling amount of the new cases coming, some of them involving public dollars. It seems as though we have not been successful in

curbing illegal activity. I'm just curious to know: how many of these cases, disclosed or not disclosed, have you referred to the Crown for prosecution?

**Mr. Fjeldheim:** We have not referred any at this time for prosecution.

**The Chair:** Thank you.

I just want to remind all the members to try to keep your questions to one supplemental so all the committee members have a chance to ask a question, and then we go another round. Okay? Thank you.

Mr. Wilson.

**Mr. Wilson:** Thank you, Mr. Chair. As my colleague had mentioned, there have been many allegations of illegal contributions and donations either solicited or taken by the governing party recently. I'm curious as to what your office requires in order to expeditiously investigate these allegations and answer the questions Albertans have about them and if you could also respond to whether or not you require a formal request in order to start an investigation or if you can proactively undertake that in your role.

**Mr. Fjeldheim:** Well, first of all, we appreciate a formal request. Secondly, yes, we can start an investigation and begin looking into these matters without having a formal request. Obviously, if there is something that is brought to our attention, then we don't take these things lightly, and we respond to every one of them. Yes, we've received a number of formal requests, and we continue to at an unprecedented rate. That's why we're asking for more funding in that area as well. Have I answered your question?

**Mr. Wilson:** Yeah. Sure. Thank you.

**The Chair:** Thank you.

Again, I'd like to remind the members to, you know, keep your questions related to the budget. Thank you.

**Mr. Wilson:** It was related to the budget, Mr. Chair.

**The Chair:** Yes. I'm just trying to remind everybody.

**Dr. Brown:** I'll follow up on the same line of questioning. I hadn't anticipated it.

Mr. Fjeldheim, how many of these so-called illegal contributions would have been contributions to, you know, purchase fundraising tickets and so on, which on the face of them would not appear to be illegal? In other words, it's my understanding that quite often when tickets were purchased by fundraisers and whatnot, they were purchased in the name of an individual, which is perfectly legitimate. They then claimed a reimbursement from an entity which was not qualified to make a contribution. Can you comment on how many of those so-called illegal contributions would on the face of them have appeared to be perfectly legitimate?

**Mr. Fjeldheim:** Well, I don't have a number for you. But what happens in many cases is that an individual will attend a fundraising function and perhaps be a member of a council of a local municipality. The people who are putting on the fundraising event, to my knowledge, don't necessarily have a listing of all the people who may be working with a public body, who would be a prohibited corporation. So when an individual is coming and purchasing a ticket, they might not know that that person in effect is a member of a council or works for a council and so on.

Secondly, if the individual goes back and claims for that ticket – as we say, we follow the money – when we follow the money, if that individual is compensated for that ticket, then an illegal contribution has been made. It is quite time-consuming to do that, but we have done that in all of these cases, tracking down eventually what happened to the money.

We have put out an extensive educational program. We've written to all municipalities and prohibited corporations in the province advising them of this, and through our education program we hope – hope – that the practice stops completely. Now, I'm not so naive as to think that mistakes – these sorts of things may happen again, but we are doing our very best to ensure that everyone understands this process. We have a new brochure that has now been put out for everyone who collects money, who collects political contributions, outlining their responsibilities in ensuring that the people that are giving them money are doing it properly and have the right to do so.

**Dr. Brown:** I certainly understand that, but I would suggest to you that volunteers who are organizing a constituency fundraiser and receive a request for a ticket from an individual, certainly, may not know that they belong to an organization or are employed by an organization and certainly do not know, past the fact that they received a ticket request from this individual, who is ultimately being reimbursed and who isn't. I mean, when you get a cheque from an individual for a fundraising ticket, you take it at face value. Certainly, there has to be some onus on the individual contributor, which needs to be brought to the forefront.

**Mr. Fjeldheim:** Yes. That is true. We're trying to put the onus on the financial officers of each of the political organizations so that they are very conscious of who can and who cannot contribute. In terms of elected and postsecondary institutions and all the other prohibited corporations, we want to put out as much information as we can to ensure that they understand that they should not be making contributions as well. Again, we're doing everything we can to ensure that people understand who can and who cannot make contributions.

**The Chair:** Thank you.  
Ms DeLong.

**Ms DeLong:** Thank you very much. Going to the explanation of changes to the budget, could you please go over for me again how it is that your employer contributions are decreasing? I haven't seen that anywhere else. If there is a way of decreasing those, how did you do it?

**Mr. Fjeldheim:** I'm going to ask Lori to answer that.

**Ms McKee-Jeske:** For the past fiscal year the employer contributions also included a portion related to returning officers' fees. Returning officers' appointments terminate four months post election day. Once they aren't being paid anymore, that employer contribution amount drops significantly.

**Ms DeLong:** Like, the salaries and wages part of it only went down a little bit, yet the employer contributions went down considerably. I just don't quite understand.

**Ms McKee-Jeske:** Okay. Yeah. Returning officers' fees show up in contract services. So you will see only the fees related to the ongoing steady-state staff in our office appear in salaries and wages, but everything is bundled, staff plus returning officers, with the employer contributions.

**Ms DeLong:** Oh, okay. Thanks very much.

**The Chair:** Mr. McDonald.

**Mr. McDonald:** Thank you, Mr. Chair. My question goes to quarterly reporting. Do you see that as being quite an issue as far as receiving the results and scrutinizing them? I know that a lot of constituencies may not meet regularly. There may be issues. Usually it's a volunteer accountant that looks after the financing, and a lot of them are in Arizona for most of the winter. Do you see a problem, or do you foresee a penalty situation there? It's hard for me to grasp all of this. Do you have a comment on it?

**Mr. Fjeldheim:** Actually, it's hard for me to grasp all of this, too. We've come from a situation where – let's pick constituency associations, over 400 of them. Previously, once a year they had to give us their financial statements. That in many cases was difficult enough in that we would then have to deregister them, and then they'd file, and we would reregister them and so on.

*11:35*

My understanding with this legislation is that quarterly now we'll go through the same thing and that it's 15 days after the end of the quarter. This will require us to ensure that these constituency associations have their information. My understanding, again – and it would be up to the Assembly if they feel they want to pass this – is that it would be those contributions that would be over \$250; that is, if the \$250 ceiling is passed as well. So then they would send a statement of that. Of course, they will also have to send us even a nil statement because if you're registered, you have to file even a nil statement. We'll be looking at, again, every quarter, these 400-plus statements that are coming in. I'm not sure yet what the penalty is if they don't. I'm thinking that we're going to be registering and deregistering these things on an ongoing basis sort of thing because getting this stuff in in 15 days is quite a challenge, I'm sure, to a number of the volunteers out there to keep on top of that. So, yes, that will have quite an impact.

**Mr. McDonald:** And you would see, obviously, an impact of this on your staffing as well, then.

**Mr. Fjeldheim:** That is correct.

Perhaps I should add that that would be one reason that's not in this budget. I'm not trying to be cute here or anything, but, you know, it wouldn't be right to put it in here, saying that this is going to happen. If it doesn't, then what?

**Mr. McDonald:** It's only anticipated at this point.

**Mr. Fjeldheim:** That is correct.

**The Chair:** Good. Thank you.  
Mr. Bikman.

**Mr. Bikman:** Thank you, Mr. Chairman. What is your position or understanding of the legality of the alleged donation by Mr. Katz, specifically the single cheque for \$430,000 that was dropped off at PC headquarters with a list of names for tax purposes?

**Mr. Fjeldheim:** I'm afraid I'm not going to be commenting on that today.

**Mr. Bikman:** Is the investigation going to add to your budget?

**Mr. Fjeldheim:** It won't add to this budget. That's part of the reason we're putting more money into the budget for next year.

**The Chair:** Thank you.  
Ms Blakeman.

**Ms Blakeman:** Thank you. Sorry. My ears didn't help me there. I heard Bikman as Blakeman. I have two questions, so please put me back on the list.

The issue around people buying tickets and then seeking reimbursement from somewhere else: I listened to what you said. You've got some education programs, you sent some letters out, and you've got a brochure. You do seem to be putting an emphasis there on the political parties to figure that out. Well, that's another story. Mostly what we've seen is that it's not that people didn't know better. They did, but they did it anyway. What plans do you have in this service plan between 2013 and 2016 to be able to deal with that? I think it was quite clear with any of the ones that have been recently in the news that people knew darn well what they were going to do with it. They were going to submit it for reimbursement to the health authority or the school board or the municipality. They knew it was wrong, and they did it. So, you know, your nice educational programs I'm sure will be helpful, but what have you got in mind that is going to deal with people that are a bit, well, let me say, sneakier about it?

The second part of the question. The new legislation puts the onus on the donor. So in the case of one of the recent ones in the news where the donor bought the ticket and then submitted it to a prohibited organization, who is in trouble? The one that bought the ticket or the prohibited donor, the health authority?

**Mr. Fjeldheim:** Well, again, I have levied a number of administrative penalties. Those are to the offenders. It looks like, with this new legislation, information will be coming forward as to who those people and organizations are.

As far as the parties, again, with the new legislation my understanding is that I will have the authority to give administrative penalties to political parties and their associations as well. I believe that should assist in curtailing that action. So there is some sting there.

**Ms Blakeman:** How are the political parties supposed to control that? I mean, Laurie Blakeman buys a ticket. All you know is that you've got a cheque from Laurie Blakeman. What are you going to do to the party?

**Mr. Fjeldheim:** Well, again, the political parties will be receiving information on who can make contributions, so there will be an increased responsibility for the political parties and their associations to be aware of who you can accept contributions from.

**Ms Blakeman:** But Laurie Blakeman is a legitimate person to buy a ticket to an Alberta Liberal Party function.

**Mr. Fjeldheim:** That is correct.

**Ms Blakeman:** What more information do you expect the Alberta Liberals to collect to check on . . .

**Mr. Fjeldheim:** Well, to ensure that Laurie Blakeman understands that it is Laurie Blakeman the individual who is buying the ticket and that it will not be put in as an expense claim to some organization that is a prohibited organization.

**Ms Blakeman:** Yes. So what are they supposed to do? Do they hand out a little ticket with everything saying: don't reimburse this from the prohibited group?

**Mr. Fjeldheim:** Well, what is expected is that the individual will realize: "This is my dime I'm spending here, and I can't go and become compensated for this."

**Ms Blakeman:** Well, that hasn't been working. With respect, that has not been working. That's exactly the issue we're raising.

**Mr. Fjeldheim:** Well, again, a number of these are new things that we're putting forward.

**Ms Blakeman:** Okay. Work with me. How is what you've just described going to solve the problems that I and several others have outlined here? Putting the blame on the victim in many ways, the smaller political parties – I don't get what you're trying to do. Can you help me with this?

**Mr. Fjeldheim:** Well, we're trying to increase the knowledge of the contributor and the organizations as to the rules regarding contributions: who can make contributions, who cannot make contributions, what prohibited corporations are, and so on.

**The Chair:** We've only got maybe less than 10 minutes left, and I've got a long list of speakers. Some people want to have a second time to ask questions. Please limit your questions to one; also, the answers should be brief.

The next is Mr. Rogers.

**Mr. Rogers:** Thank you, Mr. Chairman. I'm going to try to be brief. Mr. Fjeldheim, following Ms Blakeman's last comments, I think it's irrelevant whether it's a large or a small party. Parties are parties. The act does not treat large or small parties any differently.

My question would be: can an entity be fined? In the example that we heard earlier and followed up by Ms Blakeman, assuming that the contribution was made from an individual, who subsequently gets reimbursed, I guess what I'm asking relative to your budget request: is your current staff and investigative complement able to make this determination? I'm hoping you will answer whether or not an entity can be fined. Obviously, a lot of what we've heard around this issue has focused on individuals, and it has focused on the parties as well, whichever party that may be. I'm just wondering: do you have the ability to fine an entity, and is this something you might be looking for in the next go-round? It seems to me that in a lot of cases the local associations are acting as properly as they can in terms of dealing with the individual Joe Smith buying a ticket to that fundraiser, who subsequently gets reimbursed by a prohibited entity.

**Mr. Fjeldheim:** I have the opportunity to fine a prohibited corporation if they have made an illegal contribution. I will have, depending on the new legislation if passed by the Assembly, the authority to also assign an administrative penalty to a political organization. So I'll be able to do, in effect, both.

**Mr. Rogers:** Thank you.

**The Chair:** Mrs. Leskiw.

**Mrs. Leskiw:** Thank you. I appreciate what Elections Alberta does in the election process. I really do appreciate that this year when I phoned and asked to make sure all my First Nations and Métis settlements had polling stations right in their home community, it was addressed.

Your notation on page 9 about outreach programs. Please, when you're referring to First Nations and Métis, don't just include First Nations. Make sure it's FNMI. That includes First Nations, Métis, and Inuits. Your outreach wasn't only for the First Nations. It was also for the Métis communities. Just a comment.

11:45

**Mr. Fjeldheim:** Well, thank you very much.

**The Chair:** Mr. Quadri.

**Ms Notley:** I'm sorry. Excuse me, Mr. Chair. Point of order. There are opposition members of the Assembly who are here at this committee. It is a practice to alternate between government and opposition members. There are absolutely no written rules or previous precedent whereby you shut out members who are not members of the committee. Members of the Assembly who show up at this committees have a voice. Those are clearly the rules in the standing orders. There is no precedent to shut out opposition or other members, so you should be alternating between opposition and government because that is also a practice and a precedent. The way you're conducting this right now is very problematic.

**The Chair:** Okay. Your points are well taken. First of all, I want to say that according to the rules any MLAs can attend any committee meetings and ask, you know, to put their name on the speakers list.

**Ms Notley:** I gave you my name before this started.

**The Chair:** As the chair I have the duty to monitor the time that is available to the committee members who will be voting on the motion based on today's presentation.

**Ms Notley:** There is no precedent for that, Mr. Chair. You have no authority for that determination, none.

**The Chair:** Let me finish, okay? We have parliamentary legal counsel here. They will provide the legal opinion on this.

I have to make sure that all the committee members who are going to vote on the motion based on the representations today have their questions answered first. Mr. Quadri hasn't asked a question yet.

**Ms Notley:** But you have no authority, Mr. Chair, for determining the value of the questions between people who are members and people who are not.

**The Chair:** We will ask Parliamentary Counsel to provide an opinion on this.

**Ms Notley:** The rule is that if you have voice, you have voice, not a secondary voice.

**The Chair:** I'm acting based on the legal opinion I got from our legal counsel. Mr. Reynolds?

**Mr. Reynolds:** Thank you. As you know, I was not here for the first part of the meeting because I was teaching at the university. Usually questions about procedure are dealt with by the committee with respect to the committee's proceedings. I'm not sure if I understood Ms Notley correctly. I thought she was saying that there was something about the rotation of speaking in a committee in the standing orders. That's not the case.

**Ms Notley:** No, I did not say there was anything. I said that the practice and the precedent has been that there is a practice of alternating between opposition and government. That's been the history. There has been no history of suggesting that members of the Assembly who show up to committees who want to speak are somehow given second-class standing as members who may wish to ask questions. I'm simply basing my representations on the history and past practice in these committees. That's what my assertion is based on.

**Mr. Reynolds:** Well, I would say that it's up to the chair to make a determination on that. Once again, I haven't briefed myself on this issue as I just got here, but I believe the practice has varied somewhat between committees, in my experience.

**Ms Notley:** Well, I can only speak to the committees that I've sat on.

**The Chair:** Okay. Before the meeting I already communicated with the members of the NDP. We kind of agreed to have all the committee members ask questions first. Once they finish their questions, then we can add your name to the speakers list.

**Ms Notley:** We did not agree.

**The Chair:** I did talk to you, right?

**Ms Notley:** And I told you I didn't agree.

**The Chair:** You know, because the committee members have a duty to vote on the motion based on today's presentations, they have to have their questions answered first. Let's carry on.

**Mr. Eggen:** Excuse me. I have a motion that perhaps can help to resolve this. I'll pass it around. I move that the time period for discussion between members of the all-party Standing Committee on Legislative Offices and the Chief Electoral Officer be extended until such time that members have completed their questions. I have copies for everyone.

**The Chair:** Mr. Eggen, please go ahead. Speak to your motion.

**Mr. Eggen:** Yes. Thank you. Just considering the importance of this particular office and both the quality and illumination that are coming from the questions, I thought it might be a good idea to extend the time here until we can work through everybody's questions. That's pretty much self-explanatory from the motion that I've distributed to everyone here now.

**The Chair:** Could you read your motion for the record?

**Mr. Eggen:** Absolutely. I, David Eggen, MLA for Edmonton-Calder, move that

the time period for discussion between members of the all-party Standing Committee on Legislative Offices and the Chief Electoral Officer be extended until such time that members have completed their questions.

**The Chair:** Okay. Thanks.  
Mr. Rogers.

**Mr. Rogers:** Thank you, Mr. Chairman. I'm going to be very brief. I will not be supporting this motion. We have a large body of work today. We are scheduled to hear from all the officers. This is scheduled till 3:30. We've had a very long week. A number of members have to travel three, four hours at the end of this committee. I don't think we can attach any more importance to

one presentation and questions to one officer than the others. These are all important, and I believe we have to stay with the schedule.

Thank you.

**The Chair:** Good.

**Ms Notley:** Could I speak to the motion? Can I get on the list, please? I've asked twice now.

**The Chair:** Yeah. Sure. Of course.

**Ms DeLong:** Yes. I just wanted to make the point that we are looking at several different offices of the Legislature today, and we are looking at budgets. All of these budgets are important, so I think that we should stay with our agenda.

**The Chair:** Mr. Bikman.

**Mr. Bikman:** Yes. Given the fact that the questions being asked, Mr. Chairman, are questions that have been asked and unanswered for a couple of weeks or more now in the House, this may give us the only chance to get some real answers to the questions rather than equivocation and unfriendly rebuttals, if you will. I am certainly supportive of this and would make a friendly amendment so that rather than "members," which may be misunderstood as being committee members, it means all MLAs present.

**The Chair:** Dr. Brown.

**Dr. Brown:** Thank you, Mr. Chairman. I have to respectfully disagree with my colleagues from Leduc-Beaumont and Calgary-Bow. I think that if we need additional time, we shouldn't be stuck to a rigid schedule here. I know that there are other officers of the Legislature who are waiting to make their presentations, but if this is an important issue to some of the members, then it should be discussed and discussed until they're satisfied that they've asked all the questions necessary. So I'm supportive of the motion.

**The Chair:** Ms Notley.

**Ms Notley:** Well, thank you. For obvious reasons, as I've said before, I don't think there's any precedent at all for creating a second class of member who appears at these committees or a second class of vote, so I think you're completely out of order there. But rather than have a long debate about that, the better thing to do would be to simply extend this debate.

**11:55**

Now, when you try to justify your decision that somehow my voice is less important than the other voices around this table, you say so because there are important matters to be voted on and everybody on the committee needs to be able to ask all the questions that they can in order to vote appropriately on those important matters. So based on your reasoning, because there are important matters and because there is a tremendous breadth of issues that need to be discussed here today – a tremendous breadth – we haven't even touched on the vast majority of issues that need to be discussed in relation to the operations of this officer. You may or may not be aware that in 2010 the Justice minister at the time, the now Premier, amended the legislation to ensure that there was absolutely no mechanism for the courts to ever review the conduct of the enforcement of this legislation. Therefore, this committee is absolutely the only mechanism for any oversight.

The notion that we would discuss an annual report, a whole bunch of recommendations, and a budget in 20 minutes is grossly

irresponsible. If we want to have any kind of credibility, I would suggest that this discussion continue until such time as we've actually been able to have a sufficiently fulsome discussion to be able to make wise decisions.

Thank you.

**The Chair:** Thank you.

Before we proceed with Mr. Wilson, I will say that because of time limits I think I should ask each member to ask one question.

Mr. Wilson, go ahead.

**Mr. Wilson:** Sure. Commenting on this motion, Mr. Chair, if this is defeated – and I assume it most likely will be – I would like to implore the chair to perhaps recall this committee at its earliest possible convenience with this office so that we can continue this discussion.

Thank you.

**The Chair:** Yes. That's what I think.

**Ms Blakeman:** Are you keeping a list?

**The Chair:** Yeah, I do. I do. Sorry. I overlooked your name. Go ahead, Ms Blakeman.

**Ms Blakeman:** Thank you so much.

**The Chair:** I've got a crowd of names here, so go ahead.

**Ms Blakeman:** Uh-huh. Okay. Given our situation this is a valid motion to be brought forward. Nothing in the operation of the Legislative Assembly or its committees anywhere says that you have to have a rigid sticking to time. It always says that the Assembly or the committees are in control of the business that they do, understanding that you do have an ebb and a flow in the business of various parts of what you're doing. You can have a ministry that doesn't put forward a bill at all during a session and one ministry that has seven.

In this case we've had a lot of activity happen under the purview of the Chief Electoral Officer but almost nothing come under FOIP or the Auditor General this year. So we have to understand and go with that because to limit it to a strict amount of time does not serve any of the people walking around out there in the fabulous constituency of Edmonton-Centre or anywhere else in Alberta or any of us who are trying to represent constituents and Albertans overall.

Just as a side note Standing Order 65(1) notes the use of standing orders in committees, and nowhere does this say that the chair has the authority to decide that a member is of lesser standing, and nowhere does it say that a member not appointed to the committee has lesser or secondary or after-all-the-rest standing.

Thank you.

**The Chair:** Anybody else?

I would like to call the question. All in favour of this motion? The motion is carried.

Let's keep going. That's my difficulty. I don't know when we should stop here. I think, you know, probably it's fair to have each member have the opportunity to ask a question. Then we can adjourn the meeting.

**Ms Blakeman:** Do you not have a list?

**The Chair:** Yes, of course. I have all the names.

Okay. Would it be fair to start with Mr. Eggen and then let all the members have the opportunity to ask one question?

**Mr. Bikman:** That's not the motion.

**The Chair:** No, it's not the motion. I know. Let's keep going. Okay?

**Mr. Bikman:** Until they're tired.

**The Chair:** Well, we just had two nights, right?  
Mr. Eggen, please.

**Mr. Eggen:** No, no. I think we're staying with the list.

**The Chair:** You're staying with the list? Okay. So you are the first.

**Ms Notley:** Excuse me.

**The Chair:** It's up to you. You go first.

**Ms Notley:** Would you like me to keep the list, Mr. Chair?

**The Chair:** You are on the list. I put you on the list. You have to sort it out.

**Ms Notley:** No. I was on the list. I believe we were going to go through, let everybody ask a question, and then if more people have more questions, we'll go through again, and then we'll go through again, correct? Were we not 80 per cent of the way through the list?

**The Chair:** Please proceed with the question.

**Ms Notley:** All right. Okay. There we go. It's very strange.

I would like to go back to the issue of enforcement of the legislation and touch on a couple of points that have been asked already but that I'd like to get a bit more information on. We have, I believe, 51 incidents of illegal election financing under that act which warranted either an administrative penalty or letter of censure. Now, as you know, back in 2009 the prior Chief Electoral Officer forwarded 19 items to the Crown for prosecution. When none of those items were prosecuted, the then Justice minister said in the House: well, we don't need to prosecute if we think that we can change people's behaviour and they will learn from it.

Of course, in just the last six months or eight months we've seen at least 54 incidents of people not learning from it. My question to you is: do you really think that failing to prosecute even one of these is a judicious exercise of your authority? It seems to me that people are ignoring the act with impunity and that perhaps the enforcement of the act under your prosecutorial authority is something that you ought to consider.

**Mr. Fjeldheim:** Yes.

**Ms Notley:** So do you intend on prosecuting anything?

**Mr. Fjeldheim:** I don't know at this time, but I'm certainly not precluding prosecuting anything.

**Ms Notley:** Oh, I should hope not.

**Mr. Fjeldheim:** Exactly.

**Ms Notley:** What I'm saying . . .

**Mr. Fjeldheim:** I am not against prosecution.

**Ms Notley:** But the record seems to say something different.

**Mr. Fjeldheim:** I need to have a certain amount of evidence given to me by lawyers that I use before prosecution proceeds.

**Ms Notley:** Presumably, you were able to impose 31 administrative penalties, and you have the choice to proceed by way of administrative penalty or to proceed by way of prosecution of the offence. When we seem to have such a proliferation of a particular form of illegal activity under the legislation, doesn't it seem strange that the previous Chief Electoral Officer felt it appropriate to refer 19 matters to the Crown and you've had over 50 since? When the last 19 were dismissed because we thought that this was a one-time-only thing and we'll ask them to behave better but then we have another 50 more, doesn't it seem appropriate that you would refer one of those matters to the Crown in order to make the point that this activity is illegal and should stop?

**Mr. Fjeldheim:** A number of these items that are put forward are time limited as well, which reduces the number that are legally able to go to Crown prosecutions. It is at my discretion with the advisement I get that in many cases an administrative penalty is more suitable in sending a message. Having said that, once again I am definitely not against prosecution if it's going to stick and we're going to win.

**12:05**

**Ms Notley:** So would you say that there's a different style between you and the previous Chief Electoral Officer, who referred 19 to the Crown?

**Mr. Fjeldheim:** No. I don't care to get into what he did and how he did things and so on.

**The Chair:** Mr. Wilson.

**Ms Notley:** Can I get back on the list, please?

**Mr. Wilson:** Thank you, Mr. Chair. Bill 7 was recently introduced in the House, and there were a number of recommendations that either you or your predecessor had made to the government that were not a part of that bill. I'm wondering if you can comment on what some of those that were left out were and how they will impact elections here in Alberta.

**Mr. Fjeldheim:** Well, again, it is up to the Assembly to put forward what they feel is appropriate. I put forward what I felt was appropriate. That information is now, I believe, available to all of you to look at and say: well, that was a good idea or that wasn't a good idea.

In putting forward sort of my ideas, my staff and I reviewed all the legislation that we had and, of course, kept in mind the openness and transparency. I'm pleased that many of the recommendations went forward. Some of them did not. I recommended that we have a polling day set aside rather than a period in which an election is to be held.

Over the past few days much of the public response seems to be on what I hadn't recommended rather than what I had. I believe my role involves the implementation of legislation and carrying it out and not necessarily the creation. I believe it's up to the Assembly to decide on a number of those issues. For example, the inclusion of the leadership contest: we're going to be looking after that. The empowerment to release the results of investigations under the finance act: I recommended that. That went forward. We lowered the amount to \$250, and there has been criticism as to: why didn't you lower the \$30,000? Well, that has not been an

issue since 1982, when it first came into being. It's not like I have a magic ball or anything to look at. In some jurisdictions there is no limit at all on the amount that you can contribute. So I did not put some things forward.

I think also ideological changes are outside my purview. Proportional representation is another one, public financing of campaigns. I think those are things that the Assembly can look at, but as far as my making recommendations to some of those changes, I just don't think that that is my role. I think that the Assembly has to take some responsibility for that.

**The Chair:** Thank you.

Dr. Brown.

**Dr. Brown:** Well, thank you, Mr. Chairman. I guess I would like to ask a question relating to this idea of prosecute, prosecute, which some members and the Member for Edmonton-Strathcona have indicated that we should do, but as I indicated earlier, most of those cases, to my understanding, were innocent contributions received by political parties which were later reimbursed by an entity which was not qualified to make donations.

I'm sure, Mr. Fjeldheim, that you're familiar with the fact – and you've got legal advice to the effect – that there are different categories of offences. There are offences under the Criminal Code, where one needs a guilty mind, mens rea, in order to have committed an offence. There is an offence called absolute liability, where you're speeding, and regardless of whether you intended to or not, you're guilty. It's called absolute liability. And there is something in between. That's what the Supreme Court of Canada has called strict liability. The reference and the test in that case is whether or not one has carried out due diligence, and I would certainly suggest that the case of individuals who bought a ticket to a fundraiser and a political volunteer for a party who in good faith received that money in the form of a cheque or cash or otherwise certainly falls within the parameters of due diligence.

I guess I would ask you what test is being applied with respect to that because I can understand your reluctance to prosecute in cases where there was an innocent receipt of funds and in which someone had apparently carried out due diligence. I mean, how far behind the screen does one have to go? As Ms Blakeman pointed out earlier, contributions and ticket purchases to fundraisers are accepted on their face value, and they can't be expected to look to see where that chequebook was reimbursed somewhere down the line. It's just completely beyond the pale that one would think that somebody could be successfully prosecuted for having received a cheque when an individual was perfectly qualified to receive it.

**Mr. Fjeldheim:** Yeah. When we look at that, the legislation talks about: did you knowingly receive the cheque? Did you knowingly know you were doing something wrong? I am told by legal counsel that to prove knowingly is extremely difficult in court.

Also, the new legislation now says: known or should have known. That, again, if it is passed by the Assembly, is a significant change. Also, when we receive these complaints, when we get the investigation completed, when we get the information from the prohibited corporation, I would like to add that – and I'm looking at Bill here – I'm going to say that all or 99.9 per cent of any of the prohibited corporations that we've dealt with have been very forthcoming and very co-operative. It's not like people are trying to hide anything.

We then have what we call a scorecard that talks about what we have discovered. Did they co-operate? Were they self-reporting? Has this happened on a continuous basis? And so on. So there are

a number of items that we look at when we make these decisions as to whether or not we will administer a penalty.

I hope that answers the question.

**The Chair:** Thank you.

Mr. Eggen.

**Mr. Eggen:** Thank you, Mr. Chair. We have a problem with accessing some residential buildings in the province. You've acknowledged this before, right? In 2011, however, you said that there were no plans to lay any charges against people who refuse entry to both your enumerators and/or our campaign workers. So we have quite a number, maybe up to 2,000, of these cases. Without the enumeration, of course, these individuals living inside the apartment buildings are less likely to be voting. During the election period, of course, it amounts to vote suppression, whether wilful or not, when landlords do this to us.

I'm just wondering if you have pursued any action against landlords and building owners who are not allowing access to your enumerators or to campaign workers during the election?

**Mr. Fjeldheim:** We have not at this time. This has come forward before. I have information as to what we're doing. We send a notice out to all apartment landlords, to the chiefs of police. We have the right-of-access information. We send that out, asking for their help and co-operation. There are notices to landlords and apartment buildings that the returning officers put inside those buildings. We hope that, through education, that is helping. We also have a system in place. During the enumeration and during the election if you call our office, we have people on hand that will immediately attempt to contact the landlord to get the campaign people into that facility as soon as possible and so on.

You mentioned a couple of thousand. I'm certainly not going to dispute your numbers.

12:15

**Mr. Eggen:** No. I can give you more information if you'd like.

**Mr. Fjeldheim:** Well, I would appreciate it if you could give us those names because we will certainly be contacting them and advising them of that situation.

Now, the enumeration thing is still up in the air, but obviously the campaign thing is not. I mean, the campaign thing is going to go on, and we're going to have that situation again. We haven't at this time, again, as I mentioned earlier, but if we get someone that we can nail, I'm not opposed to that because that would certainly send a message that if you don't let people in, this is the possibility. Once again, it is not an easy task to just suddenly prosecute someone.

**Mr. Eggen:** Yes, I understand that. But considering that through your own figures there are at least 300,000 people missing from the official voters list and considering that we have laws not just to prosecute but to send a message that you shouldn't behave in a certain way, given those things, then, it is really in your purview to ensure that there is a clear message that it is against the law to not let people into your building for election purposes. In fact, considering the 300,000 or more people here, I'd say that it's a form of voter suppression. I think the role of your office, at least partially, is to encourage more people to vote because that's the essence of the reason for its existence, don't you think?

**Mr. Fjeldheim:** Yes.

**Mr. Eggen:** Thank you.

**The Chair:** Thanks.

I've got to put a question to the committee. The food is here. Since we've been here for the whole morning, would the committee agree that we take a lunch break for 30 minutes? Then we'd resume the meeting after lunch.

**Mr. Rogers:** Mr. Chairman, if I may?

**The Chair:** Go ahead.

**Mr. Rogers:** You had suggested that the plan was that every member would have an opportunity to speak. I think we should go through that and then move on with the rest of the day.

**The Chair:** That's not the motion we passed. The motion was basically moved that the time period of discussion between members of all parties of the Standing Committee on Legislative Offices and the Chief Electoral Officer be extended until such time as the members have completed their questions.

**Mr. Rogers:** Would that be midnight, Mr. Chairman?

**The Chair:** That may be. It may be tomorrow.

Would the committee agree to take a lunch break for 30 minutes? Okay, let's have a vote. Would anybody like to move the motion?

**Ms Blakeman:** I'll do it.

**The Chair:** Okay.

**Ms Blakeman:** I'll move that  
the committee take a 30-minute break to refresh and to eat the food that has been provided and reconvene at the end of the 30 minutes and continue on with the discussion with the Chief Electoral Officer and his staff.

**The Chair:** Having heard the motion, all in favour? Opposed? The motion is defeated.  
Let's continue.

**Ms DeLong:** You can pass me. There isn't anything that I need to ask anymore.

**The Chair:** Okay. Ms Blakeman.

**Ms Blakeman:** Great. Thank you very much. I apologize to *Hansard* for not getting my card, so you didn't know who I was, a mystery voice. The cards that we have help the computer identify you.

My question is around the quarterly reporting. Did this suggestion for quarterly reporting come directly from the Chief Electoral Officer? He's already said that he sees this as an additional – I don't want to put words in your mouth. I don't know that you would see it as an additional burden on your budget and staff, but I think I would. I'm wondering. You said that you didn't specifically put extra money in the budget for this because you couldn't anticipate that that would actually be passed, but you must have thought about it in that we're doing a business plan for three years going forward. So what is the amount of money that you anticipate you would have to add to the budget to be able to cope with 400 constituency associations reporting? That's quadruple the amount of work from where we were before. So those are two questions rolled into one.

I understand there's no difference between political parties except that I do understand that one political party in this province has much more resources than others. This is a huge burden for my party. I don't know about the others. But with one paid staff this is a monster burden. To collect and chase down 87 constituency associations, gather the information, and make sure that the Chief Electoral Officer gets it – it's four times the work. It's four times the work for you.

So, one, do you have a budget? Two, did you recommend this?

**Mr. Fjeldheim:** Well, I'll answer the second one first. No, we did not recommend this.

Secondly, we don't have a budget for this. I agree with you about the amount of work required. It's not just automatically receiving these things. It's following up on those . . .

**Ms Blakeman:** It's checking them.

**Mr. Fjeldheim:** Checking them, correct. It's also following up with those that we haven't received them from. I don't know yet what that penalty might be. If it's a deregistration of the constituency association, there's a certain appeal period in there and so on, so it does create a great deal of administration to do this.

**Ms Blakeman:** Could I call upon your expertise to attempt an explanation as to why this might have been proposed? Can you pull from your colleagues other examples across the country so that we could understand why this would be a good idea?

**Mr. Fjeldheim:** I believe that in some jurisdictions – I'm looking at Drew. It's done almost instantly in Ontario. I can't recall any others, I'm afraid. Obviously, I wouldn't know what discussions took place regarding this.

**The Chair:** Thank you.  
Mr. Bikman.

**Mr. Bikman:** Thank you. One of the burning questions that comes up in the circles that I travel in is: how independent are you, really? Would you fear for your job if you proceeded to prosecution without approval from the government?

**Mr. Fjeldheim:** No, I would not fear for my job. Yes, I am independent. I do not – do not – confer with political parties about what I should or should not do or suggestions I should or should not make towards amendments to legislation.

**Mr. Bikman:** Notwithstanding events that have happened prior to your coming to office or appear to have happened, anyway?

**Mr. Fjeldheim:** I'm sorry. I'm just not following that, sir.

**Mr. Bikman:** Well, it seems like your predecessor got crossways with the government, and his contract wasn't renewed.

**Mr. Fjeldheim:** I don't care to comment on that. I had this job for some period of time. I retired. I came back two and a half years ago. I've dealt with this committee. I remember one of the questions asked was that – I do not want to appear in the paper. If you see me in the paper, you'll know something has gone kind of off the rails. Well, I won't say that things have gone off the rails, but our profile in our office has certainly increased lately.

**The Chair:** Ms Notley.

**Ms Notley:** Thank you. I appreciate that, and I appreciate that question because there was a line of questioning that I had on that. It's a difficult set of questions to ask. It is really done with as much respect as possible.

On the issue of impartiality and your ability to act independently, I was very concerned to look through the process which governed the creation and the delivery of your recommendations on the legislation. Section 3.1 of the act requires you to take an oath to act impartially. Section 4(5) of the act requires you to lay your report through the standing committee. As an officer of the Legislature the thought is, of course, that you would primarily interact with the Legislature through this committee.

12:25

We only just got it, so this is part of the reason the question is coming up. I see that in the letter that was written by the Justice minister to you back on May 29, it didn't actually say: could you come up with a whole whack of recommendations and give them to me, just me? It just simply said: do you have any questions around the issue of the whole debate around what you could or could not disclose? Then there's your letter back on May 31 reaffirming your position in terms of what you felt you could disclose under the legislation and suggesting that you would then go further and make a number of recommendations, all of which is entirely appropriate.

However, what I am very concerned about is that those recommendations were given to the Minister of Justice. You were fully aware that members of this committee were not given those recommendations to consider, and you did not ever offer to provide them to members of the committee. When you compare this to past practices of other officers of the Legislature, including the previous Chief Electoral Officer, not just that Chief Electoral Officer, frankly, but every officer of the Legislature, their practice is that when they come up with recommendations which are well within their jurisdiction to do, they share with all members of the Assembly at the same time, and they do it through this committee.

I am very concerned that what's happened is that those recommendations were created – by the words of the Justice minister, they formed 75 or 80 per cent of the act which we are now considering, which was introduced a mere three days ago. We now have at best, I believe, eight days to debate that legislation without any opportunity to have considered it in this committee. I'm very concerned about your understanding of your role. You are not an officer of the Minister of Justice.

**Mr. Fjeldheim:** Correct.

**Ms Notley:** You are an officer of this Assembly, so I'm wondering what your comments are about that because I really believe there is some concern that we should have about your independence as a result of the way in which this matter was handled.

**Mr. Fjeldheim:** Okay. Thank you. Well, first of all, on August 27 I made the recommendations to the minister. This is a copy of that. Attached to that, of course, are these three-column documents that you are familiar with.

**Ms Notley:** Yeah. Just now.

**Mr. Fjeldheim:** As you can see, I have a CC here. It's to the chair of this committee on that same date. It just recently came to my attention that the distribution of this did not occur. When I copied the chair of the committee, my intention was that this would be distributed to the members of the committee. I did not specifically

say that. I'm afraid I assumed that by CCing the chair of the committee, they would be distributed to the committee. My understanding is that they were not. It was an administrative oversight, and I've certainly taken steps in my office to ensure that it won't happen again. I want to assure everyone here that it was obviously my intent that everyone who is on this committee would receive this document at the same time as the Minister of Justice received it.

**Ms Notley:** Excuse me.

**The Chair:** I want to make comments on this point.

**Ms Notley:** You could, but could I follow up there on the question, and then you can?

**The Chair:** Well, I'd like to make a point first, okay?

This document was copied to my office on August 29. As we know, as MLAs every day we receive copies of memos and letters. In this letter there's no indication that the chair has to act on it, okay? Now, listen; I talked to the electoral officer yesterday, I believe, and I also talked to the Justice minister. This is an honest mistake. An honest mistake. The chair is sending a letter to all of the seven legislative officers to make sure that this won't happen again and to make sure that in the future, if they want the chair to distribute the materials to the members, they have to address the chair directly instead of copying the chair through the committee clerk's office. That's the communication that occurred yesterday. Also, I have had conversations with some other members.

I have to say that this is an honest mistake. Nobody tried to hide anything. I hope the members don't make anything political about this. I just had to say something about that.

**Ms Notley:** Can I have my follow-up question, please?

**The Chair:** Go ahead.

**Ms Notley:** With all due respect to everybody's suggestions that this is an innocent mistake, there's no question that the chair does need to take responsibility for his failure in this, and I don't think that the failure to address it specifically to him is a sufficient justification.

However, the fact of the matter is that at the meeting of September 13, 2012, it was made very clear to you, Mr. Fjeldheim, that all members of the committee did not have the recommendations. Moreover, the Member for Edmonton-Centre specifically asked where those recommendations were. On September 24, 2012, you wrote to the chair of the committee and specifically identified the fact that the Justice minister had the recommendations. That was clearly in response to her question about where the recommendations were. In your response you did not say: I sent your committee these recommendations in August, and you should have them.

With all due respect, notwithstanding the fact that the chair was CCed, you were subsequently made fully aware that members of this Legislative Offices Committee were not provided with the recommendations and did not get them until just a week ago or whenever it was that it was tabled. So the explanation and the rationale that you provide is difficult for us because it does not actually align with what's on the record in terms of who knew what when and how this was distributed.

As you know, this goes to the very essence of your role as an officer of the Legislature and your relationship to not just the government members of this Assembly but all members of this

Assembly. So I wonder if you could comment again in the context of the fact that you did actually know, after that letter with the CC on it was sent, that members of this committee were not provided with the recommendations.

**Mr. Fjeldheim:** I was not aware at this time of what the timeline was for the distribution of the document. When we wrote this letter, we did not know whether or not there was a timeline that was being followed. That was in response to your question. I'm afraid I would have to say that I do and should share some of that responsibility.

**Ms Notley:** Well, I appreciate you taking some responsibility for it, but I would like you to comment on how it is we cannot have some concern about the independence of your office as a result of your failure to provide those recommendations. I can read back the letter.

**Mr. Fjeldheim:** I have the letter here.

**Ms Notley:** The question that Ms Blakeman wrote was: "Where are the recommendations, or to whom did the Chief Electoral Officer submit the . . . recommendations?" She asked that. And then your response on September 24 was:

Our recommendations for legislative amendment, which address the issues you raise, were sent to the Minister of Justice, the Honourable Jonathan Denis, QC, for the consideration of the Legislative Assembly. The Legislative Assembly can then consider the recommendations for possible amendments

No inclusion in there . . .

**Mr. Fjeldheim:** Correct.

**Ms Notley:** . . . about: it was also sent to your committee, and you should get it soon.

**Mr. Fjeldheim:** I agree with you. We did not include that. In hindsight, obviously, we should have included that.

**The Chair:** Mr. Wilson.

**Mr. Wilson:** Thank you, Mr. Chair. My question goes to fixed election dates and your recommendation around that. Seeing as there are a number of issues that came out of earlier elections that the recommendation was that a fixed election date would I guess fix these issues, what portion of the budget would not be necessary if we were to go to a fixed election date? How much money would it save taxpayers?

12:35

**Mr. Fjeldheim:** During the last election when it became clear that there could be an election call between about the 3rd of February and March 31, I advised returning officers to get office space. We were having a great deal of trouble getting office space in some areas of the province, so I advised the returning officers to go ahead and rent that office space. The election, of course, was not held till April 23, the writ March 26, so we were in good shape to proceed with the setting up of the election and so on. With a fixed election date then you know specifically when you need to get your offices and so on. In advising people to get their offices on February 1, I was taking a bit of a chance, of course, not knowing when the election was going to be called, but it was more important, I felt, that they get into those offices and get prepared for the election. It's about \$300,000, \$350,000 a month to pay rent for the offices across the province. We managed to get the people out by the end of April, so we didn't have to go into May and pay

rent. That's one thing. You would save some money on rental if you knew the specific election date.

**Mr. Wilson:** Sure. Now, there were other reasons as well; for example, the process of appointing returning officers, the list of electors is incomplete, information regarding where to vote can be put out sooner, special ballots are not received on time. How forceful would you suggest we should be in pushing for a fixed election date, and how much difference would it make for the process in Alberta?

**Mr. Fjeldheim:** There are a couple of other amendments that are in that legislation, and one is that nomination day will be 10 days following the issuing of the writ instead of 14 days, if it's passed by the Assembly, again. We're pushing those dates back. So we will have ballots ready sooner, and we will have candidates ready sooner. People will be ready sooner. We're also looking at enhancing the special ballot process as well so that you will not only be able to apply over the Internet, but you will perhaps be able to receive a ballot over the Internet as well. We're looking at some of the things that the city of Edmonton is doing right now in terms of their Internet special-ballot voting.

**Mr. Wilson:** Thank you.

**The Chair:** Dr. Brown.

**Dr. Brown:** Thank you, Mr. Chairman. Mr. Fjeldheim, in the budget there are a lot of ups and downs and variability in terms of your budget and actuals and whatnot. For 2011-12 you had a budget of \$25,710,000. The actual was \$12,934,000. I think you explained adequately why that disparity arose: the fact that you were preparing in the eventuality that there was a fall election, and it didn't transpire. The 2012-13 budget that you have is \$23,790,000, of which it appears that you're forecasting to have expended about \$18.9 million. You're asking the committee for a budget, as I understand it, for 2013-14 of \$6.333 million.

Looking at the past performance, the budget and the actuals, it's very difficult to get a handle on what a precedent would be for that. As you mentioned before, you based it somewhat on your 2010-11 budget, but I wondered if you could elaborate on what that budget was for 2010-11 since it's not in the documents that we have before us. Also, is there any kind of comparable for a postelection year, going back to the previous election, that we could sort of look at as a committee and decide what an appropriate amount of allocation of budget is for this kind of a year?

**Mr. Fjeldheim:** Yeah, Lori has just given me here that we've got the '10-11 budget which followed the '08 election. The total amount there was \$5,926,000. That was the 2010-11 budget.

**Dr. Brown:** Thank you.

**Mr. Fjeldheim:** About a \$400,000 increase.

**The Chair:** Mr. Wilson, go ahead.

**Mr. Wilson:** Thank you, Mr. Chair. There is some information in Bill 7 about, I guess, informing when an investigation is going to be under way. Currently when an allegation is made against a political party or a constituency association, does your office notify the party?

**Mr. Fjeldheim:** Under the present legislation?

**Mr. Wilson:** Yes.

**Mr. Fjeldheim:** Yes. When we get a complaint, yes, we respond, obviously, to all the complaints that we receive and also to the individuals who are under the complaint. As I said, that's in the present legislation, and that will remain.

**Mr. Wilson:** Okay. When you cease an investigation currently, are you notifying in the same manner?

**Mr. Fjeldheim:** I'm getting mixed up on what we're doing and what we're going to be doing.

**Mr. Wilson:** Fair enough.

**Mr. Fjeldheim:** Yes, we will. In future – if the new legislation passes, once again – once that investigation is completed and if no wrongdoing is found, we'll send that information to the organization or whoever was involved in the investigation, and then if they wish, we will post that on our website as well.

**Mr. Wilson:** In regard to posting on your website, it suggests that you may post information, not that you have to post all information. Can you maybe give us some thoughts on that?

**Mr. Fjeldheim:** Not very many because I haven't had a chance to think that through yet. When it would not be of benefit, if it was vexatious or something along that nature, then we would likely not post that information on the website.

**Mr. Wilson:** Vexatious to whom?

**Mr. Fjeldheim:** Well, if someone comes up with a complaint that is unwarranted, then we would not give that credence.

**Mr. Wilson:** Okay. Thank you.

**The Chair:** Mr. Eggen.

**Mr. Eggen:** Thank you, Mr. Chair. I guess further to that, I mean, you mentioned that the party is informed of a complaint. Is that what you said?

**Mr. Fjeldheim:** Yeah.

**Mr. Eggen:** I'm just wondering about the Katz donation, then. On October 26 the leader of our party, the New Democrats, wrote a letter to you requesting that an investigation be conducted into the circumstances around the donations, this Katz affair, whether any section of the regulations was violated. You said that you are investigating it, but as of November 18 the executive director of the Progressive Conservative Party of Alberta said that he had not been contacted in regard to the investigation. I just want to clarify, you know, if an investigation is taking place. Considering the level at which this has been pervading the public's consciousness, I think that it's appropriate that we would see a timely investigation. Have you contacted him?

**Mr. Fjeldheim:** We are definitely conducting an investigation. However, I don't feel it appropriate that I respond to your specific questions at this time.

**Mr. Eggen:** Okay.

12:45

**Mr. Bikman:** Thanks for your candour today, and I realize you're kind of being put on the hot seat. I don't know if you anticipated this or not.

**Mr. Fjeldheim:** Not quite to this extent.

**Mr. Bikman:** Yeah. Well, then, we're glad to have added a little spice to your day and to your life.

**Mr. Fjeldheim:** I've got enough spice right now, thank you.

**Mr. Bikman:** We're going to add a little curry.

Are you concerned that the proposed law that's going to be debated in the House doesn't require you to make public whether illegal donations have been repaid?

**Mr. Fjeldheim:** It is quite broad at the present time, and it talks about finding the information and the donations. I'm thinking that somewhere in there it says that I may release any other pertinent information.

**Mr. Bikman:** I guess it's that "may" thing. Not that we should take away your flexibility, but something that's that loosey-goosey kind of makes us wonder. Wouldn't you think it would be better if the law required you to do it? Then you wouldn't have to exercise discretion, which always exposes you to questions and challenges, right?

**Mr. Fjeldheim:** Yeah. It does say here that "findings and decisions and any additional information that the Chief Electoral Officer considers to be appropriate shall be published on the Chief Electoral Officer's website in the following circumstances," and it goes on from there.

I'm afraid I can't really comment on that at this time. I'm just not that familiar with it.

**Mr. Bikman:** I think I'm asking you what your preference would be.

**Mr. Fjeldheim:** The Chief Electoral Officer under this new legislation is getting a great deal of authority and so on. There are certainly going to be a number of tasks that are going to require a great deal of thought.

**Mr. Bikman:** Okay. Thank you.

**The Chair:** You know, I'm just going to remind everybody that because the bill is in the House, we shouldn't ask questions related to the bill. It's on the floor of the House.

Mr. Eggen.

**Mr. Eggen:** Thank you, Mr. Chair.

**The Chair:** This is your fourth time.

**Mr. Eggen:** Yeah. Good.

In the 2011 enumeration report you talked about the accuracy of enumeration and the importance of identifying benchmarks for accuracy. You said that a way to do so is to divide the number of names on the voters list pre-election by the number of people on the list plus those who had registered on voting day. My question is: considering how many people we are missing entirely from that whole equation because of lack of enumeration, specifically around either apartment buildings and/or some areas such as Fort McMurray-Conklin, the number of workers moving in and out of that place, isn't there a basic problem with that benchmark? There are large groups of people that are entirely missing from that equation, both through enumeration and/or other mechanisms.

**Mr. Fjeldheim:** Well, we're always looking at trying to do things in a better way, obviously. The way we calculate the names on the

list, as I tried to explain earlier, is that we take the number of people we have on the list and the number of people who are sworn in, and that's the accuracy of the list. We don't include in that calculation – and some jurisdictions do – those people who are citizens out there who don't want to be involved in the electoral process and don't try to get on the list and don't show up to be declared as electors on polling day. That's how we get that percentage, and we're quite pleased with that, but once again we do have more trouble in certain areas.

You're quite right about Fort McMurray, where there's a great deal of transient movement and so on. You're also quite right about apartment buildings. We have a very difficult time not only getting in but, once we do get in, with people not opening their doors for us. So it is a problem.

**Mr. Eggen:** Once again, just my follow-up supplementary, then, is to emphasize the absolute necessity to enforce the full letter of the law to ensure that we are getting to those populations that are enclosed in apartment buildings, seniors' centres, and so forth. There's a growing trend not just in Alberta but right across the country where in gated communities and so forth they are choosing to ignore that law, and we have to enforce it. Part of enforcement means conviction and getting the message out in a much stronger way. Don't you agree?

**Mr. Fjeldheim:** Yes.

**Mr. Eggen:** Thank you.

**Ms Blakeman:** In looking at your business plan, following up on my last question to you, you had not created a budget in anticipation or in advance of the possible passing of Bill 7, which would create a significant additional load for your office. I guess I'm curious as to why you didn't do that given that in Alberta government bills tend to pass, so it was pretty much a done deal there.

Secondly, I was led to believe by the Minister of Justice that all of the recommendations for changes in the act and the resulting changes in the act came from the Chief Electoral Officer, but we've raised a few questions here that, clearly, you did not recommend certain things. Are you able to tell us which ones you did not recommend? Or should we just plow our way through the submissions now and figure out what's in the bill that is not on your list? It's a very curious combination.

**Mr. Fjeldheim:** No, we haven't gone through that. We've taken a look, but we haven't completed going through that. The ones we recommended that were taken and the ones that are new and so on: we have not had a chance to compare that.

**Ms Blakeman:** Did you anticipate they would bring this forward as four different pieces of legislation with four different purposes in one act?

**Mr. Fjeldheim:** I had no idea how they might bring it forward.

**Ms Blakeman:** Okay. Thank you.

**The Chair:** Ms Notley.

**Ms Notley:** Thank you. There are a few issues, but I wanted to go back to the issue that the Member for Edmonton-Calder was asking about, which is the issue of enumeration and the issue of access to buildings. Now, I know this will come as no surprise to you because this is an issue which is the source of great consternation to me, in part because of the riding in which I

reside. There's no question that even if you accept the numbers, which I will ask you about when I get the opportunity, around the accuracy of your list – I think those are highly misleading percentages. Even your own list suggests that Edmonton-Centre and Edmonton-Strathcona had the least accurate lists, arising, I suspect, from the fact that there were in my riding alone – I doubt very much that I would be exaggerating if your enumerators told you that there were 50 incidents of landlords or building owners or condominium owners not allowing your enumerators in. I suspect that's probably quite fair, probably 50 in Edmonton-Strathcona.

So I have to raise this again. It's in the act. The act is only as good as it is enforced. I am desperately frustrated with you, Mr. Chief Electoral Officer, in that you have not effectively enforced this section of the act, and it seems to me that you can do all the education you want, and you can send all the little pamphlets to the various and sundry condo board associations and property management associations, but no one is going to get the message until someone is prosecuted. I'm very concerned about your commitment to enforcing this very important section of the act, particularly important to high-density, inner-city communities, which tend to be represented by the opposition at this point in time, coincidentally. With your own admission, thousands of incidents where access was denied and not one prosecution.

12:55

**Mr. Fjeldheim:** First of all, I'm not admitting thousands.

**Ms Notley:** You said it on the record last year. If you'd look at when we had this discussion in November, that was the language you used.

**Mr. Fjeldheim:** The number of names on the list in Edmonton-Strathcona following the enumeration was 24,171. Following the July 2012 list – and that's the one that takes into consideration the people that were added – there were 27,242. The way I explained how we create that calculation gives the accuracy of that list as 88.7 per cent, which I feel is quite good.

**Ms Notley:** The problem, if I could say, with that calculation is that you assume there that 100 per cent of the eligible voters who were not on your list in January voted, which is an absolutely flawed assumption.

**Mr. Fjeldheim:** I was explaining that earlier. We do not take into consideration those people who are not interested in the process.

**Ms Notley:** I know. That's what I'm saying is the flaw. You cannot calculate the accuracy of a list by saying: oh, some people don't care; therefore, we don't care that those people aren't on the list. What I'm saying is that your way of calculating it is flawed. It gives a misleading impression as to the accuracy of the list because people will care if they can be engaged, and it's difficult to engage them if they're behind locked doors and we have no knowledge of their existence. To then use their lack of engagement as a way of discounting them as part of your percentage is, I would suggest, not helpful to the conversation and the goal of increasing participation.

That's a concern, but that wasn't my point. My point is that there is an endemic problem with the inability of both your enumerators as well as political parties of all stripes to get the access to voters that the act guarantees. You are not enforcing that, and that is a problem. Do you anticipate enforcing that in the future? Is that reflected anywhere in your budget?

**Mr. Fjeldheim:** We do not reflect in our budget the possibility of prosecutions. We have in our budget certain amounts for legal activities and for investigations. That type of thing would come out of that area, but as far as specifically looking at apartment buildings and the cost of charging those apartment owners and so on, that is lumped in with these other things. That is not a separate entity.

**Ms Notley:** Do you think it's acceptable that you have thousands of incidents of violations of the act that you're aware of through your own enumerators that are not being enforced?

**Mr. Fjeldheim:** No.

**The Chair:** Okay. You had three supplementals.  
Mr. Wilson.

**Mr. Wilson:** Thank you, Mr. Chair. Mr. Fjeldheim, are you aware of cases that are more than three years old where a violation of either the Election Act or the elections financing act has happened, and will you be making those public?

**Mr. Fjeldheim:** Yes, there are violations that are more than three years old. If the legislation that is presently before the Assembly is put forward, no, we would not be making those public.

**Mr. Wilson:** How many?

**Mr. Fjeldheim:** Sorry. I don't have a number for you.

**Mr. Wilson:** Do you know how far back the records go that you have that demonstrate violations?

**Mr. Fjeldheim:** To 2005.

**Mr. Wilson:** Thank you.

**The Chair:** Good.  
Ms Blakeman.

**Ms Blakeman:** Thank you. Just following on that, then, if we're aware of problems going back to 2005, but the proposed legislation will only cover back three years, then are we looking at a four-year gap and those cases lie forever in purgatory, neither heaven nor hell? How do we learn the lessons from them? Where are they? Where do they lie, heaven or hell or purgatory? How do we know about them? Can you publish what the problems were so that we can learn the lessons?

**Mr. Fjeldheim:** Okay. Purgatory.

**Ms Blakeman:** Well, am I using the wrong language here? Isn't that it?

**Mr. Fjeldheim:** No, no. If, again, the legislation says to go back three years and it's proclaimed January 1, then all those violations that took place from January 2010, that period of time, and on we can disclose. As we mentioned, there were some earlier. Some of those received administrative penalties. That will not be made public.

**Ms Blakeman:** So that would be hell.

**Mr. Fjeldheim:** I don't care to comment on that.

**The Chair:** Dr. Brown.

**Dr. Brown:** Thank you, Mr. Chairman. Mr. Fjeldheim, I did notice during the last electoral event that when we got the voters lists, there were significant improvements in the quality of the lists. There were far fewer qualified electors who were not on the list, and I found that there were far fewer people that were being misdirected to the polling stations, but what I did find was that there were a lot more people on the list who were not at the addresses at which they were supposed to be. I'm wondering whether or not you have a mechanism whereby your enumerators can go out and purge names from the list. Sometimes we're having three and four families that are ostensibly at the same address, and it really reduces our efficiency during an election campaign if we can't identify who the real people at the address are. Is there a way to get at that in terms of either enumeration or doing a postcard out to every address and trying to get the lists cleaned up?

**Mr. Fjeldheim:** Yes, we've done the postcard thing. What you are talking about is what is called a creeping list. When we add people on, we can't get people off. It's very difficult to get people off. We use motor vehicle drivers' licences. We use health records and vital statistics when people pass away and so on. The way the system works with this enumeration, sometimes it is difficult. We pay people when we enumerate, as an incentive, a dollar a name. At times we get situations where people will add the names and take the \$2. They won't cross the names out because then they lose the \$2.

We'll be looking at a number of ways to try to do that. Yes, we certainly are looking at different ways where we can pare down that list and only get those people who are actually living there on the list.

**Dr. Brown:** Just as a supplemental is there any way that you could have cross-verification in different electoral districts to identify whether someone appears more than once on the provincial voting list?

**Mr. Fjeldheim:** Yeah. We have those 800 data entry operators doing data entry across the province, and when they put a name in and it hits that system, the system churns through and sees that that same name with that same birth date is somewhere else in the province. So we can find out the latest residence, and we're doing that in updating the list. There is a process for that, but, again, the way Alberta is growing and so on, it is difficult.

**Dr. Brown:** Thank you.

1:05

**The Chair:** Ms Notley.

**Ms Notley:** Thank you. Going back to the issue of penalties and the capacity to prosecute violations of the finance act, there's been a lot of talk and a lot of people expressing sympathy about the poor party fundraiser who doesn't know that the person that bought the ticket will subsequently expense it to someone else. Fair comment. That's all fair comment. I've been one of those people that's gone out and asked people to buy tickets, and I don't know how the people pay for them if they write their own cheque. Of course, there's a point, I suspect, at which the party might become aware, but regardless of that, the act itself does prohibit certain corporations from donating. So the fact of the matter is that that body which refunds a claim by an employee for a ticket is fully aware that they're breaking the law.

**Mr. Fjeldheim:** They should be.

**Ms Notley:** Yes. Okay. So to clarify that because it seemed that we were kind of getting off on the wrong track there, it seems to me that that body should be held accountable.

We've heard a lot over the last few days about the former Calgary regional health board potentially reimbursing funds that were submitted by an employee between 2006 and 2009. Now, my reading of the act suggests that, certainly, there can be no prosecution for those offences because they occurred prior to three years ago, and my reading of the new act is that there can be no disclosure around any administrative penalties because they occurred more than three years ago. I am unclear. Is it your belief that the act does allow you to impose administrative penalties on the prohibited corporation if it happened more than three years ago?

**Mr. Fjeldheim:** Yes.

**Ms Notley:** But am I correct that it is only on the corporation, not on the individual person who may have facilitated that?

**Mr. Fjeldheim:** That is also correct.

**Ms Notley:** So as far as it goes with respect to the particular staff person who has been the subject of some debate, there is no mechanism through the act for that person to be penalized because of the timelines. Correct?

**Mr. Fjeldheim:** I don't care to comment on that specific.

**Ms Notley:** If an employee of a prohibited corporation put in an expense for an NDP fundraiser and it was reimbursed by her employer who was one of the prohibited corporations and it was done in 2007, is there any way to impose a penalty on that employee?

**Mr. Fjeldheim:** No.

**Ms Notley:** Thank you.  
Is there someone else?

**The Chair:** Yes. Ms Blakeman.

**Ms Blakeman:** I'm picking up on Dr. Brown's question because it's a rotating one that has come through here quite a bit, and that is the accuracy of the enumeration. The ability of the enumerator to get to the door is a problem. The ability of someone to open the door so the enumerator can talk to them is a problem. Therefore, the accuracy of the list is a problem. And the remuneration for these people – I know you've increased it – is still really low. I am curious as to why – is there no one else in the world that has figured out how to pay for correct information? The way the system is set up now, there is no benefit to going back to ensure that the information is correct or to try and get somebody to open the door, and there's no incentive moneywise to get it right. So I end up with a building right across from the CN Tower that is completely studio apartments and almost 100 per cent – okay; let's say 90 per cent – foreign students. They were all enumerated. Of course, none of them are citizens, but the enumerators are not paid for accuracy. They're paid to turn in numbers, so they do. Is there nobody that has figured out how to do this system in a better way?

**Mr. Fjeldheim:** Actually, no. This enumerating, going door to door, is going the way of the dodo bird, I'm afraid. Across Canada we're one of the few jurisdictions still doing it. The previous time I did it was in '04, and when doing it in '11, it was night and day

in terms of getting people to do it and getting a response from electors. Much more difficult this time. Elections Canada gets information from Revenue Canada and from other sources. Their list accuracy is at about 75 per cent.

**Ms Blakeman:** I'm sorry; 75 per cent of what? Eligible voters?

**Mr. Fjeldheim:** Yeah. They calculate it a little differently. They use people who should be on the list. That will change it about – what is it out here? – 3 or 4 per cent if you do that. So I'm afraid that as far as enumerating, there is not a magic bullet. At the last get-together here someone said maybe a bigger incentive for the enumerator. When that person is not answering the door, they don't care whether you're getting 20 bucks a name. They're not answering.

**Ms Blakeman:** Thank you.

**The Chair:** All right. Ms Notley, go ahead.

**Ms Notley:** You'll be happy to know that this is my last question. It works out well; it's on the same issue. One of the recommendations that I do believe came from your office related to this very issue and the way in which we look at the quality of the voters list and giving authority to use records from – was it Revenue Canada?

**Mr. Fjeldheim:** That's correct.

**Ms Notley:** Yeah, the authority to use records from Revenue Canada as a means of establishing the basis of the list. I've tried but to not very great effect to get in touch with other jurisdictions to track down some opinions from people that might be experts in this area to find out what this means for who gets on the list and who doesn't and whether there is a risk of marginalizing certain parts of the population because of, you know, the sort of statistical understanding around their likelihood to be included on those Revenue Canada records: potentially students, who are less likely to file, low-income people, nonworking spouses, you know, all of those various people who would not necessarily be included.

I'm just speculating because I don't know, but I'm curious as to whether, before making that recommendation, your office was able to do any research on the profile of the people that get onto the list through that mechanism versus those who do not and, if you do have that research, whether you can provide it to the committee so that we have an understanding of what our electors list starts to look like.

Of course, there's been fabulous conversation about this in the States, around who gets on and who gets off and who's allowed to vote and who doesn't and the fact that it disproportionately affects marginalized communities. I'm just wanting to know, before we go down that road, that there has actually been solid research into the nature of the community that ends up being on the list versus those that do not, especially given the intention that appears to be yours to move away from enumeration.

**Mr. Fjeldheim:** As far as any in-depth analysis, I spoke with other jurisdictions and so on, but that's about it. No, we did not do an in-depth investigation to try and find out how to get these marginalized individuals on the list. We've made it more accessible for them to vote in terms of the types of identification that can be used, from halfway houses to care centres and so on. We've made a real effort to expand that, but I'm afraid we have not done any in-depth survey as to getting them on the list prior to the election.

**The Chair:** Mr. Wilson.

**Mr. Wilson:** Thank you. Mr. Fjeldheim, this will be my final question at this point in time as well. I'm looking for clarity. The recommendation that you provided to the Minister of Justice was to allow you to release outcomes of investigations via your website when a breach has been proven. Is it safe to assume that you did not recommend that to be within a given time frame? Or was that recommendation of three years directly from you?

*1:15*

**Mr. Fjeldheim:** No, we did not include a time frame.

**Mr. Wilson:** So it's safe, then, to assume that that was either a time frame imposed by the Minister of Justice, the Premier, or cabinet?

**Mr. Fjeldheim:** We said nothing about it, so I wouldn't be able to respond. I don't know how that works.

**Mr. Wilson:** Thank you. That's all I need to know.

**Mr. Bikman:** This will be my last question as well.

**The Chair:** Okay. That's good.

**Mr. Bikman:** I didn't think you'd mind.

Mr. Fjeldheim, thanks for your patience with us today and your attempts to clarify some things that we've all been seeking clarification on from, obviously, questionable sources up till now. What happens to cases that you refer to prosecution if they don't get to court?

**Mr. Fjeldheim:** My understanding from our latest endeavour is that I will receive word back from Justice that for one reason or another they feel that the case we've put forward is not suitable for prosecution, not in the public interest, time dated, or for whatever reason. We'll be then notified of that. I'm going to have to ask. I'm not sure, quite frankly, what my role is next to disclose that. That information, though, I'm sure would be disclosed.

**Mr. Bikman:** Has this happened in the past? If so, how many times?

**Mr. Fjeldheim:** It has not happened with me.

**Mr. Bikman:** Okay. And you're not sure what you'd do if it happened?

**Mr. Fjeldheim:** I have to review the legislation.

**Mr. Bikman:** Well, we look forward to hearing from you on that another time.

**Mr. Fjeldheim:** All right. I look forward to finding out.

**Mr. Bikman:** There you go.

**Mr. Fjeldheim:** Thank you, all.

**The Chair:** Thank you.

There's nobody on my list anymore. I'd like to thank you for your patience. I trust this has been a very good session and very informative. I hope that all my colleagues got their answers. I thank you very much.

**Dr. Brown:** A point of order.

**The Chair:** Okay. Sure.

**Dr. Brown:** The guests can leave if they wish. It's irrelevant to their attendance.

Mr. Chairman, some of us have made travel arrangements for later this afternoon, and I wondered if the committee can just consider for a bit here whether or not we intend to plow through the rest of this agenda today. I have a Red Arrow booking for, I think, 4:30. If I have to cancel, I have no problem doing that if it's the will of the committee to extend our sitting today until it's done. But I'd like to make some plans right now so that we know and we can plan and cancel our travel arrangements. I'd like to know whether my colleagues have travel plans for later today. You know, I don't think it's fair to keep people waiting if we're not going to get to them on the agenda.

**Mrs. Leskiw:** I agree with Dr. Brown. I have to be in Cold Lake by 6 o'clock, and that is a three-hour trip from the outskirts. My constituents do come first, and I'd like to be there for a 6 o'clock appointment today.

**Dr. Brown:** Well, Mr. Chairman, given the fact that there are several of us, I think, that have other commitments, that we went on the basis of the schedule that was published, it would be my motion that

we advise the office of Child and Youth Advocate and the office of Information and Privacy Commissioner that we will adjourn the hearing of their presentations until a future date.

**The Chair:** But the thing is that they cannot wait because this is a budget estimate. We have to make a decision before the end of next week. We have to do that.

**Dr. Brown:** Well, we'll have to have another meeting, then.

**The Chair:** I think, again, we made an honest mistake this afternoon. This is a budget meeting. You know, we could have had the electoral officer come to this committee for a full-day session.

**Dr. Brown:** Well, you've heard my motion, Mr. Chair.

**The Chair:** Yeah. But not today. Okay?  
Ms Blakeman.

**Ms Blakeman:** Thank you. Can we not deal at least with the office of the Child and Youth Advocate in the time we have left? This meeting was scheduled to go until 3:30. I presume everyone anticipated that and was prepared to be here until 3:30. Can we not run until 3:30, which would allow us to do the office of the Child and Youth Advocate?

**The Chair:** We have to do the Ethics Commissioner first.

**Ms Blakeman:** Oh. I'm sorry.

**Mrs. Leskiw:** The Ethics Commissioner is already here waiting.

**The Chair:** Yeah.  
Okay. Let's deal with the motion.

**Mr. Rogers:** I'd like to speak to the motion, Mr. Chair.

**The Chair:** Sure. Mr. Rogers.

**Mr. Rogers:** Thank you, Mr. Chairman. I'm going to speak against that motion. If we lose quorum, we lose quorum. Our schedules are such that it's very difficult to schedule these

meetings. It's difficult to schedule these officers to be here. That is why it's important that we stay on the agenda.

Mr. Chairman, regardless of what happens, if we lose quorum at the end of the day because of choices that people have to make, I'm going to vote against this motion and that we proceed as best we can with the agenda.

Thank you.

**Ms Blakeman:** Do you know what quorum is?

**The Chair:** One-third.

**Ms Blakeman:** So four people. Okay. Well, we can keep going, and when you guys have to go, you go.

**The Chair:** Go ahead, Mr. Eggen.

**Mr. Eggen:** Thank you, Mr. Chair. I think we can make it – right? – personally.

**The Chair:** You know you have a troublemaker, too.

**Mr. Eggen:** Well, with that in mind . . .

**The Chair:** No. I'm sorry.

**Mr. Eggen:** . . . I think that things will accelerate in the very near future to meet all of the needs of all of the officers.

**Mrs. Leskiw:** We don't have to take half an hour for lunch. We can bring the food in here.

**Mr. Eggen:** Exactly. And they can say less.

**The Chair:** Let's say 10 minutes. We have to fetch the food, right? So 10 minutes sharp.

**Dr. Brown:** Call the question first.

**The Chair:** Okay. I'll call the question. All in favour of taking 10 minutes . . .

**Dr. Brown:** No. We have a point of order, Mr. Chairman.

**The Chair:** Oh, it's still on the floor. I'm sorry. Go ahead, Dr. Brown.

**Dr. Brown:** I have nothing further to say. My motion is that we won't have time to deal with all of the legislative officers today. So my suggestion was that we have another meeting at the earliest opportunity to deal with the other two officers and with the budget deliberations, which I don't think will be short.

**The Chair:** Okay. Have you heard the motion? All in favour? Opposed? The motion is defeated.

So a 10-minute break, and then we come back and continue.

**Mr. Rogers:** Mr. Chair, may I suggest we take maybe till quarter to just for people to take a washroom break and get the food?

**The Chair:** No. Ten minutes sharp.

[The committee adjourned from 1:24 p.m. to 1:35 p.m.]

**The Chair:** Well, ladies and gentlemen, let's start. I'd like to welcome the Ethics Commissioner, Mr. Wilkinson, and Mr. Odsen and Mr. Resler. Welcome to our committee.

Before we start, let's go around the table and introduce ourselves. We'll start with the deputy chair.

**Mr. McDonald:** Everett McDonald, MLA, Grande Prairie-Smoky.

**Mrs. Leskiw:** Genia Leskiw, Bonnyville-Cold Lake.

**Mr. Rogers:** George Rogers, Leduc-Beaumont.

**Mr. Wilson:** Jeff Wilson, Calgary-Shaw.

**Mr. Bikman:** Gary Bikman, Cardston-Taber-Warner.

**Ms Blakeman:** Laurie Blakeman, and I would like to welcome each and every one of you to my sparkling winter wonderland of a constituency, which is also fabulous, Edmonton-Centre.

**Mr. Resler:** Glen Resler, office of the Ethics Commissioner.

**Mr. Wilkinson:** Neil Wilkinson.

**Mr. Odsen:** Brad Odsen.

**Mr. Eggen:** Dave Eggen, MLA for Edmonton-Calder.

**Mr. Quadri:** Sohail Quadri, MLA, Edmonton-Mill Woods.

**Ms DeLong:** Alana DeLong, MLA, Calgary-Bow.

**Dr. Brown:** Neil Brown, Calgary-Mackay-Nose Hill.

**Mrs. Sawchuk:** Karen Sawchuk, committee clerk.

**The Chair:** David Xiao, MLA for Edmonton-McClung. I'm also the chair of this committee.

Before we start the presentation, I just want to remind everybody to keep their BlackBerry's off the table.

Also, I would ask Mr. Wilkinson to save the last 20 minutes for questions from the committee. Please proceed with your presentation.

#### Office of the Ethics Commissioner

**Mr. Wilkinson:** Thank you very much, Mr. Chair and members of the committee. It's a pleasure to be here with you this afternoon. With me today on my left is Glen Resler, who is our senior administrative officer and who also has his CMA accounting designation, and on my right is Brad Odsen, QC, who is in charge of our lobbyist registry and also is our corporate counsel.

Thank you again, by the way, members of the committee, for the opportunity to speak to you back in September to give you a detailed overview, as you remember, of our office and our legislation. We certainly think and hope that that will help in your understanding and our understanding as well of the meeting today.

First, it's with sadness that I inform some of you who may not know that Mr. Don Hamilton, Alberta's second Ethics Commissioner, from 2003 to '08, passed away on November 14, 2012. Mr. Hamilton was truly a respected Edmontonian, a long-time businessman – as a matter of fact, he was the first to open up a pizza restaurant in Alberta, called Giuseppe's Pizza, on the south side – and an ordained United Church minister.

Among his public service accomplishments was that in 1967 he was recruited by a former Alberta minister of youth, the hon. Bob Clark, who was our first Ethics Commissioner here in Alberta. He recruited Don to establish the Alberta service corps, which

provided university students a life-changing experience volunteering in mental health, antipoverty, and environmental projects. He was an executive assistant to a former Premier of this province, Harry Strom, a member and president of Edmonton Northlands, and served as member and chair of the horse-racing tribunal. Truly, through Don's diverse experience he had an excellent knowledge of Alberta and its people. His record of service and his reputation for integrity will be remembered by, certainly, all who knew him.

Now, members of the committee, down to the business at hand, and if it pleases you, Mr. Chair, we'd like to start with a brief overview of our 2011-12 annual report, a short discussion then about our 2013-14 budget, and then I'll turn it back to you for questions, as you'd requested.

I'll proceed. Last year certainly was a very busy year. The Standing Committee on Legislative Offices oversaw the first comprehensive review of the Lobbyists Act, and our office was certainly very pleased to participate in that review, providing advice to the committee concerning the administration and operation of the act and also the registry, of course. Also, under the Lobbyists Act our office completed its second investigation – the first one was led by Brad Odsen – involving allegations made by the Alberta Federation of Labour against the Canadian Association of Petroleum Producers, an organization lobbyist.

The federation alleged that representatives of CAPP were lobbying government without registering as lobbyists. These representatives are not paid employees of CAPP and are therefore exempt from registering with CAPP under the Lobbyists Act. Furthermore, these three persons were registered as lobbyists on their prospective employers' registrations. The investigation found CAPP not to be in breach of the act.

This year as well, the year that we're covering here in this report, we were also invited to present to the Canadian House of Commons, a very interesting experience as we talked with, met with a committee down there called Access to Information, Privacy and Ethics. Of course, we discussed the differences between the federal legislation and ours and responded to their queries as well.

Also, we met with the province of Saskatchewan, their standing committee on intergovernmental affairs. We were asked to make recommendations to them respecting a legislative model for new legislation regarding lobbying for Saskatchewan. Naturally, we discussed the value of lobbyist legislation in enhancing transparency and accountability in government and the strengths and weaknesses of various models. The committee recommended that Saskatchewan introduce lobbyist legislation that, you know, just with a couple of slight differences here and there, really mirrors, to all intents, Alberta's legislation.

Now that the Alberta Lobbyists Act has been in place for several years, the volume of inquiries and presentations has continued to decline, as you can see in our report, as those affected by the act are aware of it and its requirements and are in compliance. We received 2,200 telephone and e-mail inquiries during the year which is under review today. By March 31, 2012, there were 134 organization lobbyist registrations posted to the website – that's a 15 per cent increase over last year – and 145 consultant lobbyist registrations, a decrease of 28 per cent. In addition, the website continues to receive a high volume of activity, clearly demonstrating the public's desire and that of many others, too, to be able to know who is engaging in lobbying activities.

Now, if I may, I'll switch to the conflict-of-interest legislation. All members of the Legislative Assembly and senior officials complied, I'm very happy to say, with the obligations under the act to file disclosure statements within the appropriate timelines.

A total of 162 disclosure meetings were held with members and senior officials to discuss their financial disclosures, specific sections of the Conflicts of Interest Act, and to answer any questions that may arise. You've certainly all been involved in that process, those that are sitting around the table. Our purpose, as you know, is to help members ensure, as you want to, that you're in compliance with the act.

There was a 28 per cent increase over last year in the number of advice requests from members and senior officials. The majority of the requests pertained to advice on postemployment, gifts, outside activities of members, investments. Activities increased, too, as a result of the October 2011 change in ministry and deputy minister portfolios. During that time leading up to the election, we were pleased to receive calls for advice from new electoral candidates and postemployment questions from departing members and political staff.

As noted in the annual report, the number of requests for investigation continues to decline. None of the requests for investigations fell under the Conflicts of Interest Act, and therefore no investigations were undertaken. The decline is being experienced by all our colleagues across the country and is consistent with having an office, which the people before you established, to deal with conflict-of-interest issues. In 15 jurisdictions across the country only two formal investigations were undertaken during this reporting period. I would credit one-on-one disclosure meetings as vital to the success, as are, in addition, members calling to ensure they are in compliance with all aspects of the act and a great willingness to follow the act. This, of course, allows us to avoid investigations, reports to the Legislature, and any possible sanctions.

#### *1:45*

On page 13 of the report is tabled the listing of the Canadian jurisdictions I talked about and the number of investigations completed during 2004 through 2011. This table was completed by the Senate ethics officer and rechecked by us. You may note when looking at that chart, as I see a couple of you are, that Quebec established an ethics office just last year.

Now, the last item to discuss in our annual report is the financial statement for the year ended March 31, 2012. Our office was under budget, as you've seen, by \$152,000. The statements were prepared by Glen Resler. As you can see on the financial statements, the largest variances in actual cost to the budget were attributed to travel, contract services, technology services, materials and supplies. We've experienced lower than anticipated travel costs by \$11,000. The reason for that is that we hosted the national lobbyist conference, which eliminated travel costs for our staff, and of course we charged registration fees to pay for the speakers coming in. We hope that they provided a little bit of a boost to the Alberta economy when they came here as well.

For contract services we did not require outside legal investigative and communicative services to complete investigations or reviews under the Conflicts of Interest Act or the Lobbyists Act, resulting in a surplus of \$69,000. Our administrative contracts for HR and financial support were also under budget.

IT hardware replacements were delayed. The cost of the hardware and associated labour costs resulted in a savings of \$42,000. This, however, is the last year in which we are able to delay the replacement of our servers, so we'll be looking for your approval to purchase the new servers and hardware in the year 2013. Other savings consisted of no advertising requirement, as there were no staff vacancies, and that represented \$4,700 in unexpended funds.

Now moving on to our 2013-14 budget submission for your approval, I would like you to refer to the second page of our budget submission, which shows the 2013-14 estimates compared to the 2012-13 budget. Our objective for the budget was to hold the line on expenses where possible.

Looking at the salaries and wages line under contracts for the public service: they expire on March 31, 2013, as you know, so the impact of any future settlement really is unknown to us at this point. We have built into our budget an estimated cost-of-living increase of 3 per cent. Also included are in-range merit increases for eligible staff. A total impact to salaries of \$17,000, or 3.5 per cent. There is of course a corresponding \$4,000 increase to employer contributions, and there is another \$8,000 increase in contributions resulting from higher than expected increases to cover pension liabilities in the current fiscal year and beyond. All employer contribution rates are set externally – I’m sure you know that, but I think I need to say it – by the appropriate agencies. Total impact, \$12,000.

Under supplies and services, we are decreasing travel expenses by \$3,000 and are holding the line on other expenditures.

Next, I’d like to draw your attention, please, to contract services. We continue to budget for contractual supports for investigations, and this includes legal investigations and communication services. If no investigations are undertaken, these funds are left unexpended. The reasons these funds are budgeted – and it’s been so since the beginning of the office, as far as I know – is to remove the requirement of coming to the committee for approval of supplementary funds required to investigate a member of the Assembly. This line item was already reduced by \$50,000 in 2011-12 as a result of having in-house general counsel, which, of course, as you know, is the chap to my right, Brad Odsen.

With only four staff in our office – one of them is not here, obviously, and that’s Louise Read, who is a very capable executive support for us. She’ll be listening now, I suspect, if she’s not helping one of our clients. So thank you, Louise. With only four staff in our office, we are limited in the ability to reduce our budgetary requirements.

The one area in which some cost savings may be achieved is through a shared service concept. I know this has been talked to earlier by the Ombudsman’s office. We’ve met with all the legislative officers in this regard, to discuss shared services, and we will be working with the office of the Child and Youth Advocate and the Ombudsman’s office on an assessment to determine if a shared but secure multiple office IT environment can be utilized to save costs. Both the Ombudsman and our office are scheduled to replace our servers, and the Child and Youth Advocate will be installing new infrastructure for their new office, which, by the way, will be in our building. The assessment will be completed in December, and we hope it will provide an opportunity to work collaboratively and save taxpayer dollars.

Lastly, a special committee has been struck for a mandated five-year review of the Conflicts of Interest Act. We do not anticipate here any funding requirements resulting from the review.

Therefore, our overall funding request for 2013-14 is \$967,000, an increase of 2.9 per cent.

I now return control to the chair, Mr. Chair.

**The Chair:** Thank you.

I’ll open the floor for questions. Any questions?

**Ms DeLong:** If you were to have to rein in your budget to, say, a 2.2 per cent or 2 per cent increase, what effect would that have on your operations?

**Mr. Wilkinson:** It would result in a decrease in funding by \$9,000, and we could certainly find a way to absorb that.

**Ms DeLong:** Okay. Thank you.

**Mr. Eggen:** Thanks for your presentation. I’m curious about the shared resource concept that you have entered into. Do you have some contingency to share your legal counsel, then? How much would that save you?

**Mr. Wilkinson:** Well, we looked briefly at that and felt at this time that we had the resources and the time to approach one and that where the biggest bang for the buck would be at this time is under IT. That’s the most imminent because we need to change our servers and the youth advocate, as you know, is moving and needs to buy something. Once we get that done, we will be looking at that and others.

**Mr. Eggen:** Thank you very much.

**The Chair:** Any more questions?

Seeing none, I’d like to thank you, Mr. Commissioner, for your presentation. Also, I want you to know that the committee’s decision on the office’s budget will be sent out sometime next week.

You’ve got a question?

**Ms Blakeman:** Sorry. I just couldn’t put my stuff down fast enough to get my hand up. Yes, I did have a question.

**The Chair:** Okay. Go ahead, then.

**Ms Blakeman:** Thank you very much. One of the issues around the Lobbyists Act has been how you capture everyone. I’m wondering if there has been any consideration or discussion in your office. I’m trying to remember the episode that happened in question period early this fall. I’m afraid the name is not coming to me, but the situation was that someone successfully lobbied the government for something. I’m sorry, I can’t remember what. Maybe it’s better if this is vague. But when it was questioned as to why they weren’t on the lobbyist list, because they were clearly lobbying, the answer was that they just chatted at a cocktail event . . .

**Mr. Wilson:** That was Katz. The Katz Group.

**Ms Blakeman:** Oh, really? Mr. Katz. His name comes up a lot. . . . and, therefore, he wasn’t considered a lobbyist because he was under the prescribed number of hours.

Now, this causes me no end of frustration that we can’t seem to get at the people that are causing us the problems. I mean, if it was him, Mr. Katz, that did this, you know, that’s a big problem. But it works both ways because neither can the government sort of clear themselves to say: “No, no, no. We didn’t make that decision because of that person talking to us.” They can’t prove that it didn’t happen as a result of that cocktail party chatter, neither can we prove that it did because the person is not listed.

So how do we start to get to the bottom of this? Can we close some of those criteria around it? I mean, we all know this is going on. How do we start to capture the ones that are getting away?

1:55

**Mr. Wilkinson:** Well, thank you for your question. I appreciate the opportunity to deal with this here in front of the committee and for those who may be listening. We talk a lot about this. We have

notes from previous meetings about this ourselves. I'll ask the lobbyists registrar, Brad Odsen, once I've just run over my notes here, to make some comments, too, that he might have if that's all right, Mr. Chair?

**The Chair:** Sure, go ahead.

**Mr. Wilkinson:** I guess, you know, our feeling is that we cannot know whether all organizational or consultant lobbyists are registered. But, Laurie and members of the committee, we can tell you that we have received positive responses from the lobbyist community in their desire for transparency. The public is aware of the legislation. As stated in our annual report, we received a million hits on our registry website. Albertans are looking, truly, to see who is engaged. There are lots of people out there with great interest involving you; members of the parties; your support staff; the media, representing competing and conflicting interests; interested members of the public; as well as students; scholars; and, of course, public servants. They're giving this level of vigil.

We expect that should unregistered lobbying or other apparent breaches of the act occur, it would be brought to our attention very quickly. Certainly, there are examples where, indeed, it has been because we've done two investigations already.

As far as Mr. Katz is concerned, we know that there was some activity undertaken by the Katz Group that qualifies under the legislation's lobbying, and indeed there was a consultant lobbyist registered to facilitate a conversation. We also understand that a period of time existed when that group anticipated that the city of Edmonton, we believe, would act on that file. Municipalities, therefore, doing the lobbying would not be required to register either as consultant or as organizational lobbyists.

This is a matter, I want to assure you, that we continue to have an interest in, and we accept comments from anyone with any information on the matter at any time. But we cannot comment further on whether we are presently looking into this matter as the legislation, as I'm sure you all know, under which we operate prohibits me and any one of us from commenting further.

That said, should an investigation warrant additional activity from our office, then certainly that activity would be publicly reported. It would be reported to the House by the submission of an investigative report to the Assembly.

Brad?

**Ms Blakeman:** Supplemental?

**Mr. Wilkinson:** Can we maybe complete?

**Ms Blakeman:** Oops. Sorry.

**The Chair:** Sure. Go ahead.

**Mr. Odsen:** Thank you. About the only thing I could add to that is that we understand and appreciate very much what you're saying, Ms Blakeman. Of course, that was one of the items that was discussed and looked at very carefully by the predecessor committee during its review of the act, of which you were a part, the whole issue around the 100-hour threshold and some of those kinds of things.

There was, as you know, one recommendation that did go forward, which will be tightening that up considerably simply by changing the requirement that – as it presently stands in the regulation to the act it says that time spent lobbying does not include preparation time. The recommendation from this committee was to change that so that it does include preparation

time. That will drop, in effect, that threshold very dramatically, it seems to me. And that may well be part of it.

But yes, the onus remains on lobbyists, be they organizational lobbyists or consultant lobbyists, to comply with the law. We don't have and I can't imagine what we would need in the way of resources to be able to try and track conversations that occur between individuals outside of government and those within government to determine whether or not lobbying is happening and registration ought to be happening. I don't know, frankly, whether that's something that you really want to have in a free and democratic society, that all conversations between those outside government and those inside government are being tracked and reported and monitored and those kinds of things. I kind of think that gets in the way of democracy. Just a thought.

**The Chair:** Okay. Go ahead, Ms Blakeman, with your supplemental.

**Ms Blakeman:** A supplemental. I'm sorry. Did I understand the Ethics Commissioner to say that the office was expecting the city of Edmonton to pick up on chasing Mr. Katz to investigate or expose or question him?

**Mr. Wilkinson:** No, no.

Go ahead, Brad.

**Mr. Odsen:** What we've seen in a number of media reports and things on this is that there is an agreement between Mr. Katz and the city of Edmonton with respect to the arena in terms of financing and sources of money and those kinds of things. He is to put up a certain amount of money. The city of Edmonton is to put up a certain amount of money. The shortfall, which is around \$100 million, as has been reported, is to come from some other source, and it's primarily the city of Edmonton under their agreement, as we understand it, that is charged with trying to find that shortfall. It's the city of Edmonton who is primarily dealing, as we understand it according to the media reports, with the government of Alberta and with the federal government and other possible funding sources.

**Ms Blakeman:** Okay.

Can I go back on the list, please?

**The Chair:** You are the only one on the list. Go ahead.

**Ms Blakeman:** Sorry. I'll try and be quick about that.

I'm back to my first question. There seem to be special people in Alberta: Mr. Katz, Southern, Saville. I'm sure we could toss out a bunch of names, and I don't really want to do that because they're not here, but it gives you a sense of what I'm talking about. They just seem to be special people in Alberta. They have companies. The companies are probably registered as lobbyists, but they themselves are not, yet they move in those circles where they can, you know, buy a glass of wine for the Premier or just walk right up with their little cocktail smart snack and start chatting.

How can we not capture them? That's where the real business is done, those casual encounters that are never going to amount to a hundred hours. They're never going to capture the big guy or gal at the top of the totem pole, yet that's where the big money is, and that's where the big decisions are made. We seem to be totally unable to capture that.

**Mr. Odsen:** Again, if I may, in response to that, in a sense those are being captured in that, as you correctly pointed out yourself,

those corporate organizations are registered, and they are indicating what subject matters they are lobbying, which departments. Who specifically is speaking to whom and when is not something that is contained in our legislation now. It's not even in that sense contained in the federal legislation, which does have reporting requirements.

Under the federal legislation reports have to be filed on arranged meetings that occurred with a designated public office holder, which is a much smaller group than all public officers, but it's only arranged meetings. As it presently stands, the report is in the name of the designated filer, which would be the senior-most officer of the organization, and doesn't actually name who attended the meeting. It might well not have been that designated filer who attended the meeting, but that's what's on it.

My point to you is this, I guess. There are lots of different ways to do things legislatively. Our legislation does not presently do those kinds of things. You're right; it requires a change in the legislation to go down that road. Although the recommendation has been made, we're not aware of anything that's moving forward with respect to that. Certainly, at some point in time or other there's going to be a bill coming before the House with respect to the Lobbyists Act, and that is, obviously, your opportunity as members to speak to these and other kinds of considerations.

**Ms Blakeman:** Your suggestion, then, would allow Laurie Blakeman Inc. and her various staffers – now the staffers are likely to be the people that are on the lobbyists list, including the CFO, which would be the top dog, but Laurie Blakeman isn't necessarily captured in that.

**Mr. Odsen:** That's correct.

**Ms Blakeman:** So I can still go to the cocktail party, wander up, advocate, lobby, or influence a member of the government, have my dream come true, and nobody will ever know about it because it doesn't show up anywhere, correct?

**Mr. Odsen:** It doesn't show up necessarily that it was you personally who was involved in that conversation, but it does show up that that lobbying was occurring with respect to that.

**Ms Blakeman:** Well, not necessarily. I could be lobbying on behalf of the arts, but I happen to be chit-chatting about an arena, two different things.

**Mr. Odsen:** I'm not entirely sure that I follow; I'm sorry.

**Ms Blakeman:** Okay. All right.

Thank you very much for your patience. I appreciate it, everybody.

**The Chair:** Mr. Wilson.

**Mr. Wilson:** Thank you, Mr. Chair, and thank you, gentlemen, for your presentation. My question is about the perceived loophole that was much discussed over the summer holidays with the appointment that was then granted to an individual in the department of agriculture. Because we have an opportunity coming up to look at the Conflicts of Interest Act, I'm wondering if the commissioner would comment on what changes we as legislators could make to that act that would prevent the perception of there being a loophole for that one-year cooling-off period.

2:05

**Mr. Wilkinson:** We certainly will be there to give advice as required, as requested by the committee, and we will be putting a report together for them, some thoughts. Obviously, it would just be merely advice. We look to you to decide what the legislation will be in the end. Whatever you decide, then, as before, we will operate to the law, as we did in that case.

**Mr. Wilson:** Certainly, sir. I'm not saying that you did not.

**Mr. Wilkinson:** I want to correct something. I'm glad you raised that because in a way it's come up in the House that I appointed Mr. Berger. I did not appoint Mr. Berger. I have no right to appoint Mr. Berger. A very compelling argument was made to us from the department that this would be in the public interest. Therefore, we had a right, a duty as a matter of fact, to take a look at that to see if that was the case. In the determination of it we found that that was the case, that it was in the public interest. That was our advice.

Then, of course, it's up to the department of agriculture to decide whether they want to hire him or not. We were operating under the legislation as was given to us by you and your predecessors. If you want to change it, that's fine with us. I have no problem. But we will do and operate the way that you direct us to because the act is the act and the facts are the facts, and that's the way it is as far as we're concerned.

**Mr. Wilson:** Certainly. Fair enough, sir, and I was not challenging your decision. I was just suggesting that there is a perception there was a loophole and that perhaps we as legislators should do you and your office a favour by closing that loophole so that there is no lack of clarity moving forward.

**Mr. Wilkinson:** Thank you very much. I do appreciate the chance to discuss this here at this committee as well because the integrity of the office and the staff beside me – not Neil Wilkinson, but the staff beside me and our office – is extremely important, I think, to you as legislators because it involves your integrity as well. Sometimes there have been suggestions that our office has not operated under the legislation or done its job or acted preemptively, and I can assure you that is not the case. I wear this pin, the pin of the Legislature, and these gentlemen and Louise back at the office are very proud to be able to serve you. You are our bosses, right? We try to serve you as much as we can as often as we can. Even when you're putting in disclosures and there are some problems, we're there for you, as you know. In other ways I hope you feel that we help you, too. You help us, and we help you, too.

Thank you for raising that and giving me the opportunity to discuss it. I appreciate it.

**Mr. Wilson:** Thank you.

**The Chair:** Thank you, Mr. Commissioner. I have no new names on the speakers list. Again, thank you very much for your excellent presentation.

We'll take a minute.

[The committee adjourned from 2:09 p.m. to 2:11 p.m.]

**The Chair:** Good afternoon, everybody. First of all, I'd like to welcome the office of the Child and Youth Advocate: Mr. Graff and Ms Stewart and Ms Russell. Welcome to the committee.

Before we start the presentation, let's go around the table to introduce ourselves. We'll start with the deputy chair.

**Mr. McDonald:** Good afternoon. Everett McDonald, Grande Prairie-Smoky.

**Mrs. Leskiw:** Genia Leskiw, Bonnyville-Cold Lake.

**Mr. Rogers:** George Rogers, Leduc-Beaumont.

**Mr. Bikman:** Gary Bikman, Cardston-Taber-Warner.

**Ms Blakeman:** Laurie Blakeman. I'd like to welcome each and every one of you to my fabulous constituency of Edmonton-Centre.

**Ms Russell:** Bonnie Russell from the office of the Child and Youth Advocate.

**Mr. Graff:** I'm Del Graff. I'm the Child and Youth Advocate.

**Ms Stewart:** I'm Jackie Stewart. I'm the executive director of child and youth advocacy with the office.

**Mr. Eggen:** I'm David Eggen. I'm the MLA for Edmonton-Calder.

**Mr. Quadri:** Sohail Quadri, MLA, Edmonton-Mill Woods.

**Ms DeLong:** Alana DeLong, Calgary-Bow.

**Dr. Brown:** Neil Brown, Calgary-Mackay-Nose Hill.

**Mrs. Sawchuk:** Karen Sawchuk, committee clerk.

**Mr. Wilson:** Jeff Wilson, Calgary-Shaw.

**The Chair:** David Xiao, Edmonton-McClung. I'm the chair of the committee.

Ladies and gentlemen, let's get on with our agenda. Welcome to the officer. Before you start your presentation, I just would like to ask you to save the last 20 minutes for questions from the committee. Please proceed with your presentation.

#### **Office of the Child and Youth Advocate**

**Mr. Graff:** Thank you, Mr. Chairman. This presentation will focus on our past and current accomplishments as well as our path forward as we establish ourselves as an independent office of the Legislature. Our 2013-16 business plan and the 2013-14 budget focus on ensuring that we have the necessary resources to maintain our core services as we fully disengage our operational support from the Ministry of Human Services and providing the additional investment needed as we move forward to meet the expectations outlined in our mandate under the Child and Youth Advocate Act.

Last January when I met with this committee, some members indicated that we may not have asked for enough dollars in our budget to help with our transition to becoming an independent office. There was a suggestion to track our additional costs this year and submit them as part of our budget request. That is, in fact, what we're doing today. Our experiences over the past several months have informed our current request.

In the first six months of this year, Mr. Chairman, we have hired an additional 14 new staff to carry out our increased mandate. We've added positions for individual advocacy, for aboriginal engagement, for communications, public education, and investigations.

We are the first independent office in recent memory that was not created from scratch but changed from being embedded in a

ministry office to becoming an independent office. We are operating in uncharted waters, but we are moving forward as an office and taking our learnings to heart. Over the past seven and a half months we have scrutinized our 2012-13 expenditures to ensure that our budget is right and that we have the right resources to move forward and provide the best services to our most vulnerable population.

To meet our core businesses and fully deliver on our new legislative mandate, we require an additional \$1.1 million, to bring our voted budget to \$12,224,000. These additional budget dollars allow us to increase the resources committed for investigations into serious injuries to or deaths of children and youth that were receiving designated services at the time of the occurrence. As well, we need to hear from youth and better engage them in solidifying our practices, especially in the areas of individual and systemic advocacy. Also, as we become more involved with youth in the youth criminal justice system, we need to better understand their needs and ensure that their rights, viewpoints, and interests are considered.

Mr. Chairman, we've built our budget based on program needs. I'd like to take a moment to highlight the core services that our office provides. Our office provides advocacy services on behalf of individual children and youth receiving designated services by ensuring that their rights, interests, and viewpoints are acknowledged and acted upon. We conduct investigations into systemic issues arising from the serious injury to or death of a child or youth receiving designated services. We provide quality legal service to children and youth receiving services under the Child, Youth and Family Enhancement Act or the Protection of Sexually Exploited Children Act. We provide public education on the rights, interests, and well-being of children and youth. We build advocacy capacity in communities in the province, and we conduct research related to improving designated services. Finally, we report to Alberta's Legislature on any matter related to the rights, interests, and well-being of children involved with designated services.

Mr. Chairman, I was proud to have our annual report this year tabled in the Legislature for the first time as an independent office. My 2011 annual report provides updates on four systemic issues that remain outstanding from previous annual reports by my office: reducing the disproportionate number of aboriginal children in care; capacity building through rights education; establishing a system to track, monitor, and learn from mandatory notifications; and increasing the use of historical information to inform decision-making about children.

My 2011 annual report also identified two new issues that require the attention of government. The first is connections to family and community. Strong connections to family are significant protective factors for young people and help them maintain a sense of history and identity when there are disruptions in their lives. It's important that young people be able to maintain relationships with their family and community. The ministry should address relationship disruptions and challenges and identify solutions to resolve or mitigate negative impacts.

The other new issue that I identified is related to neglect. Neglect is the inability or unwillingness on the part of a guardian to meet a young person's needs. Neglect is the single most identified issue for children coming to the attention of the child intervention system. The ministry needs to address neglect with specific interventions and identify concrete actions to address this issue.

Whether these issues were previously identified or are new issues, my task is to use my influence to move government to make changes to improve services to vulnerable young people.

We have a number of tools we can use to influence government such as our annual report, special reports, and engagement with stakeholders, all of which keep the issues on the forefront. Government has a responsibility to act. My resolve is to work for young people to ensure that the best possible services are provided for their needs.

With respect to child advocacy Alberta continues to show leadership in Canada. Statistics from our 2011 annual report show that our office served 3,019 young people, which was a decrease of about 7 per cent from the prior year. Of that number over 2,100 of these young people were assigned advocates, with the remaining number either being referred or closed at screening for various reasons. Our office also answered just under 600 general inquiries. Individual advocacy services include assisting young people to understand what rights they have and how to exercise their rights. Advocacy service represents about 28 per cent of our 2013-14 budget estimates.

Another core service of the office of the Child and Youth Advocate is legal representation for children and youth, or LRCY. As reported in our annual report, we made 1,216 legal appointments to serve just over 2,000 children in the last year. This represents an increase of about 4 per cent in appointments, and an increase of about 7 per cent of children who were receiving legal representation. In 2013 we will be reviewing our roster of lawyers in this program to increase specialization in child legal representation and enhance the skill sets of lawyers on the roster.

## 2:20

As well, we've just implemented a new legal appointment and payment system, which has a lawyer self-serve module that allows lawyers to provide their billings online. In the fall of 2013 we will be hosting an LRCY conference that allows for sharing and networking in the area of child legal representation. The LRCY program represents over 33 per cent of our 2013 budget.

With the proclamation of the Child and Youth Advocate Act on April 1, 2012, our office is also responsible for providing advocacy to young people involved in the youth criminal justice system. It's important for our office to inform those youth involved with the youth criminal justice system of the role of our office and what role we can play in assisting them to have their voices heard. We also need to reach out and build relationships and conduct educational sessions for those stakeholders that support youth in the youth criminal justice system. As well, public education is one of our core services. As such, we plan on engaging youth in supporting the development of policy and best practices.

Recently, to celebrate National Child Day, our office partnered with the United Way, the city of Edmonton, and Edmonton public and Catholic schools to raise awareness about children's rights. We launched an art contest and held a flash mob at MacEwan University with local grades 5 to 7 students. The students helped to plan the choreography for the flash mob routine, and it was very well received. It's these youth-driven initiatives that help create awareness of our office while promoting rights, interests, and viewpoints of young people. We plan on doing more of these initiatives.

I'd now like to turn your attention to another important core service of our office, investigations. Investigations involve conducting investigative reviews arising from the serious injury to or death of a child or youth receiving designated services. Designated services are any services under the Child, Youth and Family Enhancement Act, services under the Protection of Sexually Exploited Children Act, and youth in custody in the youth criminal justice system.

Our investigative process involves a number of steps: first, receiving notifications of a serious injury or death of a child from the involved ministry. We review whether we need more information to determine if further review by my office would potentially result in learning that would improve the child-serving systems or be in the public interest. If we answer yes, then we request file information, which is thoroughly reviewed through what we call an initial assessment to determine whether a full investigative review is warranted. If the answer to that question is yes, we proceed to a full investigative review, which includes reviewing records from any public body that's identified as relevant to the circumstance, conducting individual interviews, and research. Subject matter experts are consulted to assist in determining findings and recommendations to ensure that the final report is meaningful.

Family members, where appropriate, will be made aware that an investigative review is under way and have the ability to provide information. An investigative report that is nonidentifying will be made public when the investigation is complete. Investigative reviews completed by my office are not about fault-finding. They are about quality improvement and learning from very sad and tragic circumstances. Ultimately, the goal is to improve systems and services that are provided to children and youth.

Since April 1 of this year we have received 20 reports of serious injuries or deaths of young people involved with the Ministry of Human Services. Of those 20 reports two were closed because the youth were over 18 years of age and are outside of our legislated authority. However, we did complete an initial assessment for one of these youth. It was this young person's circumstances that have led me to request a legislative amendment so that future situations such as this one can be investigated.

Of the remaining 18 reports nine were closed as I determined that further review was not warranted or it was not seen to be in the public interest to further review these circumstances. Three of these were injuries and six were deaths. These circumstances included no-fault accidents, sudden infant death, and injuries or deaths that were related to pre-existing medical conditions. Six of the deaths that we have received notification about are in the initial assessment phase of review, which is where we're reviewing file documentation to determine if a full investigative review is warranted. Three deaths of young people are proceeding with a full investigative review.

On a personal note, I realize that the gravity of this information can be overwhelming. There is no greater tragedy than the loss of a child. It's important to acknowledge the level of grief for the families of these children, and it is difficult for me to comprehend.

Mr. Chairman, this committee also supported amendments to the Child and Youth Advocate Act. The amendments will enable me to investigate systemic issues arising from the serious injury or death of a young person up to the age of 22 receiving designated services. We expect that when these amendments come into force, there will be some impact on the investigative side of our mandate.

We have also undertaken the development of a special report about youth who are leaving government care. We have initiated a number of focus groups with youth and various stakeholders in the past number of months to hear about their experiences with young people who are leaving government care. The information-collection phase of our project is almost completed, with only one more focus group to go. Once completed, we will have hosted 15 focus groups with youth from across the province. We will have heard from a total of approximately 140 youth. I'm very pleased to say that we exceeded our initial goal, which was to hear from at least 100 youth about their experiences leaving government care.

We also heard from between 75 and 80 adults who support these youth. They conveyed their ideas to us either online or through focus groups in Edmonton and Calgary.

Our goal is to identify those systemic issues that need to be addressed and to make recommendations to improve the supports for young people who are leaving government care. When these young people eventually leave government care, it is important for them to be well prepared for their lives as young adults. We are now reviewing information and identifying themes and common issues for youth that we heard from across the province. We anticipate having a finished document ready for release in early 2013.

Mr. Chairman, having described what we do and whom we serve, I'll now outline some of our challenges and opportunities. Our business plan identifies eight key performance measures that will support the assessment of the quality and effectiveness of our work. To accomplish all that we need to, we are asking for a budget increase of just over \$1.1 million to bring our budget to \$12.2 million in 2013-14. This budget increase represents five areas of change.

Increases to salary and benefits of \$496,000 to address cost-of-living adjustments and merit increases and to provide additional full-time positions for an investigator based on a significant process and resource and commitment to conduct a review or investigation into a serious injury or death. This will bring our investigations capacity to three investigators.

We are asking for a \$352,000 increase in contracted services. We have found that we need to increase our contracted resources in respect to expert advice for investigations.

We also need to ensure that the voices of young people are heard and taken into consideration in decisions made about them. Therefore, we need to engage our youth. Our budget reflects additional funding to support a youth engagement committee and youth focus groups. We need to know as well how young people are receiving information and communicating with each other. This may entail greater use of social media and website enhancements for our office. As well, we plan to hold a youth forum in 2013-14, which will be our first youth forum as an independent office.

We are also requesting \$177,000 to increase our operating budget for information technology and shared services, and a new capital budget of \$75,000 for information technology hardware. We want to put in place a process to increase transparency in the work that we do. This investment will allow us to track our performance and progress. Whether it's our special reports, our public education initiatives, communications, stakeholder engagements, or tracking the recommendations that we make, this increase will allow us to create an information management system to track the work we do, that will be captured in our annual report.

These funding increases support our information technology infrastructure and application maintenance as we move our IT support away from the Ministry of Human Services. I'd like to point out that we are currently working with the offices of the Ombudsman and the Ethics Commissioner to look at ways of sharing information technology infrastructure along with other support areas in order to maximize resources and reduce overall costs. We have also reallocated funding amongst our own programs to ensure that our core businesses and strategic priorities are addressed.

2:30

In conclusion, Mr. Chairman, investing these resources in the work of the office of the Child and Youth Advocate will ensure

that quality advocacy services are available to Alberta's most vulnerable child and youth population. We're excited about being an independent office of the Legislature and ensuring that young people have a voice in the decisions that are made about their future. As an independent Child and Youth Advocate I actively promote accountability within government systems that serve vulnerable children. I will report to the Legislature and to the public to raise issues of relevance and to make recommendations to improve designated services.

You will also see transparency and accountability within my office as we report on our own performance as well as our use of public funds. I'm committed to the young people my office serves, and we will continue to advocate on their behalf so they can receive the supports they need to make positive progress in their lives.

Thank you, once again, Mr. Chairman, for this opportunity to meet with you today. I'll be happy to respond to any of your questions.

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

Now we open the floor for questions. Mr. Rogers.

**Mr. Rogers:** Thank you, Mr. Chairman. Mr. Graff, thank you for your presentation and, certainly, for the valuable work that you and your office do on behalf of the youth of our province. You mentioned, sir, two cases over 18 that you couldn't investigate, and you were asking for some extended powers. I'm just wondering what would lead you to do that. Is this relative maybe to someone that was in care and then turned 18? I'm just sort of wondering what would lead to that situation.

Further to that, what are the mechanisms to trigger an investigation? Can the youth themselves initiate something? I think that'll do me for now.

Thank you.

**Mr. Graff:** Okay. The Child and Youth Advocate Act provides me with the opportunity to receive notification if there is a death of a young person in the age range of 18 to 22 provided they are receiving a specific service and they're under a support and financial agreement. When they're under that kind of relationship with the Ministry of Human Services, I have the ability to review notifications if the young person dies. In that circumstance I have the ability to ask for the files and do that initial assessment that I was referring to in my comments. What the Child and Youth Advocate Act as it currently is written doesn't provide for is the decision to move beyond that and to do an investigative review for that population of young people. There's a prohibition in the legislation that stops me from being able to move to an investigative review.

**Mr. Rogers:** And I asked about the youth triggering the investigation. Well, I suppose if you're just dealing with deaths, then that's good enough.

Thank you.

**The Chair:** Okay. Dr. Brown.

**Dr. Brown:** Thank you, Mr. Chairman. Mr. Graff, I wonder if you could just give the committee a little bit more of a flavour of what type of issues you deal with with respect to your advice and advocacy on behalf of youth – and the legal representation aspect of it is quite different, I'm sure – with respect to things like government custody issues, parental custody issues, sexual abuse,

and youth criminal conduct. I know there wouldn't be a typical case, but give us a flavour of what types of things you get involved with so that we can understand a little bit better how your office functions.

**Mr. Graff:** Sure. What I can tell you, because you're talking about a broad range of circumstances that young people would be connected to, is that most often our role would be that we may receive information from anybody that would suggest a young person needs our advocacy services because they're in some kind of a difficult circumstance. If that young person is old enough to be able to articulate their own needs, we will talk with that young person about: what are their interests, what would they like to see happen in whatever the circumstance is? We would then make sure that the decision-makers in that young person's life know what that young person has conveyed to us in terms of their interests. In fact, we would most often try to help and encourage that young person to use their own voice to state their needs.

Our focus in those circumstances would be always about what that young person has reflected in terms of what their interests are. Often in circumstances, particularly where there are custody issues, the young person's needs can sometimes be secondary to what adults are struggling through in terms of their own perspectives. So our job is to make sure that the young person's interests are elevated so that people understand what that young person is interested in seeing happen.

I'm not sure, Jackie, if there is something that you might want to add to that.

**Ms Stewart:** Our involvement is specifically, though, for young people that are receiving designated services. That means it's young people that are either in the child intervention system or in the youth criminal justice system. So I'd add that as a qualifier.

You also commented or asked about the legal representation side. Our office is responsible to appoint lawyers for young people that are subject to a child intervention or an application under the Child, Youth and Family Enhancement Act. That means, for example, the director may be applying for guardianship of a young person because there are child protection concerns. Our office is responsible to appoint a lawyer to represent that young person in that proceeding.

**The Chair:** Ms DeLong.

**Ms DeLong:** Thank you very much. I noticed that you are asking for more than a 10 per cent increase. If you were going to be limited to a 2 per cent increase, how would that affect your actions next year?

**Mr. Graff:** Our estimation is that a 2 per cent increase would limit us to about a \$220,000 increase. It would mean that we would need to relook at our programs and identify those areas that we would not be able to provide service for and make decisions about moving resources to those that were what we would consider the mission-critical requirements. It would impact the way we deliver services. Given the demand that I outlined in relation to investigations, we would need to be able to allocate resources toward our capacity to provide those.

**Ms DeLong:** Okay. The other thing I notice about your budget is the large amount of money that is in contract work. Now, maybe I don't understand this area so well, but generally contracted services tend to be a little more expensive than just straight personnel. I wondered about, you know, that you've got just about half in contracted services versus personnel. They seem to be

pretty evenly split. Is that something that we should be looking at in terms of getting your costs down? Is there a way of getting your costs down that way?

**Mr. Graff:** I wonder if you can help me with this.

**Ms Russell:** Seventy-nine per cent of our contract dollars relate to legal representation, so the fees and disbursements.

**Ms DeLong:** Could those be done in-house?

**Ms Russell:** That's done through a roster of lawyers that have the capacity and that with respect to child intervention knowledge.

**Ms DeLong:** Okay. But have you looked at having in-house lawyers?

**Mr. Graff:** Our work in legal representation for children and youth uses a pool of roster lawyers. In our ability to make it so that we have a certain number of in-house FTE lawyers, we would be paying for the services of lawyers when they're not needed and at other times not have enough in-house lawyers to deal with the demand that comes. One of the benefits of having a roster of lawyers is that we can apply specific contracts to lawyers as the need and location of those contacts requires. It would be a very difficult task to change from that roster, where we currently have upwards of 100 lawyers across the province, to an FTE model that was of staffed lawyers.

**Ms DeLong:** Okay. Thank you.

**The Chair:** Ms Blakeman.

**Ms Blakeman:** Thanks very much. Two questions, so if I can only have one, can I go back on the list, please? What was the additional amount of money that the office had to spend when they moved from being – what was the word you used? – embedded in a ministry to being stand alone. I'd like to know how much of your budget that was. You said you tracked it, so how much was that?

**2:40**

**Mr. Graff:** I'm a bit confused by the question. We were embedded in the ministry, and we've had costs related to becoming independent. You'd like that amount?

**Ms Blakeman:** Right.

**Mr. Graff:** I'm not sure that we can answer that right now.

**Ms Russell:** Some of those costs and that we still have not fully incurred as we start to move our IT infrastructure, which we haven't done yet. We're just in the process of a discovery around what that would mean. That is one of our largest costs with respect to disengaging ourselves from the ministry.

**Ms Blakeman:** Okay. Are you perhaps able to follow up on that question? Let me reword that. Is there a reasonable period of time in which you would know this information and could forward it to the chair of the committee for distribution to the rest of us? If it's longer than three months, then, no. We'll look at it next year. But if it's possible to do it, I'd ask you to.

The second question. With the cuts that are being suggested by my hon. colleague – these are very vulnerable children that you're looking after. In not being able to get the amount of money that you have said you need in order to implement the programming

you're required to give under legislation, wouldn't children have to go without? Wouldn't there be children that don't get services, that need them?

**Mr. Graff:** We would be needing to make decisions about which children receive which services. I could foresee us being required with the 2 per cent scenario to identify a hierarchy of service, if you will, that said: these children get service because their needs are critical to their health and safety, and other children would not get service.

**Ms Blakeman:** Even though they're slightly lesser in need because of their health and service, but they're not dancing down the middle of the street singing.

**Mr. Graff:** Right. They are within our mandate, within the legislated required mandate to serve.

**Ms Blakeman:** Okay. Thank you.

**The Chair:** Thank you.

**Mr. Bikman:** Thank you for your presentation. As a father of 13 children I'm keenly interested in those who aren't so blessed as to have parents who, for whatever reason, are able to care properly for them. I appreciate the work you're doing.

Being a businessman, I have questions to do with costs. What I would like to know is: how many people do you employ, total staff?

**Mr. Graff:** We currently employ 60 full-time equivalent positions.

**Mr. Bikman:** Okay. How many of those are front-line service providers, people that are interacting directly with the children delivering the services?

**Mr. Graff:** We have people who interact in different ways. We have people who interact as individual advocates with individual children. We have people who provide public education and interact with groups of children. We have people who provide specialized services in terms of having focus groups with young people. So we have a range of people that provide services directly to children.

**Mr. Bikman:** Of that total of 60 how many would fit that grouping

**Mr. Graff:** If we could just have a moment, we could, I'm sure, get that number.

**Mr. Bikman:** Sure. Of course.

**Mr. Graff:** We have 22 individual advocacy staff that include intake. That's the individual advocates that I spoke to you about. We have two public education individuals, and we have another two who are focused on aboriginal engagement folks. I think that would be about the number.

**Mr. Bikman:** That would be about 26, then?

**Mr. Graff:** Twenty-six. Yes.

**Mr. Bikman:** Okay. Then we have 34 that we might consider to be administrative, office overhead type personnel?

**Mr. Graff:** We would characterize them a bit differently than that.

**Mr. Bikman:** I'm sure you would. That sounds crass, but I'm sure you know where I'm headed and probably why.

**Mr. Graff:** Sure. When we administer a program like legal representation for children and youth, we need to have people who move those resources forward and who deal with a hundred roster lawyers providing services to 2,000 children. Our ability to reduce and find efficiencies with that group is limited. The notion that the other 34 are administrative, I think, would be with the caveat that many of those people have mission-critical roles such that, in fact, if they weren't there, we would not be able to provide the service to young people.

**Mr. Bikman:** We're talking about your department caring for among the most vulnerable among us, which I think we all understand and have compassion for, and if there were, in fact, a money tree, like a lot of people think there is, rather than merely taxpayers' money, it would certainly be no issue in terms of trying to, you know, sort of verify the legitimacy of budget requests, which is really what we're doing here, correct?

I guess really what I'm asking is: can you see ways that you can accomplish what you need to do for the children you'd like to in a more efficient way? If you had to put your thinking caps on and say, "We've still got to care for those people, so we're not going to get 10 per cent, we're not going to get Ms DeLong's 2 per cent" or whatever it actually happened to be, are you creative enough, are the people able to come up with ways that you can sort of leverage the skills and the personnel you've got to cover those other kids?

**Mr. Graff:** I think to some extent our learning in the last seven months has enabled us to already have looked at that question in terms of opportunities already that exist before coming to this committee with this kind of request. Now, if we're told, "You have a 2 per cent increase; you're going to have to figure out how to live with it," then we're going to have to figure out how to live with it, but I can tell you right now that some young people will not be served as we would foresee needing to serve them under our legislation.

An example of that is that we would be saying that we're not able to provide the level of engagement with communities and enable natural advocacy to be elevated at the community level because we need to put those resources towards investigations. In a hierarchy of what's critical, that's more of a critical demand than ensuring that there's a broader range of advocacy available at the community level for young people. We'd be put in a position of having to make some of those kinds of decisions.

**Mr. Bikman:** Sure. Of course you would, and nobody likes to have to do that. You'd like to help everyone as much as possible.

Is there any overlap in terms of the services you provide? Are there other service providers that you could engage in the care? This is part of the thinking outside the box, right? You've got a capacity here, and you're telling me that you're working pretty much to your limit. You've refined your skills, and you've honed them, and you said that over the last seven months or whatever you've been able to do that. That's good, and I believe you. We see instances in society when there are groups who are doing similar things, but they aren't being co-ordinated, perhaps, as well as they could be. Is there any opportunity that you're aware of? Could you think about that?

**Mr. Graff:** Certainly we can think about that, and in fact we already have. It is part of our legislation to develop community advocacy partnerships where there are those groups that exist.

**Mr. Bikman:** Okay.

**The Chair:** Thank you.

Mr. Wilson, please limit your questions to not more than one supplemental question.

**Mr. Wilson:** Certainly. I don't believe it'll even require that. Thank you for your presentation. I do appreciate it. In your annual report I noticed that there was a reference to recommendations that you had made to the ministry in 2010 around tracking and taking information and using that research, aggregated, to then direct policy. I'm wondering if the investment that you're looking for in your own IT would allow for your office to start to do some of that research or if it was more just administrative?

2:50

**Mr. Graff:** My sense is that we would be able to do some of that, some similar type of work, but it would be quite different from the recommendations that I made to the ministry. So we would be able to do, with this approval, our information technology tracking of a number of areas like the recommendations that we've made over the years and what progress has been made, like the number of young people that we're seeing through public education or that we're having influence with through individual advocacy. We'd be able to track that.

The recommendation that was in the annual report was for a specific set of information that already exists with the ministry. My recommendation in the 2010 report is that they look at that information and try to learn from it both in terms of policy development and practice about what the trends are that could improve circumstances for children.

**Mr. Wilson:** Right. Thank you. That answers my question.

**The Chair:** Good. Thank you, Mr. Graff, Ms Stewart, and Ms Russell for your presentation today. For your information the committee decision on the office's budget will be sent out sometime this week. Again, thank you. Have a nice weekend.

**Mr. Graff:** Thank you very much for your time.

**The Chair:** The clerk reminded me to thank you for your patience, for waiting.

**Mr. Graff:** Thanks very much.

[The committee adjourned from 2:51 p.m. to 2:55 p.m.]

**The Chair:** Good afternoon, ladies and gentlemen. Let's start. First of all, I'd like to welcome Ms Clayton and Ms Mun and Ms Furtak to our committee. Before we start the presentation, let's go around to introduce ourselves. We'll start from the deputy chair.

**Mr. McDonald:** Good afternoon. Everett McDonald, Grande Prairie-Smoky.

**Mr. Rogers:** George Rogers, Leduc-Beaumont.

**Mr. Wilson:** Jeff Wilson, Calgary-Shaw.

**Mr. Bikman:** Gary Bikman, Cardston-Taber-Warner.

**Ms Blakeman:** Laurie Blakeman, and I'd like to welcome each and every one of you to my fabulous constituency of Edmonton-Centre.

**Ms Mun:** Marylin Mun, assistant commissioner.

**Ms Clayton:** Jill Clayton, Information and Privacy Commissioner.

**Ms Furtak:** Sophia Furtak, manager of finance.

**Mr. Eggen:** Dave Eggen, MLA for Edmonton-Calder and former teacher of Ms Furtak's daughter, who is now going for her PhD, apparently. So there you go. It's a credit to both of us.

**Mr. Quadri:** Sohail Quadri, Edmonton-Mill Woods.

**Ms DeLong:** Alana DeLong, Calgary-Bow.

**Dr. Brown:** Neil Brown, Calgary-Mackay-Nose Hill.

**Mrs. Sawchuk:** Karen Sawchuk, committee clerk.

**The Chair:** David Xiao, Edmonton-McClung. I'm the chair of the committee.

Before we start the presentation, I would like to ask the commissioner to save the last 20 minutes for the questions from the committee. Please proceed with your presentation.

**Ms Clayton:** Can I just ask how much time I have? I think I was scheduled to go to 3:20 p.m.

**The Chair:** I would say 20 minutes.

**Ms Clayton:** I have 20 minutes total?

**The Chair:** Twenty plus 20, or take your time.

**Ms Clayton:** If I'm going by the original agenda, I've only got 20 minutes, so we could go straight to questions.

**The Chair:** Twenty for presentations, and 20 for questions.

**Ms Clayton:** Okay. Great. Thank you very much. I'll probably run through some of the early part of this presentation very, very quickly and try to let us wrap up at a decent time.

#### **Office of the Information and Privacy Commissioner**

**Ms Clayton:** Thank you very, very much for the opportunity to be here today. As I was saying to Sophia and Marylin, I have been looking forward to the opportunity to present the business plan and our budget estimates, so I'm pleased to be here today. Because we did come and make a presentation in September, I won't spend a lot of time on the overview of the office, but I do have a slide here just to remind everybody that we have jurisdiction for three statutes: the Freedom of Information and Protection of Privacy Act, which is our public-sector legislation and also access to information legislation as well as protection of privacy; the Health Information Act, which is, obviously, for the health sector; and the Personal Information Protection Act, which is our private-sector privacy legislation.

As an oversight body with quasi-judicial powers the OIPC is responsible for the mandate that you see in front of you on the slides there. I'm not going to go through all of those either, but I did want to just draw your attention to the first three: complaints and requests for review, conducting investigations, and adjudication. That's the quasi-judicial adjudicative function that we provide. Those have been traditionally the focus of the office for the most part since its inception.

The mandate includes all of those activities that you see on the slide there, including consulting with the public, advice and recommendations to stakeholders, research, commenting on exist-

ing or proposed legislation and programs, and data linkages and data matching. I think, as you'll see as I talk a little bit about the business plan, that, again, we've focused on our core business, resolving complaints and requests for review and adjudication, and we're moving in a slightly different direction with the business plan that you have in front of you.

I'm going to talk a little bit about the annual report from last year. I was not with the office last year, so it was a bit of a challenge for me even in coming up with my comments on the annual report that year. I was following some of these initiatives from Vancouver, which is where I was. I think that some very, very good work took place last year. I think that if you'll have a look at the list of highlights there, these tend to be proactive activities. I think that these are activities that reached a lot of people and had a fairly significant impact on access and privacy. In particular, there was an investigation into use of secondary e-mail addresses by a former minister. That investigation found that there was no evidence of an offence. Importantly, what came out at the same time as that report was a more general report that talked about e-mails and electronic records held by government departments and ministries, and I think there were some exceptional recommendations that were made in that report that provided some good guidance on how electronic information should be handled.

The paramouncy report, that came out towards the end of last year: I certainly get a lot of questions about that report and former Commissioner Work's comments on paramouncy clauses in draft legislation and how that in some ways is eroding the FOIP Act, the freedom of information legislation. It carves out parts of the legislation, and then you have records that are no longer under the scrutiny of an independent office. I think that was a significant report. It received a lot of attention.

Last year also there was a very positive decision, I would say, and positive not just in Alberta but also across Canada, of the Supreme Court of Canada. Former Commissioner Work had applied to the Supreme Court on a case that we called *ATA News*, and the decision that came out of the Supreme Court I think had a significant impact reaffirming the requirement to provide deference to expert tribunals. I think that decision had significant consequences for tribunals across the country.

We also had a successful HIA prosecution last year, unfortunately, for one of those things that is just intolerable, unauthorized use of information in the health care system.

Those were some of the highlights in terms of reports and legal cases.

On the next slide that I have, I wanted to talk a little bit about some of the statistics from our caseload last year. You'll see that we're down a little bit in terms of total cases opened, but those numbers have been fairly steady, and we're certainly on track this year to reach the same numbers from the previous year or the year before, same with cases closed, total orders issued. There was a higher number of cases opened and cases closed in 2009-2010, and that in particular is reflecting the deployment of Netcare and a number of electronic medical records associated with the physician office systems program. What that means is that in our office we receive a lot of privacy impact assessments whenever there are those big changes to Netcare. It's mandatory under the Health Information Act to submit privacy impact assessments to the office, so that's why the numbers jumped in 2009-2010. We're expecting to see a little bit of that possibly in the next fiscal year.

Otherwise, things have remained relatively stable other than the number of self-reported breaches, which has gone up fairly substantially over the last three years. Some of you will be aware that there is a mandatory breach-reporting provision in our

private-sector privacy legislation, so certain incidents have to be reported to the office, and then as commissioner I have the power to require that an organization notify affected individuals.

If we project based on the numbers year-to-date – those numbers are for the first two quarters of the current fiscal year – we're on track to be about the same, I think, for the most part as previous years.

The next slide is about resolution method. Just to give you an idea of how many cases we resolved through our informal processes, we have 12 portfolio officers, I believe, and three directors in the office for each of our different teams, and we resolve a significant number of our cases through the informal processes of mediation and investigation. We also have a team of adjudicators, so if something is not resolved informally, it goes to the more formal processes. At the moment we have about 11 per cent of our cases that are resolved through order and through that more formal process.

Case closures. I think people are generally interested in statistics on how quickly we resolve cases. If you look at those stats there for the last few years, you can see that our case closure timelines have gotten longer over the last couple of years. Last year we were resolving 59 per cent of cases within 180 days. Before that, it was 57 per cent, and that's down from 73 per cent in 2009-2010.

### 3:05

It looks like we're going in the right direction year-to-date so far, but from my point of view I'd really like to get those numbers higher, and I would like to be resolving things in a more timely way. When I talk about some of our strategies, I think we have some good ideas. Essentially, we're going to be taking a look at our processes. I want to better understand our processes and find out which part of the processes is taking longer, and then we want to be able to fix it and improve those numbers.

Financially last year our total approved budget was \$5.7 million, and we returned \$105,000 of that. That was primarily due to some vacant positions that we didn't fill right away. We had staff taking fewer courses. Our legal costs for judicial reviews was down a little bit. We have a strategy to address the costs for judicial reviews as well, and I'll talk about that. Some of those above savings were reallocated to capital investment to offset some money that we'd put into disaster recovery, which turned out to be very timely considering the incident that some of you will be aware of involving the Shaw data centre in Calgary and an investigation that we have now commenced where we're looking at disaster recovery and business continuity with an eye to putting out some best practices around that. That was last year, very quickly.

Moving forward, we have our business plan. We went through a different process this year with our business plan. We held discussion groups, four of them, with our staff. We had a lot of input from staff on business processes – what's working, what's not working – which was great. The business plan itself this time around includes a section on environmental issues and trends. This was really important for me, particularly because I think that the business plan is a communication document. I think that when we're talking about what we do in the access and privacy world, it's important for people to have a sense of what's going on out there.

When you have a look at the environmental issues and trends, if you've had a chance to read through that section of the report – again, I'm not going to go through all of the things that are on the slide there – there are a couple of messages that come through. Those are that information has value to private-sector businesses,

certainly, to government, and in the health care sector through research and through access to patient information through initiatives like Netcare. There's a lot of information around individuals, and the public in general are very willing to share information, to put information out there, to buy things online, to tweet and post and blog and be on Facebook.

Of all of these initiatives, everything is interconnected, so when you're on your mobile device and you're putting information out there, it's not isolated information. When you are sending information to private-sector businesses and they're using it for marketing purposes, information is coming together from all kinds of different sources. When you're looking at initiatives like the provincial electronic health record, we're talking about interconnected systems across the province and across the country. So everything is interconnected.

As well, you'll notice that at the bottom of that slide I've highlighted technology. Not only is it all interconnected, and there's more information out there, but technology underpins all of these trends. There's no getting away from it. It is ubiquitous. There are new devices it seems every single day and new ideas about how we can use existing technology. It is all-pervasive.

There are significant implications for access and privacy around these kinds of initiatives. As we see more integrated, interconnected, cross-sectoral, and technical initiatives, some of the issues that arise include issues around governance and accountability. Importantly, I wanted to draw your attention to that. When we have cross-sectoral initiatives – the public sector, the private sector, the health sector all coming together – we have all of these different acts that also come into play. You might have entities that are under the HIA in one circumstance or under FOIP in another circumstance. It gets complicated. I think that is the message.

There are also inconsistent legislative requirements. When you have these kinds of initiatives I've mentioned already, that custodians have an obligation to complete mandatory privacy impact assessments, that's not true in the other sectors. There's mandatory breach reporting in the private sector. So that can add to the complexity.

Most importantly and, again, not to spend too much time on this so we can get to strategies and what we're doing going forward, what is of concern to me is the lack of transparency for a lot of these initiatives. On that previous slide, when we were talking about what happens with increased use of the Internet and social media and these interconnected systems, the electronic health record, big data initiatives, I don't believe that individuals have a real sense of what's happening to their information when it's collected by government, by business, by the health sector, and that has implications for how we provide oversight for various initiatives that are coming from all of those sectors.

I will talk a little bit more about that and also just point out that when you have that information coming together in these large, integrated databases, there is that increasing temptation to use that information for a new purpose. Sometimes that's a good thing. I'm thinking of health research. Obviously, people want their information to be made available for health research within a system of controls but also for public safety purposes. We certainly see: "Oh, the information is there. If we just had access to that, everybody would be safer." And, of course, we have issues around identity theft and fraud and unauthorized access to information in those systems. When you have a large system like that and a lot of people accessing it, you have issues that give rise to situations like the HIA offence that I made reference to.

Some of our challenges: expectations for timely resolution of issues. I've mentioned that we have three teams in the office. Our

case numbers are relatively stable. We do have expected legislative reviews coming up of FOIP and the HIA, which could potentially affect our office's powers and responsibilities. We have some new custodians that have just come under the HIA in 2010, and we're starting to see them submitting PIAs, so we're expecting caseload numbers to remain relatively stable but probably to increase a little bit over the next couple of years.

Timeliness is an issue. We just completed our very first stakeholder survey. It's not quite wrapped up. It'll be posted on our website probably within the next couple of weeks, but when asked about our processes, we were told timeliness is the issue. So, again, that's a focus for the office going forward.

Proactive and effective oversight is another challenge for us. I've already mentioned these large, integrated, sophisticated, complex systems. I don't think relying on individuals to come to us with complaints is going to effectively allow us to provide oversight for those systems. I think we need to look at alternative models and better use of the powers that we have, as were laid out on, I think, the second slide.

Adequate staff and resources. I think we're doing pretty well in continuing to do the work that we're doing. We have two significant challenges, though. One is not new to anyone who's been on this committee before or has followed this in our office, the challenge of judicial reviews. Cases are more complex. When we issue orders, we get challenged more often. The number of judicial reviews has gone up. Traditionally we have gone outside to external counsel to appear before the courts.

Also, there's the potential for an increase in offence investigations. We're the only jurisdiction in Canada that has successfully prosecuted privacy offences. We've done it twice now. We have another offence investigation that's under way right now, but they're very resource intensive for our office. As we move, again, to more of these integrated systems, I think it's important that we use that tool when we need to use that tool, but it is a bit of a challenge.

The fourth challenge is to make sure that our staff have the information, training, and expertise required to provide effective oversight and guidance. I've already talked about ubiquitous technology. In our stakeholder survey one of the things did was that we asked stakeholders what their issues were, and we gave them a list of 23. The top six were all technology related. This isn't going to be a surprise to anybody. We need to be able to provide comprehensive, informed reviews of information systems and initiatives.

Our fifth challenge, effective knowledge management: I'm going to talk quite a little bit about how we're trying to address that. Our problem, though, is that the office over the years has gotten far more complex. The cases are more complex. We've dealt with thousands of issues. How do we get at the information in all of those cases that we've resolved so that we can use that information to provide proactive oversight and guidance and direction to the stakeholders and to better support decision-making?

Then walking the talk with respect to open data: that's certainly one of the initiatives we hear a lot about, and we need to be able to move forward on that ourselves.

Goals and key strategies. Our first one is meaningful, proactive consultation and communication with stakeholders. We already do a lot of this work. One of the new things that we've done is the stakeholder survey. I won't go into a whole lot of detail about what we've done, but I'll just focus on what we're doing going forward. The public opinion survey is coming up. We will certainly be continuing some of our initiatives to host educational forums and conferences, and certainly we have plans for

additional publications. I mentioned already best practices for disaster preparedness and recovery. We've got a patient rights bulletin that's coming out sometime very soon. I'm just aware of time, so I'm moving through these.

3:15

Goals and key strategies. The second one is efficient and effective timely processes. I've talked about that already, but I did want to say that one of the first things that I did in April of this year – I started in February – is that we seconded somebody internally to a litigation position. You'll see that our line budget costs for external legal counsel have been fairly significant over the last few years with the increase in judicial reviews. We've now got somebody who is internally doing that work. We're building that expertise and expect that over the next couple of years that will reduce our dependency on external counsel.

We'll be looking at our existing processes and establishing an office structure that allows us to be more flexible and to balance our workload. With our three teams right now if pressures went up in the PIPA side, we would come here and ask for two new positions for PIPA. That doesn't reflect what's happening in the other teams, so we're looking at an office structure that will allow us to be a bit more responsive.

Some other things that we're interested in include electronic processes so people can submit complaints to the office in an electronic fashion. We've implemented a pilot project on early complaint resolution, and we'll be looking to expand that across the office as well.

I'll move to the third goal, which is effective access to and use of OIPC information. A priority project, as far as I'm concerned, for the office is to take a look at our case management system. It is almost 12 years old. It doesn't meet our needs at all. I think, again, as the office has grown over the years, the system has not kept pace. It's not searchable. We can't report. I think that one of the reasons why we need to take a look at this is just to have better access to the information, knowledge, and experience we've gained from resolving cases for 17 years. A new system will help us to ensure consistency, standardization, to increase efficiency, support decision-making.

Other initiatives in terms of effective access to and use of information have to do with our business planning and reporting processes. Again, we've tried something a little bit different this year. The next thing that I really want us to be doing is to have a look at establishing some meaningful performance targets. We'll be looking at the kinds of things that we already report on, caseload numbers and timelines and things like that, but we'll be expanding that to additional things such as presentations, how we are affecting people, what kind of outcomes we are seeing.

One of the reasons I'm happy about having completed the stakeholder survey is that we now have a baseline. We have a baseline that helps us to measure the maturity of access and privacy frameworks that are in place across the three sectors. We have a baseline. Over the years we can see if we're making a difference there. We have some numbers and some baseline information about our own processes. We can make changes. We can go back and measure and see whether or not we're being more effective.

It is true also of public opinion. One of the mandates of the office is to make sure that the public is aware of their rights under the legislation. Again, with the public opinion survey that we have planned for next quarter, we will have some baseline information that we can go back to, so we'll be able to see if we're making a difference.

Our final goal: staff members are engaged, knowledgeable, and expert. Really, the focus there is on more cross-sectoral training for the office and making sure that there's sort of a fundamental level of knowledge. I think that instead of having everybody go out to individually attend sessions and courses and conferences, we're looking at a co-ordinated approach to bring presenters to the office and have mandatory training on certain core competencies, which include things like plain language, decision writing, administrative law basics, decision-making, and things like that.

Moving on to the summary of our budget request. We are asking for an increase this year of \$579,000. That is a 9.2 increase over last year; 85 per cent of that increase relates to salary and benefit increases for our existing staff and for two new positions. I'll talk more about what those are in a moment. Ten per cent relates to an increase in capital investments, and 5 per cent is a small increase to supplies and services.

On the personnel side our resources, our budget is primarily invested in staff. About 80 per cent of our costs goes toward salaries, benefits, professional fees, and development. Of the \$489,000 we're requesting for personnel, 54 per cent of that is negotiated salary increases, merit increases, and the rising costs of benefits. The additional dollars, \$225,000, are for two new positions, including the litigator that I mentioned already and the technical investigator.

The litigator position. As I've said, we've had an opportunity where we were able to second somebody. So far in our first two quarters it looks like – we've been tracking the hours that have been spent on projects – our savings there are around \$200,000. Projected over the course of the year, it's fairly significant. That doesn't mean that we ask for that budget decrease for next year because a lot of the cases that are in our system already have been assigned to external counsel. We're not taking a new person and putting that person on all of our ongoing cases. Some of the cases are also very complex, and they're going to the Supreme Court, or they're at higher levels of the court system on very complex issues. We're looking at a phased approach here. I think it has significant promise to reduce our dependence on external counsel and to build experience within the office.

The second position is for a technical investigator, as I've said. The environmental issues, what's going on in the environment: technology is underpinning all of those new initiatives. It's imperative that in the office we have the ability to provide comprehensive reviews of information systems. You know, you look at privacy impact assessments that come to the office. A hundred per cent of those are technology based. Privacy breaches that are reported to the office – almost a hundred per cent of those are privacy breaches. Access requests are increasingly about searching electronic information systems to get access to information to respond to a request for review. There's no getting away from that. I think that to have somebody on staff to support the investigations and provide that technology expertise – for the portfolio officers to be keeping up with that has really been a challenge over the years. That's why we're asking for that position.

Supplies and services budget. We're asking for a small increase in that budget of \$30,000. Essentially, that is tied to the case management system that I spoke to you about. In the next slide I'll talk about the costs for that. Really, the details of the supplies and services increase: \$30,000 is for technology services, so those are the software licensing costs associated with a new case management system. It also includes some additional funds for IT consulting. We don't have any control over that. Our contract is based on the number of devices we have in the office. That's gone up, so we have some consequent increases. Then we have some

minor asks to do some additional outreach work and to have focus groups. We're offsetting that with savings of \$21,000. We have reduced advertising for public notices, decreased photocopier rental costs, and decreased telephone costs. So the net increase is \$30,000, which effectively is that software licensing for a new information system.

That brings me to capital purchases increase. We're asking for an increase of \$60,000 over last year's budget. Again, that's primarily for our case management system. As I mentioned, the current case management system was built in 2001. We have very little ability to make changes to that system internally. If I want to look for all of the cases that we've had in the office that deal with video surveillance, I can't do a search for that. I have to go through and manually find the cases that we've dealt with there to be able to come and give you information about that. It's not very helpful when we're trying to look at how our resources are allocated and figure out where we can put resources so we can be more efficient. We can't pull that information easily from the system that we have is basically the bottom line there.

Effectively, that's my presentation. I'll wrap it up there. In summary, the changes to the budget reflect those two new positions, a litigator that I expect will be offsetting our budget over the next couple of years and the technical investigator to support our investigations and keep us up to date on that, and the case management system.

Thank you very much.

**The Chair:** Thank you very much, Ms Commissioner.

Let's open the floor to questions. I have a list. Dr. Brown.

3:25

**Dr. Brown:** Thank you, Mr. Chair. Ms Clayton, last year when Mr. Work appeared before us, he made some fairly compelling arguments that your office needed to catch up in a number of areas because of the preponderance of electronic data collection, social media, and just generally the changing world of information technology and so on. We gave him a 10.5 per cent increase in his budget last year as sort of a catch-up.

This year you're coming to us with a 9.2 per cent request again. Obviously, there's a compounding effect in there as well. We are looking at, you know, a budget that is growing exponentially. How do you see this evolving? Is this a one-time thing, or are you going to keep coming back to us with 9 and 10 per cent increases? I mean, it's not sustainable is what I'm telling you. Do you have any comments on anything that has changed fundamentally from last year, when we gave you a catch-up sort of idea to catch up with the real world out there?

**Ms Clayton:** I am aware of that increase last year, and I agree with you. I think that the office truly needed those positions last year. I understand that former Commissioner Work had made an argument for, in particular, the mandatory breaches that were coming in under PIPA. He had not previously asked for any increases in the budget when those powers were given to him in 2010 I believe it was. The staff change: prior to those two positions last year there had been no change for three years. So that was necessary just to get caught up and to deal with the breach reports that were coming in.

As you can see in the statistics that were in one of the earlier slides, the numbers there, particularly in PIPA: I think we had a 91 per cent increase in the number of mandatory breaches coming in. They're very demanding. They have to be done in a very timely fashion. We don't want to be the cause for delaying notification to individuals.

In terms of going forward, I think that with the positions that we have right now, we can continue to deal with our caseload if the caseload stays about where it has been. We're expecting to see some increases in the work, as I mentioned, with PIAs coming from some of the new health custodians, possibly with changes to legislation, but more importantly we can continue to do the work that we've been doing, which is primarily reacting to complaints that come in the door. If we're going to get ahead of issues and provide proactive advice and direction and guidance materials, then what we're asking for here is to be able to do that.

Do I see it increasing? Well, a lot will depend on what comes of FOIP reviews and HIA reviews. But at the moment, no, I'm not seeing any additional increases.

**Dr. Brown:** Well, it's gone down over the last two years, as your slide portrayed. We are in a very difficult fiscal situation, as you might understand, so I'm quite surprised that you're asking for an increase of that magnitude in these economic times.

**The Chair:** Any comments on that?

**Ms Clayton:** No. I've explained why I think we need to do that. I think if our caseloads stay about where they are, we're probably fine with the number of portfolio officers that we have now to do the primarily reactive work that we've been doing.

**The Chair:** Thank you.

Ms DeLong.

**Ms DeLong:** Thank you. Along those same lines can you please explain to me how you would adjust to a 2 per cent increase instead of a massive increase as you're asking for?

**Ms Clayton:** A 2 per cent increase is not enough to cover our obligations with respect to salary and benefits and merit increases, those in-range movements that we're obligated to provide. I think Sophia has got some numbers for me here. A 2 per cent increase wouldn't cover our negotiated salary increases and benefit premium increases. Four per cent is what is required just to do that. If it's at 2 per cent, then we're going to have to go back and take a look at, you know, where we can cut.

**Ms DeLong:** Okay. Which union is it that has gotten a 4 per cent increase?

**Ms Clayton:** Oh, I'm talking about negotiated salary increases and benefit premium increases.

**Ms Furtak:** In-range movement is typically 3 to 4 per cent, and then we've also had some premium increases for employee benefits. The pension premium has gone up, also for the group health benefits, and we also have a health spending account now.

**Ms DeLong:** Okay. You were bringing in some consulting services like the lawyer. You were going to bring a lawyer in-house. How much money would you be saving with that?

**Ms Clayton:** Well, we had somebody who was on leave, so what we actually did was seconded somebody internally into that position. That secondment is up. Unless we have that position, the position that I've been asking for, the litigation position, then we won't have that internal litigation resource.

**Ms DeLong:** Okay. Isn't that cutting your costs, though, if you have in-house litigation?

**Ms Clayton:** Oh, it will. It will over time. It's not making a difference right at this moment because we have cases that were already ongoing at the time of the secondment, where we've already contracted with external counsel. Increasingly, as new judicial reviews come in, we're assigning our internal person to those cases, so we're not having to go out externally. We'll never get away entirely from having external legal counsel. For some of the issues we just need that expertise; for constitutional issues, for example, going to the Supreme Court.

**Ms DeLong:** This first year the lawyer won't be working internally? Sorry. I don't understand.

**Ms Clayton:** This person is working internally, and we expect that the costs will help to offset the salary and over time to completely offset that salary. We have obligations already with cases that have been ongoing and that are ongoing where we have external counsel on them, so we can't be pulling the external counsel off those files and putting our new person on them. As new cases are coming in, where possible, we're able to put the person that we've seconded on those cases.

**Ms DeLong:** Okay. In other words, how will you manage your office with a 2 per cent increase?

**Ms Clayton:** Well, as I said, we're going to have to go back and take a look at where we can make cuts, and that will be to professional development, training, travel, those kinds of things. I don't know. I mean, we'll have to look at other contracted expenses – IT and various other things – and see where we can make cuts.

**Ms DeLong:** Okay. Thank you very much.

**The Chair:** Mr. Eggen.

**Mr. Eggen:** I think I'm okay, Mr. Chair.

**The Chair:** You're okay?

**Mr. Eggen:** Yeah.

**The Chair:** Where is my dear Ms Blakeman? We're waiting for you. Ms Blakeman, go ahead.

**Ms Blakeman:** Thank you very much. Sorry about that.

There have been a number of times recently where concerns that I've raised have been met with the response: well, a privacy impact assessment was done or a health impact assessment was done, so that covers all the worries. But it's my impression that those assessments pass scrutiny with your office as a minimum, not as the highest possible standard. Could you clarify that for me? I keep advocating for more caution on behalf of how much information is allowed to be collected and being told not to worry about it because everything is great because these assessments were done. Could you talk about that?

3:35

**Ms Clayton:** Absolutely. Privacy impact assessments: I have already said that they are mandatory under the Health Information Act. They are not mandatory under the Personal Information Protection Act, nor are they mandatory under FOIP. One of the things under the Health Information Act is that when a privacy impact assessment comes to us, because it's mandatory that they come in, they form part of a picture, so we can see exactly what's going on. We can connect this system and this PIA to what's

happening over here and what's happening over here and what's happening over here, and we have a better sense of where things are not working or where we need to dig deeper, where there might be problems, because we can see the weaknesses or the gaps in that picture.

That's not true in the private sector. Again, I think we've had one PIA, ever, submitted. In the public sector we do get them voluntarily, but essentially that's someone coming to us for advice and recommendation, and we'll provide our best advice and recommendations, but we're not investigating. We do make recommendations. But I completely agree with you that in all of the sectors, though, once the PIA is done and once it comes to our office, we don't approve them, but we accept them. That's so that, ultimately, if there is a complaint or something like that and it comes to the office, then we can review it, and the matter might go to inquiry, and then an order might be issued, that kind of thing.

I am not satisfied that that's enough. I have been having this conversation with my director in the health team, and we've been talking about: how are we going to follow up privacy impact assessments? It comes in before the system is implemented. Once the system is implemented, it sometimes looks vastly different to what came in front of our office. When I talk about doing some of that proactive work rather than just responding to it when it comes in and making our recommendations at the time, I'd like to see us be able to go out there and perhaps audit and verify compliance with privacy impact assessments. But, again, we need people to do that, and we need a plan. We're happy to put together the plan on how we would go ahead and do that, but that takes us away from responding to the things that walk through the door.

**Ms Blakeman:** Okay. As a follow-up to that – and I don't mean to put you on the political, squeamish hot seat, but I will – if someone consults you in advance of putting legislation on the floor and they come onto the floor and say, "Well, we went to the Privacy Commissioner, and she said that it was okay, so we're good," can I take that as a factual statement that you've given it a kiss of approval?

**Ms Clayton:** Well, if someone comes to me with proposed legislation, then my powers under the legislation allow me to confidentially provide comments on proposed legislation. I'm prohibited from disclosing that information. I have to keep it confidential.

**Ms Blakeman:** How handy.

**Ms Clayton:** That's what the act says in section 59(1). That's what it says.

**Ms Blakeman:** I know. I know.

**Ms Clayton:** However, when legislation has been introduced and some amendments may have been made, I have the ability to review those amendments. Certainly, if I have concerns about what has been said, then I am happy to comment, and I will comment publicly.

**Ms Blakeman:** Okay. Thank you.

**The Chair:** Okay. Any more questions?

Seeing none, thank you very much, Ms Commissioner. For your information the committee's decision on the office's budget estimate will be sent out sometime next week. Have a good weekend. Thank you again.

**Ms Clayton:** Thank you. Thank you, all of you.

**The Chair:** By the way, thank you for your patience. We have some business to discuss, so you can leave now. Thank you.

Okay. The clerk circulated the date for the next meeting. The best choice would be Monday from 10 to 11. I know some people cannot make it, but for the majority of the people it seems okay. So I just want people to raise your hand and to make some comments.

Go ahead, Mr. Rogers.

**Mr. Rogers:** Thank you, Mr. Chairman. At this point we're 20 minutes behind schedule. I'm hoping that we could conclude to the best of our ability the matters that we have before us today. You know, we see that with these people's schedules it's really hard for people to come back to deal with this matter again. I know we're late, but we're only 20 minutes behind our original schedule, and when you think of the large extent of the one item that we did, I think we've done very well. So, again, I'm prepared to continue today.

**The Chair:** Okay.

**Ms Blakeman:** I agree with Mr. Rogers, but I just want to make the point that this proposed time is exactly when my caucus meets, and as House leader I have an obligation to be there to assist them with that. But this is, you know, not just my problem this time. I put it before members of the government caucus that you need to be careful that you don't schedule things at a time when opposition members are not able to be here because it starts to put the credibility of the committee up.

I'm the one that's odd person out this time. Fine. I'll wear it. I'll either screw my caucus and turn up for this or not turn up to this meeting. But please do keep that in mind. I know it's really easy because you're the majority on the committee to say: "Well, we're not available then. Blah, blah, blah. Let's go with the majority." Well, I'm sorry, Dr. Brown. Don't shake your head. I've been in meetings where that's happened before, and it's been on the record before.

**Dr. Brown:** There are people from our side, Ms Blakeman.

**Mr. Quadri:** The reason we are late is because people wanted to extend their time.

**Ms Blakeman:** Look, all I'm saying is: please keep it in mind. Okay? That's all I'm saying.

**The Chair:** Okay. One at a time.

**Mr. Wilson:** I would just challenge Mr. Quadri's comments about the reason why we're late. The reason why we're late is because there was a motion that was passed by the committee, sir.

**Mr. Quadri:** Anyway, we were late.

**The Chair:** Yeah. Okay. What are we going to do? We have to finish because next week is really, really going to be very tight, and some of the committee members, as you know, and the clerk are going to Columbus, Ohio, for the conference.

**Mr. Rogers:** Let's keep going, Mr. Chair.

**Ms DeLong:** Let's just get it done, Mr. Chairman.

**The Chair:** We just keep going? If that's the will of the committee, sure. I'm ready for that. Okay.

**Mr. McDonald:** I'll move that the Standing Committee on Legislative Offices approve the 2013-14 budget estimates of the office of the Ombudsman in the amount of \$3,359,000 as submitted. Thank you, Chair.

**Ms Blakeman:** I'm sorry. Would you mind repeating that?

**Mr. McDonald:** I've got a sheet. I guess it's coming around. This was the request.

**The Chair:** So we've heard all the presentations. Here's the summary of how much they are requesting.

**Mr. McDonald:** This was their request.

**Ms Blakeman:** Okay. Thank you very much. I just thought: that was pretty amazing to pull that out of thin air.

**The Chair:** They were just trying to get you excited.

**Mr. McDonald:** I just had the sheet ahead of you. Sorry.

**The Chair:** These are the numbers they presented to us today. Discussion? The motion is on the floor.

**Ms DeLong:** This is just the beginning of budgeting for many of us in terms of a bottom line for a department, and I know – I know – that we've already committed to Health to give a 4.4, 4.5 per cent increase. We have less money than we have asks. We just have more people wanting more money than what is there.

You know, I think it's wonderful that all these things want to be done, but I don't know that it's fair to just sort of have an open chequebook for these departments when we know that, you know, it's going to be going up against Education, that it's going to be going up against a 4 and a half per cent increase already for Health, that it's going to be going up against Seniors. Every dollar extra that we give here is a dollar extra that is not going to any of those other departments. So I myself cannot agree with that amount for the Ombudsman.

**The Chair:** So do you have an amendment?

**Ms DeLong:** I'd say that what we should possibly do is just do a 2 per cent increase for all of them except for the Child and Youth Advocate.

**Mr. McDonald:** Two per cent over last year?

**Ms DeLong:** Two per cent over last year.

**The Chair:** Okay.

**Ms Blakeman:** I hear what you're saying. I've heard a lot before from the government, but I have to say that your reasoning does not make sense to me. We've had an argument. People have worked hard to come here and present an argument and reasoning to us about why they need this amount of money.

I am always baffled by the government picking a number out of thin air – 2 per cent – and saying: "No. We're not going to give you what you ask for. We're going to give you 2 per cent." Now, what is the 2 per cent that you're asking for? What out of what they've said there are you going to decide they're going to get or not get? You fail to make a compelling argument to me of what they did that they don't get that money. What you've said to me is that these other departments are also needing money but not why this department has failed us in some way, has not met its

mandate, or failed in its performance of whatever we need it to do. I'm not hearing any arguments about that. I just hear: well, we're short of money, so these people aren't going to get much. That's not a compelling argument to me about why we being tasked as the Legislative Offices are here to do that. So I'm looking for that argument.

**Ms DeLong:** Well, it's like when you're . . .

**The Chair:** You'll wait for your turn.

**Ms Blakeman:** Put me back on the list.

**Ms DeLong:** Put me back on the list, too.

**Dr. Brown:** Mr. Chairman, point of order. I'd like to move that the committee go in camera to discuss the matter of the budget.

**The Chair:** Okay. Sure.

**Mr. Rogers:** Mr. Chairman, I'll support the motion. We can't make any decisions in camera, but it might help us get to a decision. Any decisions have to be made in the public realm. I don't have a problem with that motion. It might help us just to find some clarity around the path to our ultimate decision.

**The Chair:** Okay. We do have two motions on the floor. Is it a point of order, or is it a motion?

**Dr. Brown:** It's a motion.

**The Chair:** All in favour?

**Ms Blakeman:** Of what?

**The Chair:** Of going in camera. Opposed? I think that's carried.

[The committee met in camera from 3:49 p.m. to 4:16 p.m.]

**The Chair:** Mr. McDonald.

**Mr. McDonald:** Yes. Thank you, Mr. Chairman. At this time I'll remove the motion that I previously made, with consent.

**The Chair:** All in favour? Against? Carried.

**An Hon. Member:** Unanimously?

**The Chair:** No. One opposed.

We have to have a date for the next meeting now.

**Ms DeLong:** Okay. I move that we adjourn to Monday at 10 o'clock.

**The Chair:** All in favour of Monday, 10 to 11 o'clock? Any opposed? No. Carried.

Thank you. Have a good rest, and have a good weekend.

[The committee adjourned at 4:18 p.m.]



