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Chair

Mr. Neil Ellis

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•(1100)

[English]

The Chair (Mr. Neil Ellis (Bay of Quinte, Lib.)): We'll get the meeting started. Thanks to everybody for coming out.

Pursuant to Standing Order 108(2), and the motion adopted on February 25, 2016, the committee resumes its study of service delivery to veterans.

Today's witness is Thomas Jarmyn, acting chair of the Veterans Review and Appeal Board. We'll begin with our witness and then start our round of questioning.

Thank you very much for coming. You have up to 10 minutes.

Mr. Thomas Jarmyn (Acting Chair, Veterans Review and Appeal Board): Good morning, Mr. Chair and honourable members.

I'd like to thank you for the opportunity to appear before you to talk about the work of the Veterans Review and Appeal Board and its role in service delivery to veterans.

The board is an administrative tribunal that provides veterans, members of the Canadian Armed Forces and the RCMP, and their families with an independent appeal process for disability benefits decisions that have been made by Veterans Affairs Canada. Our mission is to ensure that veterans receive the benefits they are entitled to under the law through timely, respectful hearings and fair, plain language decisions.

To be very clear, the board is not part of the Department of Veterans Affairs. We are an entirely separate organization and we operate at arm's length to provide a fair appeal process. As well, our mandate is limited to reviewing departmental decisions on veterans' disability benefits. We're not involved in any of the other programs and services that are delivered by Veterans Affairs Canada.

Before I tell you more about the board's program, I'd like to share a bit about myself. I'm a veteran with more than 18 years of service as a regular and reserve force naval officer. I'm a lawyer with more than 20 years of experience and graduate degrees in administrative law and ethics. I'm very proud to be in my current role leading the board as it serves veterans across Canada and provides them and their families with the benefits they're entitled to under the law.

I'd like to start by explaining how our hearing process works. Veterans who are dissatisfied with departmental decisions on disability benefits can apply to the board for an independent review. In any given year, between 8% and 10% of those who receive a

departmental decision come before the board for redress. Those cases tend to be the most challenging and complex.

We provide veterans with two levels of redress: first, review hearings; and, if they are still dissatisfied, an appeal hearing.

Review hearings are conducted by panels of two board members in one of 22 locations across Canada. To my knowledge, we're the only administrative panel in Canada that has an even number of members. The reason for this is that the veteran need only convince one member of the panel of the merits of their claim. That's consistent with the benefit-of-the-doubt provisions we're required to apply. At these hearings, veterans can bring forward new evidence, give oral testimony, and have their case presented for free by lawyers from the Bureau of Pensions Advocates or service officers from the Legion. A very small percentage of them have acted on their own.

Our hearings are non-adversarial, which means there's no one on the other side arguing against the veteran. The review hearing is a very important opportunity for veterans. It is their first and only chance to appear before decision-makers to tell their story in their own words. I've seen the value of that, as I sit on a regular basis. Their testimony is often significant, as it can help them establish the required link between their disability and their service. If a veteran is dissatisfied with their review decision, they can then proceed to an appeal decision. That's a brand new hearing by a panel of three board members who were not involved in the case at review. While the legislation does not permit oral testimony at this level, the appeal hearing provides the veteran a further opportunity, through their representative, to provide statements and other information to the board that may clarify reasons of the decision.

I'd like now to talk to you about the board members who hear the cases.

Our members are dedicated Canadians who qualified for appointment to the board through a merit-based selection process. Today 13 of the board's 20 members have military, RCMP, policing, or health care backgrounds. Veterans and stakeholders have told us that all board members should have a good understanding of the military and RCMP work and culture, and we agree with that thought. All members receive hands-on training from serving personnel at Canadian Forces bases, where they learn about the physical and mental challenges that are inherent in various trades. They also receive continuous training on common and emerging medical conditions that may be related to military service.

Last year our board members issued 2,500 review decisions and 800 appeal decisions. As a result, about 1,600 veterans, almost half of those who came to us, received new or increased disability benefits from the board. I think those numbers speak clearly to the value of our independent appeal program. They also prompt some to ask whether these veterans could have received the right decision at an earlier stage.

That's why in 2013, in response to that question from a prior version of this committee, the board began tracking reasons that our panels rule favourably where the department did not. We asked our members to categorize the reasons. Was it because of the veteran's testimony? Was there new medical evidence? Could a more favourable decision have been made earlier?

• (1105)

One of the things we found as a result of that study is that new evidence and the veterans' testimony are the factors in the majority of cases—almost 81%. We share the reasons these decisions have been made with the department so they can look for opportunities to improve the initial application and decision-making process to ensure that veterans get the benefits they are entitled to at the earliest possible stage.

Obviously, decision outcomes are very important, but we also want to ensure that we're delivering that service to veterans in a fair, timely, and respectful way. One way we do that is by asking veterans about their experience in the process. In 2013, the board established an exit survey for applicants who had had a review hearing to get their feedback anonymously about their experience. During the last three years, about half of all veterans who had a review hearing have completed our exit survey, and I am very pleased to report that the vast majority of them have indicated that they had a good experience with the board.

We report the entirety of the survey in our annual report. Of particular importance is that 97% have told us that board members treated them with respect, and 91% said their hearing was conducted in a fair manner.

The survey also gives veterans the opportunity to make open-ended comments about the conduct of the hearing, and it gives us genuine and instructive feedback that we use to address things like methods of questioning. We have also improved our pre-hearing materials as a result of those comments.

What else are we doing to serve veterans better? Over the last few years, we've embraced and acted on feedback and recommendations from this committee, the veterans ombudsman, veterans organizations, and stakeholders. We made great strides in improving our appeal program.

First, we made a priority to improve our decision writing. We put significant effort into improving our decisions to make sure they're written in plain language and that reasons are clearly explained what has been decided and why. These efforts have yielded results at feedback sessions coordinated by the Legion. Serving members and veterans have told us that our decisions are clearer and easier to understand.

Second, we've increased transparency in our decision-making by publishing, starting last summer, all appeals and many reviews on

the Canadian Legal Information Institute's website. As of this morning, there are more than 2,600 cases available for veterans and Canadians to read. Those decisions are depersonalized, but they are instructive as to how decisions are made and why entitlement was granted. I encourage you to visit the CanLII site to read some of our decisions.

Third, beyond fair hearings and clear decisions, we know we must provide timely service. We demonstrate our commitment to timeliness by establishing service standards for the time within our control and we meet them in the vast majority of cases. Our goal is to schedule, hear, and decide a case within 16 weeks of being advised by the veteran or their representative that they're ready to proceed. Last year, we met the standard in almost all of our cases, far exceeding our 80% target.

Our second service standard focuses on decisions with a goal of issuing 80% of the decisions within six weeks of the hearing. Again, we exceeded our target there, issuing 86% of those decisions within that timeframe. There are some cases that are complex and do require more time, and those are monitored on a biweekly basis to make sure that nothing slips through the cracks. We know there's still room for improvement, which is why we continue to focus on reducing our timeframes through flexible scheduling, close monitoring of our work, and modernizing our operations for people's hearings.

Lastly, we continue our focus on plain language in our general communications as well, not just our decisions, through expanded outreach to the Canadian Armed Forces, the RCMP, veterans organizations, and other groups dedicated to supporting veterans and their families.

Ultimately, we want veterans to know their rights. If they are dissatisfied, we want them to come forward to tell us about their situation, to know they've been heard, and to have confidence in our decisions. Most of all, we want them to receive all the benefits that they are entitled to under law.

With that, Mr. Chair, I'd like to thank you for allowing me to talk to you today about the important work that we do on behalf of Canada's veterans. I hope I've been able to provide some information that enlightens you with respect to our commitment to fulfilling our service standards and providing better service to veterans.

I'd be happy to answer your questions.

• (1110)

[*Translation*]

Thank you.

[*English*]

The Chair: Thank you.

I just have one clarifying question before I start. Am I adding this up right? Your benchmarks are 16 weeks before you hear a case, and then six weeks is your benchmark of the average time it takes to solve a case, which adds up to 22 weeks, which is—

Mr. Thomas Jarmyn: No, Mr. Chair, those are actually overlapping conditions. It's 16 weeks from the time a case is ready to schedule to a decision out the door, and six weeks from the hearing to a decision out the door. Those are the two major milestones we have within the overall process.

The Chair: Thank you.

We'll start with Mr. Clarke.

[Translation]

Mr. Alupa Clarke (Beauport—Limoilou, CPC): Thank you, Mr. Chair.

Welcome, Mr. Jarmyn. I am happy to meet you.

It seems to me that the challenges that come before your board are only for the refusal of benefits. Is that the case?

[English]

Mr. Thomas Jarmyn: Yes, it is. Typically there are two questions that come before the board. The first is about benefits that have been refused, which is an entitlement question, and the second is about the assessment of the extent of the disability. For example, a veteran may have entitlement for a condition and have their disability assessed at 10%. He believes it should be assessed at 21%, and he would come before us on that basis.

[Translation]

Mr. Alupa Clarke: Okay.

In those two cases, for the maximum and minimum benefits that a veteran could receive, what are the most common challenges? Based on your observations over the years, what types of benefits have been most often denied by the Department of Veterans Affairs or, at least, the type of benefit that has caused the most problems to veterans?

[English]

Mr. Thomas Jarmyn: The top six claims the board saw in the past year were osteoarthritis, or lumbar spine conditions; tinnitus, which is a ringing in the ear, or a sound of some sort that is not usually present in normal conditions; cervical spine injuries, usually osteoarthritis or degeneration of the cervical spine; osteoarthritis, or degeneration of the knees; hearing loss; and PTSD, with the most significant portion of the PTSD claims being related to assessment of the PTSD.

[Translation]

Mr. Alupa Clarke: Why are those six types of benefits denied most often by the department? Is it because it is difficult to prove the injury? How do you explain the fact that those are the types of challenges that keep coming back before your board?

[English]

Mr. Thomas Jarmyn: We don't categorize the decisions on that basis. The most common issues related to all of these claims are whether there was a single incident that caused the condition, and whether that incident occurred during the course of service. Alternatively, was there a cumulative effect of the service upon the veteran that caused the claim condition? Those are typically the two types of claims that come before us.

•(1115)

[Translation]

Mr. Alupa Clarke: My question is along the same lines as the others.

At the end of the year, do you submit reports to the Department of Veterans Affairs to advise the department of the benefits that your board most frequently denies regarding a given problem?

[English]

Mr. Thomas Jarmyn: All decisions go to the department, as well as the veteran, so that the department is aware of the outcome. Often the department has to take actions as a consequence. When we give entitlement, they then have to assess the extent of the injury and make a payment as a result of that. We report on our work on an annual basis in our annual report, and that too is provided to the department. We have ongoing discussions about overall trends that we see.

I would say that the two most frequent questions are common, and the department is turning their minds to those questions on initial granting. I don't think we ask any different questions than the department asks on the initial application.

The department usually writes a good decision when they deny applications now. The decisions are much better than they were probably eight or nine years ago. They clearly set out, in almost a checklist format, the documents that were looked at and where the gap was in the evidence. I see the veterans taking those decisions away and giving them to their counsel or their doctors. That's what they aim at: filling in that gap. I think there's a good recognition on the part of the department about why we're coming to our decisions.

[Translation]

Mr. Alupa Clarke: I attended a few sessions of your board in Quebec City. I very much appreciated my experience and I thank you for allowing me to attend those hearings. I noticed that you provide legal counsel to veterans who challenge a decision.

I also noticed that, in a number of challenges by veterans—without naming anyone—they said that they didn't have access to doctors to obtain the evidence requested by the department or, at least, by your board. You provide legal services. Do you think medical services—perhaps not by your board—should be provided to veterans who need that medical expertise?

[English]

Mr. Thomas Jarmyn: I have one point of clarification. The board doesn't offer legal services. The Bureau of Pensions Advocates was created under, I believe, the veterans affairs act, so it is a stand-alone, independent office within Veterans Affairs. As a result, we don't do anything on that front. We also can't go out and get evidence, because that would compromise our neutrality in the overall process.

I'm aware of the challenges you face, but that's not something the board could do.

The Chair: Great. Thank you.

Mr. Fraser.

Mr. Colin Fraser (West Nova, Lib.): Mr. Jarmyn, thank you very much for your presentation today and for your service to our country and the good work that you're doing on behalf of veterans. It's appreciated.

I'd like to talk about the timely service of the Veterans Review and Appeal Board. I understand the goal as being 16 weeks from beginning to end, that is, from when you receive the file. I believe you mentioned that the vast majority of the cases meet that threshold. I'm wondering if you can give me some sense, though, of how many don't as far as actual numbers of files go.

Mr. Thomas Jarmyn: It's 4% of the cases, which I guess would be about 125 files. I can attribute that, I think.

We sit in 22 locations. The vast majority of our work occurs in about six cities: Halifax, Charlottetown, Montreal, Quebec City, Ottawa, and Edmonton. There are a number of locations, for example, Regina and North Bay, where there are few veterans around. We will go to those locations, where necessary, but it's difficult sometimes to get a full load of cases ready to go. Typically, we look for a week's worth of hearings, 18 cases, so it's difficult to arrange for a week's worth of work. Sometimes those cases take a little longer to get on our calendar.

We do offer video conferencing for veterans in those locations if they want to proceed more quickly, though.

• (1120)

Mr. Colin Fraser: I'm from West Nova, Nova Scotia. If somebody wanted to have their case served more quickly, if they wanted to go to Halifax they could do that; otherwise they might have to wait for a longer period of time to have a full calendar in their area.

Mr. Thomas Jarmyn: No. In Nova Scotia, we only hear in Halifax and Sydney.

Mr. Colin Fraser: I see. Okay.

Mr. Thomas Jarmyn: I've had veterans appear from the Wolfville and Kentville areas as well.

Mr. Colin Fraser: So, 4% of cases, then, don't meet the 16-week threshold. I understand that, and obviously you're working on it, but can you give some sense to the committee of how long some cases may have to wait for a decision to be rendered?

Mr. Thomas Jarmyn: Typically, from the time it is ready to schedule.... Part of that timeline is also driven by cases where the advocate has noted that it's ready to schedule but not been prepared to put it on the calendar. We rely upon the BPA, the Bureau of Pensions Advocates, to actually put the cases into the week after they've noted them as ready to schedule. At particular point they will note the cases that are ready to schedule. We'll then say, "Okay, we're going to send a panel to Victoria." There are maybe 30 cases in Victoria. The advocate then has to arrange which 18 cases are going to go forward. Sometimes veterans aren't available, sometimes the case isn't quite ready, and there's some sort of improvement they want to go to. There are a number of reasons with respect to that. We don't see very many cases that go very far beyond the 100-day range.

Mr. Colin Fraser: These complex cases may take a little longer for one reason or another before the Veterans Review and Appeal Board. I assume that it also most likely took a long time for the

decider of first instance to come to a conclusion because of the complexity of the case. Is it true that these cases typically are in the system for a long period of time compared to the normal?

Mr. Thomas Jarmyn: It's difficult for me to say. The reason I say that is we have no time limits in our system, so I sit, on a regular basis, on reviews. When I was sitting at the beginning of May, I had a week where I saw a case in which the department had rendered a decision in 2004. The veteran didn't do anything with respect to the case. It was brought forward as ready to schedule in late 2015, and then it was brought onto our schedule shortly after that. But in the same week, as well, I had a case where the veteran had applied for benefits in September 2015. The department had rendered the decision in late 2015, and the case was noted as ready to schedule shortly after that, and we heard it. Unlike a civil court, nobody is ever ruled out of time.

Mr. Colin Fraser: Section 39 of the Veterans Review and Appeal Board Act talks about the benefit of the doubt provision. I've also heard of the presumptive model, which I believe is the same thing. Is that right, or is that something else?

Mr. Thomas Jarmyn: No, it's not really. A presumptive model says if these conditions exist, then something flows. Benefit of the doubt is a way of evaluating the evidence, and as the Federal Court of Appeal has said, we still look at it. Veterans still have the burden of proving their claims, but in determining whether or not they have met that burden, we give them the benefit of the doubt with respect to the evidence.

Mr. Colin Fraser: So there would only need to be one arbiter, one person on the board who would agree that the appeal should be allowed in order to have it approved?

Mr. Thomas Jarmyn: That is one way in which the benefit of the doubt manifests in our system, yes, but it's also in other ways too.

Mr. Colin Fraser: I just want to pick up on something Mr. Clarke asked, which I thought was a good question. I want to understand the way that precedential value goes. These cases are decided. Are the actual facts of the case understood and reported somewhere so that another veteran who may have a similar circumstance can expect a similar decision from the department the next time?

The Chair: You can have 30 seconds on that one.

Mr. Thomas Jarmyn: If you look at our decisions on the CanLII website, typically there are three sections. One is an overall introduction of the claim. The second is an evidence and argument section that says what the veteran said, and what the advocate argued as the basis of claim. Then there is the analysis and reason section leading to the conclusion, the decision section.

The Chair: Ms. Mathyssen.

Ms. Irene Mathyssen (London—Fanshawe, NDP): I wanted to ask some sensitive questions with regard to sexual harassment in the military and how it is dealt with by the VRAB. Certainly that is sensitive testimony. Women are coming forward. They are very vulnerable, and I wonder if there are women on the panel who would hear such testimony. How do you determine that panel? Is specific thought given to how this particular situation will be handled?

•(1125)

Mr. Thomas Jarmyn: As with civil courts, we assign panels to particular weeks. When I assign a panel, I don't sort of pick and choose the cases it's going to hear. They're assigned to a location and the advocate is responsible for bringing that forward.

There is one exception with respect to that. There are situations where panellists are in obvious conflict, and if I know a case is going to be on the docket and I know that a particular member has had significant involvement which may give rise to a bias, I'm not going to assign the member to that week.

All of our panellists and all of our members have been trained with respect to these issues. I've heard cases ranging from harassment all the way to sexual assault and the consequential entitlement flowing from those. We are aware of the sensitivity of those issues, and our members most recently have just received training to update them with respect to that. I'm confident, and our surveys suggest that applicants are comfortable in testifying about these matters.

Ms. Irene Mathysen: I understand that quite recently about 19 sexual assault cases have been turned down by the VRAB. Have you any idea how many successful cases have been heard and how women have been affected in those situations and what compensation was received?

Mr. Thomas Jarmyn: I don't know what recent event you are referring to or the source of the number of 19 individuals who have been denied. I'm unclear about that. We don't track claims on that basis as a typical rule. The question we ask is whether or not the sexual assault occurred in the course of military service and, further to the Federal Court case in Cummings, whether or not the military was exercising significant control over the activities of the veteran at the time of the assault.

Sometimes they are, and sometimes they aren't. I can't say much more than that.

Ms. Irene Mathysen: Okay. With regard to the fact that you don't track the claims, is there any concern about that? I'm thinking in terms of hearing about more and more of these kinds of situations, not just in the military but among RCMP veterans. It would seem to be something of which we should be much more aware than we are.

Mr. Thomas Jarmyn: First of all, as with a court, we are not a policy-making or operational body. I don't know what the Department of Veterans Affairs does on the initial intake in the categorization of those claims. They would seem to be better placed to track the overall population of these sorts of claims, because of course they grant entitlement. They see the entirety of the applications as well, as opposed to my board, which sees a very small proportion of the overall claims in general.

Ms. Irene Mathysen: Thank you.

Are there performance bonuses for VRAB staff? If so, can you tell me what the criteria for a bonus might be, how many staff would receive the bonuses, and how much that might be?

Mr. Thomas Jarmyn: I don't know what the actual numbers are. I'm just embarking upon that process in terms of dollars for that year. As with other executive public servants across government, there are staff who do receive bonuses. Those bonuses are performance pay,

related to board operations, such as for meeting our service standards, taking steps to integrate technology, and those sorts of things. There are performance agreements with individual public servants that set out those criteria, and it's on that basis that performance pay is awarded.

Ms. Irene Mathysen: Okay. Is there any concern about the optics of this, the appearances of such bonuses, and how they might be perceived?

•(1130)

Mr. Thomas Jarmyn: No. Performance pay is tied to objective, observable criteria related to board operations, the meeting of our service standards, and the improvement of our technology. Those sorts of things, I think are consistent with what is being done across government, and consistent with a culture and an organization that's continually trying to improve service. That's what I do every day.

Ms. Irene Mathysen: Okay. Thank you.

Now we've talked at length about making sure that decisions are fair and equitable, and have the benefit of the doubt. I wonder what kind of oversight there is for VRAB. Who watches the watchers? Who ensures that the decisions are indeed fair and equitable? What's your measuring stick?

The Chair: Sorry, we're down to about 30 seconds.

Mr. Thomas Jarmyn: There are two people or two groups who do it: you folks together with the Canadian public generally—that's why we make our decisions available for everyone to read—and the Federal Court. Both supervise our operations.

I'm confident that we've taken significant strides in the past five years to improve the quality of the work that we do. Every day I ask myself if we are doing better today than we did yesterday and how we are going to do better tomorrow.

The Chair: I just have one clarifying question on the bonuses. Who actually votes to pay out the bonuses? Is it your board that looks at the performance bonuses and says, "Okay, we're going to put our hands up and pass these bonuses"?

Mr. Thomas Jarmyn: The chair, as the chief executive officer of the board, makes those decisions.

The Chair: He alone, or the whole board?

Mr. Thomas Jarmyn: The chair.

The Chair: With input from the board?

Mr. Thomas Jarmyn: No.

The Chair: Okay, thank you.

Ms. Romanado.

Mrs. Sherry Romanado (Longueuil—Charles-LeMoyne, Lib.): Thank you so much for being here and for your service to Canada.

Further to my colleague Ms. Mathysen's question, whom do you report to directly?

Mr. Thomas Jarmyn: I report to Parliament through the Minister of Veterans Affairs.

Mrs. Sherry Romanado: Is there any goal to reduce that 16-week time? You mentioned the time when you receive it to the time that it's out the door, but you didn't indicate any standards to reduce that from 16 weeks to, say, 10 weeks or so.

Mr. Thomas Jarmyn: From a practical perspective, I'm not certain that we could do it. For example, just in terms of rotating boards, we sit in Montreal and Quebec City on an alternating basis every week. We sit in Ottawa a couple of times a month as well. Those are our high-volume locations.

I don't think, practically speaking, it is going to be possible to move much beyond that. That said, we are taking some steps with respect to people's processes, both for the movement of files and the rendering of decisions, which may begin to save some time in the overall process.

As you can imagine, right now I'm couriering statements of case out to panels in remote locations. We lose a couple of days with documents in the hands of a panel. The panel hears the case. Then someone writes a decision on location and couriers the file back. That is turned into a document that is couriered back out. In the handling of a file, I could say that we typically lose somewhere between five to seven working days with documents in the hands of the courier. I'm hopeful that we're going to be able to eliminate some of that time.

We're close to piloting that process this year. If the pilot works, hopefully we'll implement that process some time in 2017. I don't want to rush into that because I don't want to prejudice the service we have.

Mrs. Sherry Romanado: I'm going to stop you there, because I don't want to run out of time and I have lots and lots of questions for you.

I want to make sure I understand this correctly. If a veteran presents himself at VAC, asks for benefits and so on and so forth, and goes through the process and unfortunately gets denied service, there is a checklist somewhere that is magically produced by VAC that says these are things that he provided and this is what he said, and these are the gaps. You get that. It's nice and dandy. You mentioned your checklist of decisions.

From there it takes 16 weeks, hopefully. You mentioned that usually 50% are overturned, and in almost 81% of those cases it's because of new evidence or a veteran's testimony.

Could we not have it so that somewhere along the way when a veteran first presents himself at VAC, they're given the decision criteria, to the effect, if you have osteoarthritic problems, you are going to need a doctor's note clearly indicating X, Y, and Z—that you're going to need this, this, and that?

The problem right now from what I'm understanding is that from the time a veteran shows up to the time the decision is overturned, we could be talking about 32 weeks, and it's not retroactive. They have not been getting any benefits. There's no incentive anywhere; no one is saying they are going to make that retroactive, that we made a mistake somewhere over here or we didn't ask you for the right paperwork.

How is a veteran supposed to know that they need X, Y, and Z? They are ill and injured. How are they supposed to know? Who's making the effort to try to make sure that the decisions are being made early enough so that we can get the folks the care and benefits they need? Could you elaborate on that, please?

• (1135)

Mr. Thomas Jarmyn: The entitlement eligibility guidelines that are prepared by the Department of Veterans Affairs actually do address the questions you've raised. The first level adjudicators have those guidelines. They're also publicly available on the Internet.

The adjudicators actually ask—at least to my understanding, and I'm stepping a little bit outside my lane here—these sorts of questions. I understand, as well, the adjudicators have been given direction that before a denial decision is made, they are to speak to the veteran to ask them these sorts of questions and go through the file one last time before they come to that decision.

Then when they make that decision, it's not really a checklist. There's a decision letter that identifies in list format, often in bullets, what evidence was looked at and where the gap in that was. The veteran has already been asked once by the adjudicator, as a general rule now, if they have the evidence, the documents. Then the decision is rendered, and it's turned into a formal decision.

They don't actually then come right to us. Usually what ends up happening is that the veteran goes to see the Bureau of Pensions Advocates, takes their decision there, and says, what do I have to do? They go to see a doctor, they get evidence, etc. After they've gone through that process, that's when they come to us. Generally, the Bureau of Pensions Advocates brings them to us.

Mrs. Sherry Romanado: You see that you're putting the onus on the ill and injured veteran, and there's no one there saying, okay, hold on a second, let's see if we can sit down and go through this together. They're providing you the evidence or the testimony at one point, because you have 50% of them that are being overturned.

Mr. Thomas Jarmyn: I understand that the adjudicators do ask those questions before they render the decision. There is an adjudicator.

I understand, and I think the department would be better to clarify this than I, that before a decision is rendered by an adjudicator, they call the veteran and ask them these questions. They do that before they make their decision.

Mrs. Sherry Romanado: Do I have any more time? I'm not going to be able to ask a question in 20 seconds.

The Chair: You'll have a second round.

Ms. Lockhart.

Mrs. Alaina Lockhart (Fundy Royal, Lib.): Thank you for appearing today. The information you're providing is very useful.

As you know, we're doing a review of service delivery. One of the things that I found interesting from your testimony today was when you were talking about the feedback you receive from exit interviews. There were some really great numbers there of veterans who were pleased with the service that was provided.

Do you know the breakdown of how many of those exits are successful applicants versus those whose applications were overturned?

Mr. Thomas Jarmyn: At the review level, in the past year, 52% of review participants received further or greater benefits from the board. The survey is of the review population. But the survey questions were asked before they have the decision. They're asked these questions shortly after their hearing experience, with respect to their experience in the process.

Mrs. Alaina Lockhart: So we're not actually doing an exit interview after they've received a decision, then.

Mr. Thomas Jarmyn: No, we're not.

Mrs. Alaina Lockhart: That would be helpful, I would suggest.

Mr. Thomas Jarmyn: We had this discussion, but the question is whether the fairness of a process is really determined by its outcome, or whether it is determined by your view of the process before you know whether or not you've succeeded or failed?

Mrs. Alaina Lockhart: I appreciate why you would do it before, but I think there may be some value to doing it after the decision is rendered as well.

You also mentioned that it wasn't just a yes-no questionnaire, that there was opportunity for written feedback. Is that correct?

Mr. Thomas Jarmyn: Yes.

Mrs. Alaina Lockhart: Are there any themes that have been identified in those written feedback sections, any consistent things that you are seeing? You said you are using it for improvement, so....

Mr. Thomas Jarmyn: Yes. One of the common ones is the opportunity to tell their story, the importance people see in actually being able to sit down and tell their story in their own words.

A number of people have said, "Well, I didn't know I was going to be given the opportunity to have a closing statement". As a result, we amended our pre-hearing materials to say, "and you will be given an opportunity at the end of the hearing to add any closing comments you choose to make".

Some veterans prepare documents, prepare a statement, whereas other veterans just tell it from the heart, and some don't say anything. Some are just happy with the way the advocate has presented their case. Improvement in pre-hearing materials has been one of the things we have learned.

• (1140)

Mrs. Alaina Lockhart: Is there a format or a standard way in which that information is presented back to the minister?

Mr. Thomas Jarmyn: We report it in our annual report. We are going to be doing another one in about six or eight weeks' time, which will report our 2015 survey and some of the general themes as well.

Mrs. Alaina Lockhart: Will that include statistics, as well as some of that written commentary?

Mr. Thomas Jarmyn: Yes.

Mrs. Alaina Lockhart: From your perspective, can any of the feedback you are getting after the review—and this goes to Mrs. Romanado's point as well—go back further into the actual review

process, so we can avoid more cases coming to the board? Is there a mechanism to get the information further back in the process?

Mr. Thomas Jarmyn: I don't know what the Department of Veterans Affairs is doing with respect to their surveying or their review of applicants. When a decision is overturned, we do ask members to categorize why. We communicate that information to the department on a regular basis. Right now, the department is granting benefits in about 85% of the applications that are made, so we are looking at about 15% as the eligible portion that can come to the board. We see about half of that, I think, coming to the board on a regular basis.

Mrs. Alaina Lockhart: How am I for time?

The Chair: You have two minutes.

Mrs. Alaina Lockhart: Oh, good.

Just going back a little, I am a bit surprised about your comments on how people were pleased with the opportunity to tell their story. Some of the feedback we have heard from veterans at committee is that they are very frustrated that they have to tell their story over and over and over again, especially those who are suffering from PTSD. What is the reasoning on that? Why are they happy to be telling their story now, at this point in the whole process? It seems a little contrary to some of the other testimony we have received.

Mr. Thomas Jarmyn: I think the difference between the stage that I am talking about and previous one is that they are actually sitting in a room with a human being across the table from them, looking them in the face and talking to them, as opposed to doing it on the phone or writing out a statement or sending in an email. The other thing is that—I think I will also go back—there has been a distinct evolution. I don't recognize the board that people talk about from 2004 or 2005 as being the board that I am part of. Around 2012, I think, the organization underwent some fairly dramatic changes and improvements in processes, as a result of comments by this committee and by the veterans ombudsman. I think it is a different organization, so part of me wonders to what degree some of those comments are being driven by experiences that largely predate the 2011-12 reforms.

Mrs. Alaina Lockhart: I think that is all very good information for the service review, especially the aspect of the personal touch. We are talking about ways we can improve the whole process, and it has come out time and time again that personal touch is important.

The Chair: Mr. Kitchen, go ahead.

Mr. Robert Kitchen (Souris—Moose Mountain, CPC): I am going to ask a couple of questions and try to get a little better understanding of your review process and the people who make up this board.

Can you tell us what percentage of reviews would be medical—musculoskeletal, physical medicine, or psychiatric? Can you tell us what percentages you might see?

Mr. Thomas Jarmyn: I guess I can operate by exclusion. PTSD is our sixth case. It is about 8% of our work. Major depressive disorder is our seventh level of case, and it is probably about 5% or 6% of the work. I would say that in excess of 80% of the cases we deal with are some form of physical ailment, and I count hearing loss as being a physical ailment—tinnitus, sleep apnea, the osteoarthritic claims, those sorts of things.

• (1145)

Mr. Robert Kitchen: Correct me if I'm wrong. You said that when someone gets reviewed.... For example, earlier you mentioned someone who initially made an application where you assessed 20% of an injury, and they think it should be at 30%, so they come back to you and present to you. My understanding is that there would be two people who would review that process, correct?

Mr. Thomas Jarmyn: Yes.

Mr. Robert Kitchen: You've mentioned that of the people you've put in that process, 13 of your members have military, police, or health care service. If someone's coming in with tinnitus or with a physical medicine injury, how can that person feel that they're getting proper attention for the issue when the two across the way have police service and no medical background?

Mr. Thomas Jarmyn: We're not answering a medical question. It's administered through an instrument called the "table of disabilities", which is a regulatory instrument that basically says, objectively speaking, that if these these criteria are met, then you're entitled to a certain level of disability.

Let me use an example. I'm working from memory here, so I may not be totally correct with respect to this. With respect to my knee claim, if I have pain on a regular basis throughout the day, I'm due a medical impairment rating of four. If I have a restriction in motion of greater than 10 degrees, I believe, I'm due an impairment rating of nine. Then there are degrees of instability above and beyond that.

We don't sit down and do a medical examination. There is a doctor who has gone through and examined the veteran. He's answered these questions about range of motion, presence of pain, nature of the medication, etc. That has been initially turned over to the departmental adjudicator, who has applied the table to that medical evidence and has come to a conclusion. The veteran is obviously dissatisfied with respect to that conclusion, and he or she brings it forward to the board and says, because of whatever evidence, "No, the department was wrong, because I fit this slot."

Mr. Robert Kitchen: Can you tell me what qualifications the people who are doing these physical health care assessments have?

Mr. Thomas Jarmyn: They're doctors.

Mr. Robert Kitchen: A doctor of...?

Mr. Thomas Jarmyn: I'm not certain what they are—

Mr. Robert Kitchen: Do you have standards? Have you set any?

Mr. Thomas Jarmyn: If it's special conditions.... If it's a neurological condition, it'll be a neurologist doing it, but generally, the musculoskeletal conditions are assessed by general medicine practitioners.

Mr. Robert Kitchen: Okay. So we're not necessarily indicating that they're specialists in these areas, except for neurologic issues.

Mr. Thomas Jarmyn: Well, cardiologists....

Mr. Robert Kitchen: Okay.

Mr. Thomas Jarmyn: There are areas of medicine that I think in and of themselves uniquely require special expertise: psychiatry, neurology, cardiology, etc. Then there are more straightforward medical conditions, which are assessed by general doctors.

Mr. Robert Kitchen: For what percentage of those decisions do you rely on these people being specialists? I should clarify. I was a consultant for a number of years in that area.

Mr. Thomas Jarmyn: I don't know. We take the evidence that has been put before us. One of the questions we ask with respect to assessments, but with respect to medical evidence in general, is whether the person carrying out the examination is qualified to render the opinion or make the finding that they are making. That is a question the panel asks.

Mr. Robert Kitchen: The impairment standards that are used, then, are basically set out by the board. Or are they predetermined? Are they provided for the two people who show up?

Mr. Thomas Jarmyn: The table of disabilities is a regulatory instrument that is adopted pursuant to either the new Veterans Charter or the Pension Act. The 2006 table is the table that guides us now. It is promulgated through the normal regulatory process, and we are bound by law to apply it.

The Chair: Mr. Eyolfson.

Mr. Doug Eyolfson (Charleswood—St. James—Assiniboia—Headingley, Lib.): I'd like to expand on some of the things mentioned by Dr. Kitchen. We're both health care providers, so our questions are going to have a similar flavour.

I wanted to clarify this in regard to the makeup of the board. You said that it's not going to be a physician.... It's a medical case, let's say, and someone has been turned down. They've made a claim for a medical disability and have been turned down. Are there any physicians or medical practitioners involved in the review process afterward to say whether in fact they are entitled? Is there someone on the review and appeal board?

• (1150)

Mr. Thomas Jarmyn: Not at the Review and Appeal Board.

Typically what has happened is that the individual has made their application for benefits. They're examined by a doctor from the department who fills out a medical questionnaire with respect to the symptoms. That evidence, in combination with the medical health records of the individual, is placed before an adjudicator who makes a decision with respect to benefits. That file then is taken by the veteran and his advocate, who determines whether or not further evidence should be gathered. Then they place all that before the board, who then hears the case and makes a decision.

Mr. Doug Eyolfson: Just to clarify—and I'm sorry if I sound like I'm repeating myself—if a physician has seen the veteran and has said that he has this disability, can't do this, and has been turned down, there's not going to be a physician involved in the decision on the appeal.

Mr. Thomas Jarmyn: No, because these are not medical questions. The question is whether or not there's a valid diagnosis. If a doctor has diagnosed a condition, then that diagnosis, as long as it's related to the record, is almost inevitably going to stand.

Mr. Doug Eyolfson: All right.

You mentioned new evidence coming to light as being one of the things that figures very heavily in appeals. We know that there are problems with the orderly transfer of medical records from the Department of National Defence to Veterans Affairs. You often have to review medical records if someone is coming through.

If there were a system of electronic medical records, would that streamline your process?

Mr. Thomas Jarmyn: As I understand it, and based upon what I see on a regular basis, the Department of National Defence has gone to more of an electronic record-keeping system.

The question that we often face are these old records from the 1970s and 1980s, like from my own service, which are entirely paper-based. Those documents are being digitized and transferred over. By the time a file gets to us, I am confident that we have the entirety of the medical records, as a general rule, from the individual's service.

Mr. Doug Eyolfson: If someone has been turned down for benefits before they get to your board, is there a time limit on when they can later go to the Veterans Review and Appeal Board if new evidence comes up way down the line?

Mr. Thomas Jarmyn: There are absolutely no time limits at all on this statute.

Mr. Doug Eyolfson: If someone is unsuccessful, and they've gone through the review board and the appeal board, and they're still unsuccessful at that, are there any avenues after that?

Mr. Thomas Jarmyn: There are two potential avenues. One is to apply to the Federal Court for judicial review. The second one is the board's reconsideration process, which is an unlimited right that allows veterans who have been denied benefits at appeal to ask to have the claim reconsidered based upon new evidence, errors of fact, or errors of law, and those tests have been set out by the Federal Court, and they can have unlimited opportunities.

Mr. Doug Eyolfson: I think that's all I have right now.

Thank you.

The Chair: Mr. Clarke.

[*Translation*]

Mr. Alupa Clarke: Mr. Jarmyn, how are candidates for the member positions selected on your board?

[*English*]

Mr. Thomas Jarmyn: I don't know because the government at this time is revising its application process, but what I can say is with respect to the predecessor process.

We have a criteria of eligibility based upon certain types of experience and background, either in the military or in adjudication. An individual applies to become a member of the board. The application is assessed against those criteria. If they meet the criteria, they're then given an opportunity to write an exam, which assesses,

among other things, the ability to interpret a statute and the ability to write in a concise manner. If they pass that exam, they then go through an interview process, which consists of the chair or deputy chair, a retired Supreme Court justice, usually an HR consultant, and sometimes another board member as well, who then interview those people. If they pass that process, then they go into the pool of candidates eligible for appointment.

• (1155)

[*Translation*]

Mr. Alupa Clarke: Approximately, how many of your members have a military background?

[*English*]

Mr. Thomas Jarmyn: I believe nine of 20 have military backgrounds. No, sorry, seven of 20 do; four have policing backgrounds.

[*Translation*]

Mr. Alupa Clarke: I read in the document prepared by this committee that, since 2011-12, you have been receiving parliamentary budget allocations, which have helped you to operate at arm's length.

Who made the decision to provide you with the budget allocations?

[*English*]

Mr. Thomas Jarmyn: We became an independent agency, and that's when we began reporting, as you noted, our own budgets. Our budget has been relatively stable over that five years. We have to meet, obviously, our collective agreement obligations, but we've been able to, with a stable budget, provide services on a fairly sound basis since that time.

[*Translation*]

Mr. Alupa Clarke: In 2011-12, the government decided to give you budget allocations so that the board could become more independent, correct?

[*English*]

Mr. Thomas Jarmyn: I'm not certain how that process came about. A number of the small agencies became independent agencies at that time. We were independent before then, but we became an independent agency, as the term is understood, at that time.

[*Translation*]

Mr. Alupa Clarke: You are saying that we can consult the decisions that were made. Is it possible to see the names of the veterans?

[*English*]

Mr. Thomas Jarmyn: Yes. That's the Canadian Legal Information Institute. All of our decisions are published there. The Alberta court now doesn't publish its own decisions; it just sends them to CanLII. We've adopted that model.

As well, we do two other things. We publish our Federal Court decisions on our own website, and we designate some decisions as leading or noteworthy. We put those on our website, as well. Those are decisions we find to be of interest because they should guide panels. There's something unique about those cases.

Mr. Alupa Clarke: Can we also find there the decisions that were denied?

Mr. Thomas Jarmyn: Everything is there.

Mr. Alupa Clarke: Is the name of the veteran there?

Mr. Thomas Jarmyn: No, it is not.

Mr. Alupa Clarke: Okay. Good.

Mr. Thomas Jarmyn: We've depersonalized all those decisions that are published. We operate under the open court principle. There is a view, actually, that strictly speaking, we shouldn't be depersonalizing.

My thought is consistent with what the Privacy Commissioner has said, that tribunals can do this. I am also of the view that we are dealing with people—some are RCMP officers dealing with organized crime, and some have come out of other security contexts—that I don't think this information should really be disclosed for people to gather views about our operations.

Mr. Alupa Clarke: I'll just finish with this kind of question-comment.

It says that 10% of the 30,000 decisions made by VAC go to the tribunal, and of those 10%, 50% of the contested decisions were modified by your court. That means that you're judging that 50%, or half of the decisions made by the ministry, are wrong.

Mr. Thomas Jarmyn: No, we're not.

Of the 30,000 decisions that are made, roughly speaking—and that varies from year to year—VAC granted entitlement in about 85% of those decisions. So if for 15% there was a denial, with my foolish math that's 4,500. About 10% of those cases came to us, so 2,500 people made application to us on review as well as 800 on appeal. We granted an entitlement in about half those cases, so in total that was 1,600 decisions.

The Chair: Ms. Mathysen, you have three minutes. Then we'll take a five-minute break, and go to the second round of questioning.

• (1200)

Ms. Irene Mathysen: I wanted to dig down a little bit into what Mr. Eyolfson was talking about. You said that if an appeal is denied, there are two avenues for recourse. The first is board reconsideration, if there's new evidence, and there's no limit in terms of when a vet can do that. The second is the Federal Court.

My concern with regard to the Federal Court has to do with the emotional stress that would cause, and the cost. Have you any insight with regard to veterans who simply cannot pursue the Federal Court route because they can't afford it?

Mr. Thomas Jarmyn: No, I don't. They can pursue reconsideration before the board as well, and some do—87 did last year.

Ms. Irene Mathysen: In looking at the process, the Bureau of Pensions Advocates is assigned to a veteran who goes to the VRAB review and then on to the appeal. Is it the same advocate at each level, at the review level and then again at the appeal level, or would the veteran perhaps have a different advocate at each occurrence?

Mr. Thomas Jarmyn: That's a management issue for BPA. I've seen advocates follow a file and in other cases—and this is probably

the majority—I can say that there's been an advocate on review and then there's an appeal advocate, but that's BPA's call.

Ms. Irene Mathysen: But they can't support the veteran in Federal Court. That's a personal decision by the veteran, and that veteran would be responsible for monetary issues regarding the court appeal.

Mr. Thomas Jarmyn: I think so. I don't have any involvement in that.

The Chair: We'll take a five-minute break, and then we'll come back with the second round of questioning.

• (1200)

_____ (Pause) _____

• (1210)

The Chair: We'll resume the meeting.

Mr. Kitchen, you have up to six minutes.

Mr. Robert Kitchen: Part of what we're dealing with is services and trying to figure out how to best provide those services. I'm going to follow a bit on what Mrs. Romanado had suggested.

You'd mentioned that a file goes out somewhere, they do the review, they courier it back to you, and then it goes back to them, and they assess it. I'm hearing of the weeks it takes, where a courier brings it in, which takes a couple of days, and then there are a couple of days to assess it, and then it gets couriered back out again. As a result, we're looking at accumulating timelines or extra time being added.

You also mentioned how bonuses were being provided based on efficiencies in the provision of service. I'm not seeing the connect here. We're taking so long to do things, and we're doing it by paper and courier. To me, efficiencies would involve computers and modern technology to get it done, so the process is shorter. Can you elaborate on that for me, please?

Mr. Thomas Jarmyn: In terms of what the board does, we're not talking weeks with files in the hands of couriers. It's a matter of a day. I understand 16 weeks is 102 days, and if I can get four or five of those days back, that's 5% of my time. We are trying to do that. We do use computers. We're fairly technologically well founded. All of our resources are computer based. A lot of our monthly training happens through webinars and the like.

There are opportunities to improve our efficiency, but there is also a certain amount of time that's necessary for files to be prepared. It's necessary for members to have an opportunity to review these documents. For example, in the last hearing week I sat, I had a file that was 500 pages long. That was one of 19 cases I heard that week. I had to write that decision, which is what I'm obliged to do, but that decision was still rendered faster than the service standard we're talking about.

I think there are improvements that can be made with respect to the VRAB aspect of things. I'm going to keep on trying to get as many days as I can with respect to that. I don't see many opportunities for compression within that 16 weeks from the time that a matter is noted as ready to schedule, to the time that a decision is out the door with a hearing in between.

Mr. Robert Kitchen: Have you looked into the percentage of cases in which documentation was lost in transit and prolonged the hearing?

Mr. Thomas Jarmyn: We don't lose documents.

Mr. Robert Kitchen: There's never been any downtime because of that?

Mr. Thomas Jarmyn: No.

Mr. Robert Kitchen: Okay, good.

You talked about your decisions that you make, and you analyze those decisions. Have you taken a look at it from all the decisions you've made? If you look at it scientifically and say, "Okay, this is our mean, this is our median, this is the most common type we see, these are repetitive strain injuries", can you give us those percentages?

Mr. Thomas Jarmyn: Not really, because we see such a small subset of conditions that the department receives applications for. That's a scientific or data question that is probably best asked at the department's level, because they see all 30,000 applications and can talk about the larger population.

• (1215)

Mr. Robert Kitchen: Do you think it would be of any benefit to veterans to know that this type of injury really doesn't fall in...and where they could have that information?

Mr. Thomas Jarmyn: Cumulative trauma conditions... I don't think there is any type of injury that by definition wouldn't qualify for benefits. The facts of the case have to be looked at. If an individual was in a car accident unrelated to their service, then the related conditions won't be entitled. If an individual is in a car accident that was part of their service duties, then the related conditions will be covered.

Mr. Robert Kitchen: Let's say we're dealing with a trooper who's sitting and driving a tank all day long, and he's cramped in small quarters, bouncing around in a tank all day with poor suspension and banging his head on this and that while wearing a helmet, etc. When he finally comes out and has a car accident, how do you determine if it's because he's been driving around in the tank that caused his osteoarthritis, or it's the fact of the car accident that caused the osteoarthritis?

Mr. Thomas Jarmyn: The answer to that question may not be all of one or all of the other. Without calling up particular cases, it may well be that a panel would say that the service partially contributed to the osteoarthritis. The practical reality is that we all suffer from osteoarthritis—it's just a function of our being—and the question we have to ask is to what degree service contributed to the onset of that condition.

Mr. Robert Kitchen: Now when you said panel, what did you mean by panel?

Mr. Thomas Jarmyn: I meant the individual panel hearing the case.

Mr. Robert Kitchen: It's the two people who are hearing it?

Mr. Thomas Jarmyn: It would be either that or the appeal panel.

Mr. Robert Kitchen: Now we're going back to my original question. If neither of the two people who are hearing the case has

any medical training or is trained in that way, how are they making that decision?

Mr. Thomas Jarmyn: They make the decision based upon the facts of the case. They're not making a diagnosis with respect to the condition. The diagnosis of osteoarthritis is plainly made. They are required to evaluate the evidence put before them, just as a judge would in the normal course of circumstances in which credible medical evidence is led saying that this condition may or may not be related entirely to service.

They're also guided by the entitlement eligibility guidelines, which set out the requirements for determining whether osteoarthritis might be related to accumulated joint trauma. They factually say that if an individual did the following things for the following number of hours a day over a particular period of time, then there is a relationship to service.

The Chair: Mr. Vandal, you have six minutes. You said you may split the time, but six minutes goes quickly.

Mr. Dan Vandal (Saint Boniface—Saint Vital, Lib.): First of all, my apologies for being late. I was running from a heritage committee meeting that went past the time.

Mr. Jarmyn, first of all, thank you for your commitment to the country. You are the chairperson of the Appeal Board?

Mr. Thomas Jarmyn: I'm the acting chair.

Mr. Dan Vandal: For how long have you been acting chair?

Mr. Thomas Jarmyn: It's since April of last year.

Mr. Dan Vandal: In 2014-15 the Federal Court directed the board to rehear two of the four decisions that had been appealed, and over the years the court has ordered a rehearing of more than 65% of the decisions it has reviewed. That strikes me as being a very high number. Can you offer an explanation or speak to this?

Mr. Thomas Jarmyn: I think there's been, as I say, since the reforms in 2011-12, a fairly dramatic change in the way the board approached things.

A couple of things happened. First of all, with the initial issues with respect to revision, some of that that comes from the fact that new legislation was brought in in 2006. That affected the overall approaches to entitlement. There has been some sort of interpretative back and forth as well.

But for example, in the year just closing, 2015-16, there were 10 cases taken to Federal Court. The board's decision was upheld in eight. Of the two that were returned to the board, one is actually about the pure legal question, which had never been adjudicated by the board before, about the effect of the benefits granted by another organization on the benefits granted by the Department of Veterans Affairs. We reheard the case in accordance with the instructions and carried on from there.

• (1220)

Mr. Dan Vandal: You are saying, then, that it's because of the legislation that has gradually changed over the years. You also said something about a difference in the way the board heard the evidence.

Mr. Thomas Jarmyn: No. In 2011-12 we began to.... The organization is a relatively new one. It was founded in 1995. I think things just carried on. There was a significant impetus to look at how we did business in the 2008, 2009, 2010 period. This committee went through a fairly lengthy study. The veterans ombudsman went through a fairly lengthy study. We built upon all that to improve the way we did our work, including the handling of Federal Court decisions, including the designation of leading and noteworthy decisions, and including our commitment to plain language.

All those things went together, and there has been a really dramatic change, from what I can see and from what the numbers show, in both the number of cases that go to Federal Court and the number of cases that are returned to the board.

Mr. Dan Vandal: Veterans can speak at a review hearing, but not at an appeal hearing. Why is that?

Mr. Thomas Jarmyn: It's because of the way the statute is written. At the review hearing they give oral evidence. That having been said, they can still submit evidence. I often see statements from veterans and some of their colleagues who may have observed the incident in question. So we take statements from veterans; we just don't take testimony.

Mr. Dan Vandal: You take statements but no testimony.

Mr. Thomas Jarmyn: Yes.

Mr. Dan Vandal: Why would that be?

Mr. Thomas Jarmyn: It's what the statute says.

Mr. Dan Vandal: So it's the legislation.

Mr. Thomas Jarmyn: Yes.

Mr. Dan Vandal: If we wanted to change this situation, then, we would change the legislation.

Mr. Thomas Jarmyn: If you wanted to, yes, but I think you'd want to ask the question about the efficacy of doing that, whether or not there is truly a value in doing it.

The questions are pretty refined. There is the opportunity to submit new evidence. Any issues with respect to credibility and those sorts of things I think are probably well addressed at the review level.

Mr. Dan Vandal: I probably don't have a lot of time left.

Can you tell me about the Bureau of Pensions Advocates?

Mr. Thomas Jarmyn: The Bureau of Pensions Advocates are lawyers. There's a body of them in Charlottetown who do most of the appeal work, and then there is Halifax, which serves most of Atlantic Canada. There's a lawyer as well in Saint John, Montreal, Quebec City, Ottawa, Toronto and serving Kingston, also in London, and then throughout western Canada.

Mr. Dan Vandal: Are they part of the board you represent?

Mr. Thomas Jarmyn: No, they're not. They are independent counsel. They're set up as an independent group within the Department of Veterans Affairs. I think it's section 6 of the act that establishes it.

Mr. Dan Vandal: Is the job that you do part-time, full-time, or voluntary?

Mr. Thomas Jarmyn: All members are full-time GIC appointees.

Mr. Dan Vandal: I'm starting right at the beginning here. This has been my first meeting. Thank you.

Mr. Thomas Jarmyn: Thank you.

The Chair: Mr. Fraser, you have one minute—or I'll take it, if you....

Mr. Colin Fraser: I have a couple of quick questions.

First of all, you mentioned that the board is not adversarial. I assume that the burden of proof, then, when the person appears before the board, the applicant or the appellant, is on a civil standard for them to prove their case.

Mr. Thomas Jarmyn: No, the Federal Court of Appeal has said that they must prove, on a balance of probabilities, the individual facts of the claim, but in a decision called *Cole*, which is about two years old, said that the question is whether or not it is "reasonable to conclude" that the condition was related to service and that service was a significant cause, which, as the Federal Court writes, is more than 1% and less than 49%.

Mr. Colin Fraser: Okay, so it's below the civil standard.

Mr. Thomas Jarmyn: Yes.

Mr. Colin Fraser: With regard to the evidence, rules of evidence are to accept any uncontradicted evidence. Can you help me understand, if it's not adversarial, how there can be contradicted evidence?

• (1225)

Mr. Thomas Jarmyn: There are two things. We accept just about anything in evidence, from statements to newspaper articles to recordings—the whole nine yards. With respect to uncontradicted evidence, what we're talking about is contradiction between documents, which are the most common evidence, and some document within the file.

If a document comes to a conclusion about a car accident, and there's another document that says something else about it, that's a contradiction that we're going to have to resolve. If there's only one view with respect to those facts, then we accept it.

The Chair: Ms. Mathysen.

Ms. Irene Mathysen: I want to come back to some of the information that we've already heard.

Some time ago I did an Order Paper question and asked about the VRAB appeals in years 2014-15 and 2015-16.

In terms of percentages, in 2014-15 about 50% of the reviews were successful. That compares with 44.6% in 2015-16. In terms of appeals, in 2014-15 some 57% of the appeals were successful; then subsequently, only 34.7% of the appeals were successful. It's a significant drop, particularly in regard to the appeals.

I wonder whether you can comment on why the appeals are less successful now as compared with a year or two years ago.

Mr. Thomas Jarmyn: I think the reason is that they're succeeding on the review. What ends up happening is that individuals are successful at the review. The cases are fundamentally the same, and as entitlement is being granted earlier and earlier at each stage, we're finding that success rates at other stages seem to be dropping.

In 2014-15, I believe it was 44% and change at review. In 2015-16, it's 52% at review. What we saw, I think as the knock-on consequence of that, is that the success rate at appeal declined, I'm guessing, with respect to that.

I don't ask questions about favourability rates. I don't ask questions about panel's favourability rates, or individual members' favourability rates. I'm very leery about saying whether or not the board is successful, whether we grant or deny. It really is about the quality of the decisions from a board perspective.

Ms. Irene Mathysen: It seems, though, in regard to this shift in terms of success, that there's something going on at Veterans Affairs. Is there communication between VRAB and Veterans Affairs to say perhaps there needs to be a shift in terms of considerations or there is a problem if indeed we're finding these initial cases weren't getting the kind of consideration they should have? Do you comment back and forth? Do you exchange information on best practices?

Mr. Thomas Jarmyn: Yes, we do. We report individual decisions back.

We, actually, in a global sense as well, when we explain.... When my panellists fill out whether this is based on new medical evidence, and it could have been granted at an earlier stage, that information is also passed back to the Department of Veterans Affairs.

A large part of the fluctuation I think is being driven by the fact that the department's first application grant rates have been going up dramatically. They're at 85% now. I don't know that they'll go up much further, but that is where they seem to be now.

Ms. Irene Mathysen: I wanted to come back to the Bureau of Pensions Advocates. You said that they're independent counsel, but are they lawyers within Veterans Affairs Canada or are they contracted by Veterans Affairs Canada?

Mr. Thomas Jarmyn: They're all employees of the Government of Canada. I'll get the particular section and report back to the committee, but there is a particular section in the Department of Veterans Affairs Act that creates the office of the Bureau of Pensions Advocates as an independent entity that is fully protected in terms of solicitor-client privilege. They're independent actors, and the deputy has no right of interference in the operations of their business. They are similar to special advocates who are used in the immigration context, but they are employees of the Government of Canada.

Ms. Irene Mathysen: Are you satisfied that they are indeed absolutely independent? Are there any concerns about the fact that they're government employees and the objectivity of their approach to various cases?

• (1230)

Mr. Thomas Jarmyn: I have no concerns about that at all. I've only seen them as zealous advocates in pursuit of their clients' interests.

Ms. Irene Mathysen: I want to go back to a previous question and, again, to where 65% of the decisions of the Veterans Review and Appeal Board modify initial rulings made by VAC.

I wonder how this figure compares with similar organizations, say in Great Britain, the United States, or allied countries. Have you ever actually looked at comparators in regard to our allies?

Mr. Thomas Jarmyn: We have not done that. This committee may be better placed to do that. I don't have the resources to do those kinds of things.

Ms. Irene Mathysen: Would it be a useful thing to do?

Mr. Thomas Jarmyn: It may well be for the committee. I've got to balance resources, and I don't have the resources to carry out those kinds of studies.

The Chair: Ms. Romanado.

Mrs. Sherry Romanado: Please forgive my directness. I'm looking at the main estimates for 2016-17. VRAB has estimated budgetary expenditures of \$10.92 million.

Had 50% of your cases been approved from the get-go at VAC, is it fair to say that this \$10.92 million—close to \$11 million—operating budget would not be necessary? That's my first question.

Mr. Thomas Jarmyn: I don't think so. You're always going to need an appeal body that is going to require a core of expertise. It's going to require the capacity to hold hearings across the country.

If you were to eliminate VRAB, all these people would be going to Federal Court with all of the problems and time limitations that are associated with that.

Mrs. Sherry Romanado: Actually, if they had been approved from the get-go, as they should have been, they wouldn't actually have required to, but let me continue.

Can you give me a sense of the amount of money that is saved by the department by delaying benefits for eight to 12 months? It's not retroactive, right?

Mr. Thomas Jarmyn: They're being paid a lump sum, so when they're paid the lump sum they get the lump sum regardless. The timing of a payment of lump sum has no impact on savings.

Mrs. Sherry Romanado: I'm not referring to lump sum payments. What I'm talking about is that veterans present themselves, and it takes around eight months to get a decision. If a decision is not favourable, then it takes another 16 weeks to go through the VRAB process. During that time they have not received benefits. If it is overturned and it's effective that date, we've saved eight to 12 months of paying this person. How much on an annual basis is the government saving by delaying benefits?

Mr. Thomas Jarmyn: The only benefits I'm aware of that VRAB is involved with are lump sum payments. There are Pension Act claims, but the vast majority of those...8% of those claims are RCMP claims under the Pension Act, in which retroactive payments are possibly made. We have the jurisdiction of giving retroactive payments back to the date of application, or three years prior to the date of decision, and have the opportunity to give even further retroactivity when we find that is merited.

So retroactivity is covered in Pension Act cases, and the only benefits VRAB is involved in are lump sum awards.

Mrs. Sherry Romanado: In terms of performance bonuses, you mentioned that they're based on meeting targets and using technology. Are there any stretch bonuses for improving targets—i.e., turnaround times?

Mr. Thomas Jarmyn: Implicit in those for performance, we set targets with respect to turnaround times. Some of the executives are subject to those, or have those provisions—

Mrs. Sherry Romanado: But are there any stretch targets with regard to, say, being able to turn around your casework or whatever in 10 weeks versus 16 weeks? This is my question.

Mr. Thomas Jarmyn: I'm not aware of any of those terms embedded in the performance agreements. Before I would agree to such a term in a performance agreement, I would have to see whether or not there was a viable path to actually doing that. If they're not meeting the performance pay, they actually then don't get—

Mrs. Sherry Romanado: From what I'm hearing, there is absolutely no incentive anywhere to improve turnaround times. That's my point. I'll ask you the flip side: is the behaviour rewarded for taking the maximum amount of time?

Mr. Thomas Jarmyn: No, it is not. Our turnaround times have improved on a year-over-year basis. The integrity of the organization is driven by that commitment. I ask every day if we are doing better today than we did yesterday, and how we can do better tomorrow.

Mrs. Sherry Romanado: Has your department ever undergone an audit by an external panel to have a workflow analysis done to see where times and/or efficiencies can be improved? We talked a little bit about using courier service rather than electronic transmission and so on. I'm just curious to know if that has ever been undertaken.

Mr. Thomas Jarmyn: We are doing those processes now with respect to improving our business flow. We report on both business flow and business processes through our risk management program, our business services program, and our human resources program.

I don't retain independent consultants for this. I can't afford to do those things.

• (1235)

Mrs. Sherry Romanado: Right now it's being done internally.

Mr. Thomas Jarmyn: Yes.

Mrs. Sherry Romanado: So there's no interest in having an external body look at that.

Mr. Thomas Jarmyn: If we had the money we could do such a thing, but we don't have the money.

Frankly, I'm not really certain there would be value given for that funding.

Mrs. Sherry Romanado: I'm sure the veterans who are waiting 8 to 12 months may disagree with you, with all due respect.

I'm sorry, I'm starting to see a pattern here that makes me a little anxious.

We talked a little bit about these 20 people on the board. Who appoints these people?

Mr. Thomas Jarmyn: Members of the board are appointed by the Governor in Council through the process I described earlier on—through application, examination, and assessment.

Mrs. Sherry Romanado: Is it a two-year term or a five-year term? What is it?

Mr. Thomas Jarmyn: The terms are varied. Some individuals are presently on one-year terms, some are on three, some are on five.

Mrs. Sherry Romanado: With regard to the selection criteria, is there a job description that's provided?

Mr. Thomas Jarmyn: There was a job description that was previously provided. The entire process is presently under review by the Governor in Council. When that process review is completed, it will be published, I assume, as the old process was, on the appointments website.

Mrs. Sherry Romanado: Thank you.

The Chair: I have about 20 seconds left for a question.

You said your board consisted of 20 people, with 13 of those members RCMP and veterans. How many female members do you have on that board of 20? Do you make it 33.5%?

Mr. Thomas Jarmyn: I believe we're at five right now. We have five vacancies as well.

The Chair: Five vacancies?

Mr. Thomas Jarmyn: Yes. Our normal complement is 25 members. We have 20 right now.

The Chair: Ms. Lockhart.

Mrs. Alaina Lockhart: I want to go back to the actual process. In my constituency, I've talked to veterans who have gone through this process. It all sounds very good on paper, but it is frustrating. We're really trying to get at how we can improve things for our veterans.

Forgive me if you answered this question already. The initial step is the review hearing, correct?

Mr. Thomas Jarmyn: The first step involving VRAB is the review hearing.

Mrs. Alaina Lockhart: Right, sorry. I'm trying to stay in your lane. It's a review hearing. How many of those go to appeal?

Mr. Thomas Jarmyn: Approximately 800 people took their VRAB decision to appeal last year.

Mrs. Alaina Lockhart: Out of how many?

Mr. Thomas Jarmyn: There were 2,500 review decisions. Approximately half of those were successful, so that's 1,250. That means 800 out of 1,250 went to appeal.

Mrs. Alaina Lockhart: Out of 2,500 applications or presentations, 1,250 of those were successful, and of the remaining 1,250, there were 800 that went on to appeal.

Mr. Thomas Jarmyn: Yes.

Mrs. Alaina Lockhart: Out of the 800, how many were successful?

Mr. Thomas Jarmyn: Approximately 39%, so that would be roughly 320 of that 800 succeeded at appeal.

Mrs. Alaina Lockhart: My concern is the people who don't follow through because, quite frankly, the success rate as you go through each of these steps is quite high. It is encouraging to know that at the VAC level you've seen up the 85% of the claims being accepted. I was encouraged to hear you say that eight out of 10 were upheld at a federal level, as well. I believe the statistic for the year prior was 65%. There were only a few. There weren't a large number.

Mr. Thomas Jarmyn: At the Federal Court, the 65% is driven, I believe, by the entire history of the board's Federal Court history from 1995 to present.

Mrs. Alaina Lockhart: Okay. We've seen a dramatic increase in the last few years.

The big concern for me is the number of people who don't persevere through this, because it is just too painful and onerous a process. We started talking about this at the beginning in providing feedback to VAC, so we can keep more people out of the system the whole way through. If there was one poignant message or feedback that you have, what would that be?

• (1240)

Mr. Thomas Jarmyn: I think we do, and we keep on talking to VAC and the Bureau of Pension Advocates. One of the reasons I'm also part of the DND-VAC steering committee is to talk about how these processes can be improved, based on the things I see in the service health records, and things like that. We do report back to the department on why we're overturning their decisions, so they can learn from that and begin to draw lessons. I think some of the improvement on the early grant rates is driven by some of that feedback.

Mrs. Alaina Lockhart: Very good.

I'm willing to share my time if there's someone else.

The Chair: Ms. Romanado.

Mrs. Sherry Romanado: We talked a bit about the exit survey. My colleague may have already asked this, so my apologies if they did. When we do the exit survey, can you tell me the percentage of those who are responding—you may not know this—and who were successful versus unsuccessful?

Mr. Thomas Jarmyn: We don't ask that question because it's an anonymous survey. Approximately 1,200 of the 2,500 individuals who participated in the review hearings completed the survey. We don't pair up the responses with their successes or failures, because the survey is anonymous.

Mrs. Sherry Romanado: You're not sure if those who are responding are responding because they're more likely to have received a positive response or a negative response.

Mr. Thomas Jarmyn: They respond immediately coming out of the hearing. They have not received their decision when they respond.

Mrs. Sherry Romanado: They have not received their decision, okay. What is the response rate?

Mr. Thomas Jarmyn: There were 1,200 out of 2,500 who completed the survey.

Mrs. Sherry Romanado: That's approximately half.

Right now, what kind of technology are you using? I know you had mentioned you have 22 locations. Is there a possibility of expanding that? We heard about Montreal and other main centres. In Saskatchewan, or other locations, is there a possibility of doing these reviews using technology so veterans do not have to travel?

Mr. Thomas Jarmyn: We offer video conferencing for all veterans at all hearings. I've committed that on critical injury benefit cases, if a veteran opts for a video conference, we'll have a decision within three weeks. That is just because a video conference is easier to schedule than an in-person hearing. No one has taken us up on that, though.

Mrs. Sherry Romanado: I was going to ask you how often people use this service.

Mr. Thomas Jarmyn: I'll report back on the actual number. My impression of recollection is that about 37 people did it by video conferencing last year, even though the service has been widely available.

Mrs. Sherry Romanado: Okay.

The Chair: Mr. Clarke.

Mr. Alupa Clarke: Mr. Jarmyn, you said there are five vacant positions. Does that contribute to delays or...?

Mr. Thomas Jarmyn: No, there has not been an impact on our hearing schedule from the vacancies. Filling those five positions would give me some flexibility, because my members are all my age and above, which means that the realities of life are hitting them, such as they or their parents becoming ill, and their taking extended sick leave. I have greater flexibility in dealing with those challenges, if I have a full complement.

Mr. Alupa Clarke: I have read since 1931 there's been a body in Canada that reviews contestations coming from veterans. Your tribunal was created in 1995, and there's been a great improvement because before, with the Canadian Pension Commission, there was a wait of 542 days. Now it's 112 days. But perhaps we can compare your tribunal with, for example, the CSST that we have in Quebec, for injuries at work. How many days would someone wait in those kinds of commissions?

Mr. Thomas Jarmyn: I don't know about that in Quebec. I was a workers' adviser in Nova Scotia and I've done a lot of workers' compensation work. I think I can say with a fair bit of confidence that both the department and definitely VRAB, as compared to the workers' compensation appeals tribunal, is faster at scheduling cases and rendering decisions.

Mr. Alupa Clarke: That's interesting. How many tribunals do you have across the country?

Mr. Thomas Jarmyn: We have 23 hearing locations. We travel to those locations at least once each year. To locations like North Bay, for example, I think we only go once a year, simply because there's not that a significant volume of applicants there. Our six high volume locations are the ones I mentioned, which are Halifax, Charlottetown, Montreal, Quebec, Ottawa, Edmonton, and to a lesser degree, Toronto.

• (1245)

Mr. Alupa Clarke: Are the veterans who decide to go to your tribunals compensated in any way financially? Do they have help?

Mr. Thomas Jarmyn: Veterans' expenses are covered. For example, when we're sitting in St. John's, I've had a number of veterans come in from Labrador City. Their flights are paid for. Their hotels and meals, etc., are all paid for as well.

Mr. Alupa Clarke: People from the legion in Quebec City told me that sometimes some veterans will get aggressive. Does it happen often that security must remove veterans because they are violent, physically or verbally?

Mr. Thomas Jarmyn: We've never had that occur. We've engaged security for a couple of veterans in anticipation of a situation arising. I hear a lot of cases. Veterans sometimes get excited, sometimes get emotional. It's never been a circumstance that's unmanageable.

Mr. Alupa Clarke: How do you see the future of your tribunal? Will it expand or reduce, because we just went through the Afghan war, the longest war in Canadian history. It was quite different from the Second World War, but in terms of duration it was quite long. How do you see the future of your organization?

Mr. Thomas Jarmyn: We could probably logically anticipate that the overall caseload will decline. What I will say, though, is that the ability to create or generate documents—which largely seemed to happen since the 1990s—has caused the volume of paper in an individual file to explode. We now look at statements of cases that are 150 and 200 pages long simply because people are able to click, click, click and produce all kinds of files and documents. That's not true of records from cases that are from 20 years ago. Those were 50-page statements of case.

I think the raw number of cases may go down, but the volume of information that is being presented and the length of the hearings is probably going to go up. As well, we are getting a better understanding of some of the psychiatric cases, some of the more complex cases.

Mr. Robert Kitchen: Part of what we've talked about a lot of times in our committee meetings is the issue of who is supervising the supervisors, which was touched on a little earlier. Again, Ms. Mathysen brought the question up, and we've asked it in many different committees. The answer I think I heard from you was that you're not really doing that. Am I wrong in thinking that?

Mr. Thomas Jarmyn: Do you mean who's supervising us?

Mr. Robert Kitchen: Is there a quality control on your assessments? Who's determining whether the people who are doing your assessment or your tribunals, and so on, are doing what they should be doing?

Mr. Thomas Jarmyn: We have a performance assessment process for members as well. That factors into my recommendations with respect to reappointment, and the choices we make with respect to training.

I probably sit on about 300 cases a year. Of the probably 3,300 decisions, I've read more than 1,000. I provide feedback to members. We have a quality management unit that reviews decisions as well, to make sure these decisions are well written and to explain to veterans what decision has been made and why.

I don't ever want a veteran to leave and not have received benefits and not understood why that happened. As well, I don't want other

veterans.... If they see an individual with a knee claim who got entitlement, they need to be able to read that decision and understand why, so they can try to fill that out. That's why I'm so committed to publication.

The Chair: We are going to have to limit it to three minutes for the next three panellists here.

Mr. Fraser.

Mr. Colin Fraser: I have two quick questions, and then one that may require a little bit of expansion.

First, is VRAB subject to the Auditor General's scrutiny? Has that ever occurred?

• (1250)

Mr. Thomas Jarmyn: Yes, we are. We were factored into the last report on service delivery that was made. Now, we were positioned, I think, in the overall cycle and so we had a small portion of that.

Mr. Colin Fraser: Okay. Have costs ever been awarded against VRAB appearing in the Federal Court of Canada? Does VRAB actually appear and argue their own cases? Is that done by—

Mr. Thomas Jarmyn: No, we are not a respondent in those cases as a general rule. We appeared in a case where VRAB was actually named as a party, in January, and I directed our counsel to appear. That claim was dismissed.

Mr. Colin Fraser: Are you aware of whether costs have ever been awarded on those cases that are unsuccessfully argued by the respondent?

Mr. Thomas Jarmyn: I'm not aware of that. I'm not privy to those determinations.

Mr. Colin Fraser: Just to tie things up, I'm wondering if you can help us understand what direction VRAB is going in, and what the top three priorities would be for VRAB, in your view.

Mr. Thomas Jarmyn: I want to improve the efficiency of the handling of files and the handling of paper, so I can keep on crunching turnaround times.

There comes a time, when you get up into the 90% on a turnaround time for a decision, that's when you begin to think about whether you can drive that turnaround time even further. I think there's some possibility of doing that.

I want to keep focused on quality control with respect to the nature and quality of our decisions. Some of it is that these things have to be well written, too, and they have to be very clear in how they explain things.

Last, the other part is the communication and explanation of what we do and why, so that veterans understand why decisions have been made, so veterans can take that information, bring it forward at the first stage when they make their applications, and hopefully have filled out those checklists better.

Our decisions are the first time that a veteran can look at another application similar to theirs and say, okay, this is what I have to do, independently.

Mr. Colin Fraser: All right. Thank you.

The Chair: Mr. Kitchen.

Mr. Robert Kitchen: You mentioned training. I'm wondering if maybe you could expand upon that a little better for us.

When you say you're training all of your board members, is it a conference style? Is it a textbook? Is it a video conference? How often would you do that?

Mr. Thomas Jarmyn: The training takes three forms: the initial intake is done through a combination of instruction, textbook, and then work performance exercises.

The second form of training is in more of a conference format, where we bring people in who are experts in particular fields to speak to us. For example, at the conference we just completed last March, we had a number of military doctors in the field of harassment and psychiatric injury who came in and talked about the way the military is handling those things, and some of the understandings with respect to that.

The third form of training is monthly teleconferences or webinars, on which we do some video conference materials, as well.

Then, last, there is the individual feedback that I give on a regular basis to all members.

Mr. Robert Kitchen: Would it be fair to say there would be some medical legal training in that as well?

Mr. Thomas Jarmyn: Yes, at all three stages. On initial intake, the training period is about eight weeks long. There are both medical and legal there. At our conferences, there are medical and legal training. Then, on the individual occasions, depending upon the subject, it will be medical or legal. Rarely on our monthly teleconferences will I try to insert two types of those topics. Usually I'll just do one or the other.

Mr. Robert Kitchen: I'll get Mr. Clarke to ask the last question.

Mr. Alupa Clarke: Mr. Jarmyn, in response to what Mr. Vandal was asking, you said that it's the statute. I don't want to put you in an uncomfortable position, but could you share with us what you think should be changed in the statute that directs your body?

Mr. Thomas Jarmyn: I guess there are a couple of things with respect to the VRAB Act that I think could be improved. We need to build upon technology.

Right now, video conferencing is an elective process. I don't know whether or not we could be more efficient if we did all these hearings by video conference. I think that before something like that happens we need to have a discussion with the stakeholders community. I've heard definitely mixed messages about video conferencing from the stakeholders community. By the same token, though, I've used it in other contexts an awful lot. I've found it to be a useful tool.

We are in the process of... There have been mixed views with respect to the electronic signature and transmission of documents—

•(1255)

The Chair: You'll have to wrap this up.

Mr. Thomas Jarmyn: Yes. I'm now taking the view that we have the authority to do it. I may turn out to be wrong, and we may have to come back and amend the statute to do it.

The Chair: We'll end with Ms. Mathysen.

Ms. Irene Mathysen: You said that the legislation from 2006 affected veterans' entitlement. Now, VRAB has to follow the legislation, as you're very much a creature of what governments decide in terms of policy. We know there were effects in 2006. The ombudsman wrote a report in 2012 in regard to that and updated that report in 2015. You've touched on the fact that the ombudsman commented on the fact that veterans should be allowed compensation retroactively and that it is a legislative change.

We have to make recommendations now in regard to the report we file. Mr. Clarke touched on this a bit. You see the legislation, and you see the impact. For example, the 2006 legislation had a profound impacts on veterans. What we should we be focusing on? What recommendation should we be making to government in terms of legislative changes that will move the process along in a very positive way, as certainly we all hope?

Mr. Thomas Jarmyn: I can only speak to the things that are within the lane of the way the board does its operations. I think there are potential efficiencies to be gained with respect to video conferencing that I definitely think could be processed. There are things that would facilitate a greater discretion of the board to facilitate the handling of documents, electronic signatures, and the like.

Right now, one the last challenges we face is that the view always was that the document had to be physically signed by the member, pen to paper, before it became an official document. We're in the process right now of putting that out for consultation. We'll see whether or not I'm upheld in how we're going to use e-signatures. There is a view that says I may be exceeding the authority in the statute to do that, but that's two days I lose in physically sending a file to a member from Charlottetown to wherever that person is sitting and them physically sending the file back. It's due in 42 days.

The Chair: I'll end with one clarifying question.

I see that you're acting chair. Is there a chair or is there going to be a chair?

Mr. Thomas Jarmyn: I am acting chair because the previous chair's term ended. I've been filling the duties since April of last year and will continue to fill them until the government completes an appointment process with respect to the chair's position.

The Chair: How long have you been on the board?

Mr. Thomas Jarmyn: I was first appointed in 2009. I left after a year to do some other things and then was appointed as deputy on July 1, 2014.

The Chair: How did you get appointed deputy chair? That's by government?

Mr. Thomas Jarmyn: Through a competitive process.

The Chair: Okay, thank you.

Mr. Thomas Jarmyn: Can I just add one thing?

The Chair: Yes. I can give you a minute to wrap up.

Mr. Thomas Jarmyn: I'd really appreciate it if you would all attend our hearings. If you contact my office, we'll make an arrangement for you individually. Our boardrooms are very small, so it has to be one at a time. We do give the veterans notice that guests will be attending. Although they are public hearings, I don't want to put a political figure in an embarrassing situation.

The Chair: On behalf of our committee, thank you for that invitation and for answering a lot of good questions today and being under fire for two hours. That's quite an accomplishment.

Mr. Thomas Jarmyn: Thank you very much.

The Chair: We have a motion to adjourn from Mr. Fraser.

All in favour?

(Motion agreed to)

The Chair: The meeting is adjourned.

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