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Chair

Mr. Greg Kerr

Standing Committee on Veterans Affairs

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• (1530)

[*English*]

The Chair (Mr. Greg Kerr (West Nova, CPC)): Good afternoon, everybody. We'll bring the committee to order.

I want to say first to the committee members that we'll be doing some business at the end of the Wednesday meeting, so please make note of that.

Mr. Peter Stoffer (Sackville—Eastern Shore, NDP): Is that Wednesday?

The Chair: Yes.

I want to thank all of our witnesses today. We have two busy sessions.

We're continuing the review of the Veterans Review and Appeal Board. We're starting today with witnesses Anthony Saez, executive director and chief pensions advocate, Bureau of Pensions Advocates; and Charles Keliher, director, appeals and legal issues, Bureau of Pensions Advocates.

Gentlemen, I think you understand that we open with about a 10-minute presentation. If you want to introduce any other folks you have with you, that's fine, and then we'll go to the committee for questions.

Thank you for coming. If you're ready to start, we'll begin.

[*Translation*]

Mr. Anthony Saez (Executive Director and Chief Pensions Advocate, Bureau of Pension Advocates, Department of Veterans Affairs): Thank you, Mr. Chair.

Thank you for inviting us today.

[*English*]

As you said, my name is Anthony Saez. I am the executive director and chief pensions advocate from the Bureau of Pensions Advocates. With me is Charles Keliher. He is our appeals and legal issues director. In fact, he's our chief lawyer.

I believe we distributed a deck earlier, and I'll use it as a general guide, but we'll leave it with you.

The Bureau of Pensions Advocates is a unique organization. It provides legal advice and support to veterans, to members of the Royal Canadian Mounted Police, to merchant mariners, and to eligible family members who wish to appeal or consider appealing a departmental decision around disability or pension.

The bureau has 32 lawyers in 14 offices from coast to coast, so we have offices in most provinces of the country. Most of our offices are based close to large bases and in areas where there is a large number of retired veterans. That's our geographic location.

In terms of what we actually do, a veteran will come to see us, having received a decision from the department.

By the way, you should know that the Bureau of Pensions Advocates represents about 95% to 98% of the people who appear before the Veterans Review and Appeal Board. The reason they come to see us is that, when the department turns them down or makes a decision they don't agree with, the letter they receive from the department says that should they wish to consider appealing the decision, they have available to them the services of lawyers at the Bureau of Pensions Advocates. Usually their first stop is at the bureau.

They will come to the bureau and tell one of our lawyers that they are not pleased with the decision they received from the department. At that point we review the whole file to see what the decision that was made is all about. Then we sit down with the veteran or RCMP member and go over that decision.

We usually offer advice at that point. We might say that we think they have a very good case and that they have a good chance of having the decision overturned at the Veterans Review and Appeal Board, or we might say that based on what we see, there's not much left for them to do. Another thing we do a lot of is say that we noticed that the reason they were turned down is that they were missing a particular piece of evidence, or there was something more that they didn't offer, which we think we can help them with. Instead of going to the Veterans Review and Appeal Board, we would offer to help them get that piece of evidence and send it back to the department. In most cases, that is enough; they don't have to go through the VRAB process when that happens.

On the fifth page of the deck, you'll see our chart of total claims by year. On average, we handle about 12,000 cases a year. The biggest percentage of this work is dedicated to the number of claims that are completed, which is about 7,000 to 7,500.

We also have about 5,000 claims that are what we call counselled out. Counselling out occurs when the veteran comes to us to take a look at the department's decision and when we review it we say that based on our experience, we don't think there is much the veteran can do.

In the end, thanks to the legislation, it's completely up to the veteran to decide whether he or she proceeds to the Veterans Review and Appeal Board or accepts that he or she probably doesn't have much of a shot and decides not to proceed.

In total we handle 12,000 to 13,000 cases a year.

What the bureau has to offer to veterans, above and beyond the service it provides, is a higher analysis of the particular case.

● (1535)

When the department itself makes a decision about a foreign application, sometimes it will deny that application because it's based entirely on the application that is provided by the veteran. Quite often a particular case may involve a much more sophisticated type of analysis that can't be done at that first level, so if the department turns it down, and they come to us, the bureau then has the expertise to take a really close look at that file and examine not just the evidence, but the law as well.

That's an important thing to remember. The bureau is a much deeper level of analysis that is provided to the veteran. We also help the veteran coordinate the gathering of evidence, which they may not have done in the first instance.

In the final analysis, what the bureau offers is probably 32 lawyers who probably know the Pension Act better than most people in the department or in the government because that's entirely what they focus on. They've got a very high level of expertise with regard to that piece of legislation.

I believe that was all I was going to provide as opening remarks, unless my colleague has any comments to offer.

The Chair: Thank you, Mr. Saez. I'd like to turn to our other witness.

It's Mr. James Ogilvy, executive director of the Council of Canadian Administrative Tribunals.

Welcome, Mr. Ogilvy. We'd like to have your presentation now.

Dr. James Ogilvy (Executive Director, Council of Canadian Administrative Tribunals): Thank you, Mr. Chair.

I believe I was called here on somewhat different grounds from what most other witnesses would present because I don't come with particular knowledge of VRAB. I would like to make some general remarks about tribunals, what we can expect of them, and then perhaps the questions could enlarge on some particular applications.

I provided a short paper. I'll skip the first page because that is just my background and the background of CCAT, which is the organization I represent. I'd like to go to the rest of the short paper though and highlight a couple of things, four items in particular. Before I do that I would like to apologize for the first page of the principles, which is the first page of the appendix on page 5. Somehow 6 got divided into 6 and 7. When I refer to 7 it should be the one that is numbered 8, I believe, in your package.

The first area I would address is the area of expertise. Tribunals have a different role in the delivery of justice from what the courts have. The expectation is that tribunal members will bring with them expertise in the areas that the tribunal deals with. Secondary to that is

their expertise in the law. Although of course the framework within which they work is a legal framework and the framework is a legislated framework, nevertheless the principal skill they must have is in the areas that are of some importance to the subjects they're dealing with.

Many tribunal members are not lawyers. I believe that's the case with this tribunal as with many others. The indication of that is the way reviewing courts regard tribunals. Normally it's considered that there will be two standards of review. One is for the findings of fact, and that's in the areas of information that the evidence applies to, and the other is matters of law.

In findings of fact, the courts normally simply defer to the tribunals and say they're the experts in that area so the courts are not going to step into their shoes and interfere with their decisions in that area. Where the reviewing court will take issue usually is with the way in which a hearing is conducted, what they see as the fairness, and the way in which the tribunal has handled the law. The standard of review for legal issues is correctness.

Tribunals have a special role in that way and they are formed to fulfill that role. Once the tribunal is in place, one of the principal issues, which is the second one I'd like to refer to, is fairness and ethical conduct. Fairness could be tied in with objectivity. Ethical conduct is the manner in which witnesses and counsel are treated by the tribunal, the way in which colleagues are treated within the tribunal. It should be remembered that in any tribunal the rule of natural justice applies and should be paramount. Simply stated, the rule of natural justice is just the right to be heard by an impartial decision-maker. There are two elements. One of them is the right to be heard, and the other is when one is heard it is by an impartial decision-maker.

Ethical issues are more pervasive in tribunals than one might expect. It's not just an add-on or a plug-in; it's something that has to apply all the way through. The relations between an appellant and a tribunal need to be treated with respect.

● (1540)

Respect is mutual, of course, or reciprocal, as it should be. Leading up to the hearing, it's helpful to have a tribunal that provides information on the way its procedures work. During a hearing, the process must be seen as fair and balanced.

There is a problem sometimes in tribunals with descent into the arena. It's inappropriate for members of a tribunal to take sides and start arguing with witnesses or counsel. The distance should be maintained, and that's something that we would say would be applied to any tribunal. I'm speaking generally about the principles of conduct of a tribunal.

The third area is transparency. Transparency is ensured by a variety of things. At the tail end of the process, transparency often can be best served by the publication of the results of all hearings. In a situation where the tribunal deals with individuals, as this one does, of course the results have to be depersonalized. Nevertheless, for the sake of researchers, for the sake of people following along who will have similar cases in the future, it is certainly worth having decisions published on the website or in some manner. These days, typically, it is on the website.

In connection with that, I'd like to make some remarks about the relationship between the tribunal and its constituency. The constituency of a tribunal is not determined one by one. It's not that the tribunal has a relation with an individual who comes before it. The tribunal has a relation, indeed, with that individual in deciding a matter that affects that individual, but it has a relation with the broader community of which that person or that organization is representative, or perhaps even just a member.

This is tied to the idea of transparency. When an individual goes before a tribunal and the decision handed down goes only to that person, it doesn't serve the community's needs. It serves only the relationship with that one person. In order to provide the best outcome of the relation, transparency is important to maintain. It's also tied to the idea of consulting. When we're doing our training, we make sure to emphasize that decisions have to be made on the basis of the evidence presented.

For example, when it's a labour relations issue, it's inappropriate for a tribunal or panel member to step outside the room and call cousin George who happens to know about certain things in the snowplowing industry. Cousin George should stay out of the picture. This goes for experts as well, medical experts, legal experts, and so on. All of that consultation should be above board, and if there is information drawn from sources other than the witnesses or the appellants, then the other sources should be brought into the process transparently.

● (1545)

Finally, I will refer to independence. This is my fourth item. Tribunal members are appointed federally, provincially, even municipally on a wide variety of bases. One of the things that varies greatly is the length of terms. When terms are short, tribunal members tend to look over their shoulders at what's going to provide the best chance of reappointment. That's a crude way of putting it, but there is some truth to that.

Security of tenure is an important element in the bolstering of the idea of independence of tribunals and tribunal members. Tribunal members and the tribunals themselves should make a point of exercising independence in the way they operate as well and not worry about who might think what about their decisions. As long as the decisions are properly made and based on the evidence, there should be a good chance that they will stand.

To go back to the matter of decisions for a moment, I indicated that decisions must be made on the basis of evidence presented. That evidence, of course, can be public knowledge of a variety of things. It's not just the testimony that's presented in the hearing room. The reviewing courts, up to the Supreme Court, have made it very clear that decisions must be explained. A decision is not good enough without cogent reasons. Reasons are a real hobby horse of reviewing courts, quite frankly, and they will very frequently go against a decision that is not supported by adequate reasons.

Weaving this back through the discussion, when I was talking about the constituency, I was talking about the constituency being not just the individual who appears before the tribunal, but also the broader constituency. The constituency is best served not only when the decisions are made public or made accessible in some manner,

but also when the reasons are given, are adequate, and are undeniably leading to a particular conclusion.

Those are a few points. Since I have no particular knowledge of VRAB, I made some what I confess are shallow comments based on my reading of the website, but I think that's all I need to say for introductory remarks. Thank you very much for the opportunity.

● (1550)

The Chair: Thank you very much, Mr. Ogilvy.

We'll now go to the members of the committee for questions.

We'll start with Mr. Stoffer, for five minutes, please.

Mr. Peter Stoffer: Thank you, Mr. Chairman.

Thanks very much to all of you for coming, gentlemen.

Charles, I'll start with you. You indicate that on average the total is around 12,673 claims completed and claims counselled out. Is that correct?

Mr. Charles Keliher (Director, Appeals and Legal Issues, Bureau of Pensions Advocates, Department of Veterans Affairs): Yes.

Mr. Peter Stoffer: VRAB itself says that in 2011-12 they finalized 3,636 reviews and review decisions and about 1,072 appeal decisions, for roughly 5,000. You folks have over 12,000.

Mr. Charles Keliher: That's correct.

Mr. Peter Stoffer: Can you explain the difference?

Mr. Charles Keliher: Sure. Perhaps if you look at the claims completed column and use round figures, you'll see that the figures VRAB gave you come to about 5,000. Ours come to about 7,000. Also, we do about 2,000 departmental reviews a year, which Mr. Saez referred to, where we don't go to VRAB and we divert the case back to the department. That's where those figures would match up. We take about 5,000 to VRAB and 2,000 back to the department. That's where the 7,000 for our column would come from.

On the number of claims counselled out—5,000—they don't get to VRAB, so they wouldn't be part of VRAB's statistics. We track them because they're part of the work we do and, naturally, when we need a budget and human resources, we have to show people what we're doing.

As you know, our service is free. Clients will come to us after they receive a departmental decision, not necessarily because they think the decision is bad or wrong or that they've been wronged, but because we're available. We provide a service. We will review the decision for them and give them our advice and opinion regarding their decision.

Like anyone who engaged counsel would, they would ask counsel for their advice as to whether they should proceed to the courts or to the next level of redress or whatever. In 5,000 cases—that's the counselling-out figure—people have come to us and we've so advised them. I think that will match up all the figures you have.

Mr. Peter Stoffer: Thank you for that.

I want to make a slight correction. You are correct in that your service is free to the veteran who's applying, but it's not free to the taxpayer. There is a cost to your service. I've never heard of a lawyer who ever did things for free for that much longer. I just wanted to say that; it's a little pun there, that's all.

Mr. Charles Keliher: Yes, indeed.

Mr. Peter Stoffer: Also, there are two other concerns. One is the benefit of the doubt. We hear that a lot. We've heard from some of your associates throughout the country that the benefit of the doubt in all senses and purposes isn't worth the paper it's written on. Many veterans are frustrated by that because they feel that they have the evidence. A case in point is Ken Whitehead of Nova Scotia, who has allowed me to use his name. He has 3,660 hours of flight time on the Sea King as a navigator, 4,000 hours of flight vibration. He was diagnosed by former Lieutenant-Commander Dr. Heather MacKinnon, whom I'm sure you know. She's a former flight surgeon who served over 20 years in the military.

The first response was he was a navigator on a ship. That's wrong. He was a navigator on a helicopter. Second, her medical evidence, in VRAB's words, was "not credible enough". When that type of information appears before you folks, what do you do? I know you can't speak to a specific case, but that is one case of many that I've received over the years. They're so frustrated by that because everyone knows if you're leaning over in a helicopter for 3,600 hours, you're going to have a bad back. Everybody knows that. It's not rocket science. You don't need a flight surgeon to tell you that. Yet VRAB denied it on the basis that her medical evidence wasn't credible enough. I know BPA lawyers are very frustrated when they hear that because this happens all the time.

The last question I have for you, before I get cut off by our wonderful chairman, is about when the benefit of the doubt is not applied.

I believe you said it yourself, Anthony, that people can come to you, and if there's information they're missing you'll advise them on what to do. But in all reality, shouldn't it be the front line people who do that? The front line people should tell these folks when they're making a claim what they need to have. But they have to go to get legal advice from you—for free, mind you, but not to the taxpayer—to tell them they need this. That takes a long time before it gets to you. Wouldn't it be more advisable to bypass you folks and have the front line people tell Mr. George or whomever, if they're applying for a benefit, what they need to have? Wouldn't that be more advisable and quicker for the veteran? I'll leave you with that.

• (1555)

The Chair: I'm going to suggest that since he did not give you time to respond in his time allotment—

Mr. Peter Stoffer: All right, next time.

The Chair: —if you have a quick yes or no it would be fine. Otherwise we have to go into the next round.

Mr. Peter Stoffer: Is it five minutes already?

The Chair: Yes, you're over five.

If you want, do you have a quick yes or no to the questions?

Mr. Anthony Saez: On benefit of the doubt, yes, we agree, sometimes we're frustrated, but I can say that sometimes we're also

pleasantly surprised. It depends on whether you win the case or you lose the case. Sometimes you win them; sometimes you lose them. Sometimes we're surprised it wasn't applied the way we thought it should be. Sometimes we're pleasantly surprised that that one worked.

On the evidence up front, I touched on it very quickly in my opening remarks. I'll see if I can explain this very quickly. The process the department has up front is not meant to necessarily catch everything for every file. If you were to have the utmost rigour at that first application level, you would need a level of expertise and you would need a review process that would take so much time and cost so much that you'd probably gum up the system. For most of the applications, most of the required information is caught during that first application process. In fact, I believe the department approves about 70% at first application.

What we do at the next stage is in those cases where it's more complicated, where a person at the first level, an adjudicator, can't get into the legal details, we come in and provide that extra level of expertise where a lawyer looks at it from a legal perspective and tries to move the case forward. If you tried to provide that kind of scrutiny at the very first level, you'd need a much larger machine than you have.

The Chair: Thank you very much. And you did very well with the time you had, so I appreciate that.

Ms. Adams for five minutes, please.

Ms. Eve Adams (Mississauga—Brampton South, CPC): If I could turn to both Mr. Keliher and Mr. Saez, we've heard a lot of wonderful things about the Bureau of Pensions Advocates, so on behalf of our side of the House and presumably the opposition, I'd like to offer my sincere congratulations. Thank you for all of the work you do on behalf of veterans.

Mr. Charles Keliher: Thank you.

Ms. Eve Adams: Is Canada unique in providing some type of system similar to yours, in that we provide free legal counsel to veterans to get a free second opinion on the benefits that are being extended to them?

Mr. Anthony Saez: Yes, as far as we know, we are. That's not to say there might not be something out there that we're not aware of, but as far as we are aware, yes. In fact, a number of years ago, we had colleagues from the Department of Veterans' Affairs in Australia visit us at the bureau to see what it is we do. They were interested in some kind of a similar process. From that, we know they came to us because the Americans don't have it, the British don't have it, and the New Zealanders don't have it.

• (1600)

Ms. Eve Adams: And the Australians, presumably, still don't have it?

Mr. Anthony Saez: That's right.

Ms. Eve Adams: That's rather remarkable. Just considering some of our allies, do the French have that?

Mr. Anthony Saez: Not that we're aware of, no. Most of our western allies do not have that.

Ms. Eve Adams: Turning to your deck where you enumerate the number of claims, I notice that from 2009 to last year, there was a rather dramatic drop in the number of claims coming to you, from 8,700 to some 6,900. Can you explain that trend?

Mr. Anthony Saez: I'll give it a shot and Charles can add the detail if he would like.

In 2009, a major decision on hearing loss was made, affecting quite a large number of cases that had to be revisited. In cooperation with VRAB, we put in a process that allowed us to streamline a lot of these cases that were very similar. We had, I believe, an extra 800 cases—

Mr. Charles Keliher: Or more.

Mr. Anthony Saez: —or more. That's why in 2009–10 the number is higher. If those 800 or 1,000 cases were taken out, it would be more in line with the following years.

Ms. Eve Adams: We've recently introduced the plain language initiative. A veteran will have their benefits reviewed and their claim reviewed, and if a claim is denied or accepted, that information is provided to the veteran in very plain, simple language. It spells out what type of medical information would still be required if the veteran wanted to proceed further.

Have you noticed any difference in your work in dealing with that?

Mr. Anthony Saez: I think Charles might see that more day to day.

Mr. Charles Keliher: It's a very recent initiative and—

Ms. Eve Adams: Yes.

Mr. Charles Keliher: —we're at about a two-year differential between the time a claim is initiated with Veterans Affairs and it ends up on our desk.

Ms. Eve Adams: Perhaps we'll have you back in two years to answer that question. Thank you, fair enough.

Mr. Ogilvy, in addition to your opening remarks, can you give us an idea why tribunals such as VRAB exist? Why not simply have an increased number of courts instead of tribunals?

Dr. James Ogilvy: That is very pertinent to the whole question of tribunals all over the place. The idea is to deliver justice in a way that is more accessible than the courts. The timelines are not as long. The decisions are made by people familiar with the territory in which the complaint comes forward.

Tribunals are typically responsible for dealing with one or a very small number of pieces of legislation. They are specialized and, as a matter of fact, the courts often refer to them as expert tribunals.

Is that as much as you wanted to hear?

Ms. Eve Adams: That's fine.

Dr. James Ogilvy: I could go on for an hour.

Ms. Eve Adams: Thank you.

You are here because you're an expert. Could you provide us with some insight into the administrative challenges that a board such as VRAB might face?

Dr. James Ogilvy: One point is, when you have experts in the field, it has to be dealt with in a very delicate way because the specific expertise and opinions have to be left at the door. Someone's being an expert in a given area may mean that their natural reaction to certain evidence is to reject it because they know better.

The idea of the expertise is to establish common language and make it possible to communicate with the witnesses or with the appellants and make judgments on fact, that recognizes the exigencies of that particular field of endeavour. That can cause an administrative issue.

I mentioned training in my short piece, as well. Many of the people—even lawyers, in fact—but many others who come to tribunals in a decision-making role really are not accustomed to that kind of role. Training in how to manage the process can be very important. That's another administrative aspect of it.

• (1605)

Ms. Eve Adams: Thank you.

The Chair: Thank you very much. That does put us over the time.

Mr. Casey, for five minutes, please.

Mr. Sean Casey (Charlottetown, Lib.): Thank you, Mr. Chairman.

Gentlemen, thank you for being here. It's a surprise to me that you're here, and it's probably a surprise to you.

The reason we're here and studying this is that back at the end of March the Veterans Ombudsman issued a pretty detailed and damning report as a result of the very high overturn rate of cases under judicial review coming out of the Veterans Review and Appeal Board. He said that he had to “conclude that improvements to the board's decision-making are needed to restore the trust of those who turned to it for redress.”

My first question is for both of you. On a day-to-day basis, last week and next week, your employment includes making representations to the board. Is that right?

Mr. Anthony Saez: Yes, that's correct.

Mr. Sean Casey: Does that not put you in a pretty darned difficult spot to give us constructive advice on what's wrong with the board and how we address the concerns that are raised in the ombudsman's report?

Mr. Anthony Saez: What I can tell you is we're in a unique position at the bureau because of the legislation that created us. If you look at the last page of the deck, it makes clear who it is we are responsible to. Unlike most civil servants who have as their masters, if you will, their supervisor and their deputy minister and their minister, the bureau is in a unique situation. As I said earlier, the bureau is a unique organization among Canada's allies. We're in a unique situation within the Department of Veterans Affairs because the legislation itself talks about the fact that the relationship we have with veterans is that of solicitor-client. We have a solicitor-client relationship with our veterans. That in and of itself means that our boss, if you will, is the veteran. The veteran says, "You told me that my case probably doesn't stand much of a chance, but I don't care, I want you to do it", and we do it.

The second reason we are different is that it's very clear that in addition to having our concerns over veterans being our boss, we're also held to a certain standard that goes beyond the standards which the department might try to impose on us, and that is, the standard set by the respective bar associations of each of our members. If they don't adhere to the values and ethics imposed upon them by their respective bars, they will lose their licence. The long way to answer your question is, we are held to a certain standard by the solicitor-client privilege that we have with our client and by the responsibilities that are imposed on us by our respective bar association. That's why I say we feel very comfortable in knowing what our responsibilities are.

Mr. Sean Casey: Okay, if you're that comfortable, what's wrong with the board? How is it they get it wrong so much? Is it personnel? Is it structure? Do they not understand what the appropriate burden of proof is? Why do we have the Veterans Ombudsman saying there is a 60% overturn rate when the Federal Court looks at those cases?

Let's have it. My feeling is that you are hampered in giving me candid advice because you're employees and you are going to be back before the board next week and they're going to say, "That's the guy who ripped us at committee," but go ahead, rip away.

Mr. Anthony Saez: The first thing I'd say is that, as you probably know, we don't represent clients at the Federal Court, so we're not involved in that process. The clients go—

Mr. Sean Casey: The court keeps getting it wrong according to the board, the client.

Mr. Anthony Saez: The client goes either by himself or herself. The client goes pro bono. There is a lot of pro bono work being done by a number of law firms across the country, or they hire their own lawyer. That's a process we're not involved in. The only process we get involved in at Federal Court, as the bureau, is one that represents not a single client by himself or herself, but a larger issue, an issue that affects many clients at the same time.

That's why I say we're not really involved at that level.

• (1610)

Mr. Sean Casey: Would we receive more detailed, more critical advice, if we were to invite, say, someone who had retired from spending a career representing veterans before the board, someone who was in your role last year or the year before and they're not restricted by the fact that they have to go back to work next week

and appear in front of that tribunal that they criticized here this week?

Mr. Anthony Saez: I understand, and I appreciate your concern about how this might affect our relationship with the board. What somebody else might tell you, I can't really speak to. You may find they say something different, but they may not.

The Chair: Thank you very much. That's our time there.

Mr. Lizon, for five minutes, please.

Mr. Wladyslaw Lizon (Mississauga East—Cooksville, CPC): Thank you very much, Mr. Chair, and thank you, witnesses, for being here today.

My first question is for Mr. Ogilvy. You mentioned in your opening remarks that a decision made by tribunals should be based on evidence presented. I would like you to elaborate on the issue of benefit of the doubt which is part of the discussion here in relation to some cases, or many cases that are brought to VRAB.

Dr. James Ogilvy: You recognize that I will respond in a general way about tribunals generally.

Mr. Wladyslaw Lizon: Yes.

Dr. James Ogilvy: The point of my comment was that extraneous information, information obtained by means other than seeking the evidence for a particular case, is inappropriate.

To get to the point of the benefit of the doubt, I think the expectation of exactness is not as great with a tribunal as it is with a civil or criminal court. In other words, we often hear of cases being won or lost on technicalities and so on. Tribunals can have a somewhat more relaxed view of the evidence presented to them than the courts have, and that applies generally to tribunals. It doesn't mean that any old thing that's said in a witness' statement is acceptable, but the tribunal members have the opportunity to weigh what they hear and determine whether it is reasonable and likely to be true, and apply the idea of benefit of the doubt to that evidence, and give the appellant the benefit of the doubt for the evidence provided.

It's not loose, but it is somewhat less stringent than it is in civil and criminal courts.

Mr. Wladyslaw Lizon: Thank you.

How does a tribunal like VRAB ensure that the decisions are consistent across the country? Are there guidelines or rules that tribunals, such as VRAB, must follow in executing their mandate?

Dr. James Ogilvy: There are principles, such as the ones that are attached to your package. There are many sources of general principles. They support but do not guarantee consistency of decisions. There are two elements to that, I would say. There are two ways of approaching it. One of them is ongoing training within a tribunal that has national scope. The Immigration and Refugee Board and the Parole Board are other tribunals that have had this issue. They're both national. They have hearings in different cities, and they try to make sure that their members are trained on an ongoing basis.

I noticed that VRAB has an internal training unit, which is a very positive thing. I would also argue that publishing decisions is an important element. If decisions are published, they become exemplars. There is no precedential requirement. Decisions don't have precedential value in tribunals, but typically a tribunal will see how they decided a similar case two months ago or two years ago, and use that as a guide. It's precedent de facto, not precedent that's forced on them.

It's far easier to determine what precedents there are, if you're either a member of a tribunal or a member of the public, or an appellant, if the material is readily available.

•(1615)

The Chair: Thank you very much. That's your time.

Now we go to Ms. Morin.

[Translation]

Ms. Marie-Claude Morin (Saint-Hyacinthe—Bagot, NDP): Thank you.

I would first like to thank you for coming to see us today. We are happy to welcome you.

My questions go to the witness representing the Council of Canadian Administrative Tribunals.

We often hear about political appointments to and departmental interference in the board. Do you consider that this board is completely independent of the department?

Dr. James Ogilvy: I will answer in English, if I may, madam.

Ms. Marie-Claude Morin: That's fine.

[English]

That's no problem for me.

[Translation]

Dr. James Ogilvy: Thank you. I am much more comfortable in English.

Ms. Marie-Claude Morin: And I am much more comfortable in French, so I understand.

[English]

Dr. James Ogilvy: It's a deal.

This issue is often raised in connection with tribunals. There's no guarantee that any selection process will be perfect. But in my experience with federal tribunals, political interference is a non-starter. Certainly, that was the case in my own tribunal when I was at

the CITT, and I think it's more common than that. It's simply understood that this element of independence must be guaranteed.

The selection of individuals is still a process that goes through cabinet, I understand. Names may be brought forward. Selection processes differ from tribunal to tribunal. I can't speak to that question with any expertise. Really, my knowledge of this is anecdotal, rather than general.

[Translation]

Ms. Marie-Claude Morin: As an independent organization, have you made any proposals for changes to the board or the department in the past?

[English]

Dr. James Ogilvy: I'm sorry, I missed the first part of your question.

[Translation]

Ms. Marie-Claude Morin: As an independent organization, have you proposed any changes to the board or the department?

[English]

Dr. James Ogilvy: For VRAB or the department, we have not. This is the first contact on this issue.

The Chair: Thank you very much.

Mr. Lobb.

Mr. Ben Lobb (Huron—Bruce, CPC): Thanks, Mr. Chair.

Mr. Saez, the numbers the department posts say they process somewhere in the neighbourhood of 20,000 reviews a year. Approximately 70% are approved the first go-around, and then about 5,000 per year are dealt with at some level at VRAB. You mentioned that your group deals with 2,000 per year, and then they send them back to the department for approval. Is this included in the 70% that they quote?

•(1620)

Mr. Anthony Saez: I believe so, yes.

Mr. Ben Lobb: With this 2,000, are we talking about an MRI that maybe is not in the file? What are we dealing with in these 2,000 applications per year?

Mr. Anthony Saez: I'll give it a first shot, and then I'll defer to Charles, who's more operationally based.

It generally has to do with evidence that is more difficult to find, either because of the passage of time, because of the great many different bases or locations the member has served in, or because for whatever reason it wasn't deemed important at the time of the first application.

I'll ask Charles to add more details.

Mr. Ben Lobb: Are you saying there are members who have come before, filed an application, and their medical file is incomplete? Is that what you're saying, that there are missing documents?

Mr. Anthony Saez: There may be some instances of that. The retention of medical records has become much better in recent years because the Canadian Forces has made a greater effort to keep that documentation. It's fair to say they have come to recognize the importance of a complete medical record. The problem comes when somebody, 25 years ago, was running across a field during training, sprained an ankle, and was out for a couple of days. It was no big deal, so they didn't fill out the medical form the CF requires to be filled out. It's not until years later that the person aggravates the injury and realizes it goes way back to when the person was injured while running across a field. We then have to figure out how we go back now, lacking that official Canadian Forces medical report, and provide that kind of evidence. That's one example. Charles could probably give more detail than that.

Mr. Charles Keliher: I'll try to do it rather quickly.

In order for a claim to be successful, essentially it has to be a disability related to service. We have the passage of time and the compilation of records, which as Anthony has mentioned is getting a lot better. I will give two examples of the type of claims we call departmental reviews, using the service and the medical aspect.

The department finds that the disability that someone is claiming is a result of accident *x*, but they are not satisfied that accident *x* was a service-related accident. We will help the client. If we manage to find a report on injuries, a corroborating statement from a colleague, or whatever the case may be that satisfies that question, rather than go to the VRAB, we send that piece of evidence back to the department and essentially say that without that document they turned the person down, but now that they have the document, would they look at the case again.

It's the same thing from the medical perspective. The department is satisfied that the individual had the accident to which they relate the claimed condition while they were on duty—it was a service-related accident—but there is insufficient medical information to establish a connection between the disability and that service event. We get a doctor's opinion supporting the theory that yes, the development of this condition could be consistent with events that occurred, whether they occurred 25 years ago or over the past 25 years, and we send that back.

The Chair: Thank you very much.

Mr. Ben Lobb: It couldn't be five minutes already.

The Chair: No, but we're going to try to get Mr. Zimmer in for a couple of questions to make sure we spread it around a little bit.

Mr. Zimmer, please.

Mr. Bob Zimmer (Prince George—Peace River, CPC): I'll see what I can come up with here. To start, thanks to the servicemen and servicewomen who are in the room today. I don't know if anyone has acknowledged you today, but we sure appreciate what you have done.

I was pleasantly surprised that the bureau is a mechanism to assist veterans, that it is even there, for one. To somehow connect our veterans with what they are due, it's good to see you are there.

I will ask a question that Mr. Lizon dwelled on a bit before. Do you feel there are gaps in service? We see the BPA, but we also see the Royal Canadian Legion, which address similar but different

issues. In your opinion, are there any gaps between the two levels of service?

• (1625)

Mr. Anthony Saez: Do you mean between what the bureau does and what the Royal Canadian Legion does?

Mr. Bob Zimmer: Yes.

Mr. Anthony Saez: The Royal Canadian Legion does a lot fewer cases, as you know. In many of those cases, we actually co-represent with them. We both provide support to that particular veteran.

Generally, the kind of representation they do before the board is quite similar to what we do. What they do that we don't do is more strategic advocacy on bigger issues, almost like—I don't want to call it lobbying. They actively lobby on behalf of veterans, whereas we are restricted to representing veterans before the Veterans Review and Appeal Board. There is that difference in responsibilities between the two organizations.

Mr. Bob Zimmer: Charles, can you expand on that at all? That was a pretty good answer.

Mr. Charles Keliher: It provides veterans with an alternative as well. Let's say they come to us first and we give them our advice and they don't like it, or they'd like a second opinion. They would confer with the service bureau of the Legion. It's an excellent marriage or complementary system.

Mr. Bob Zimmer: I was going to follow up with that. I imagine there are certain areas that aren't followed as strongly by the other.

In the duplication of efforts that you have, is there a conflict in mandate at any point? If so, is there a method in place to make that better?

Mr. Charles Keliher: With regard to conflict, nothing comes to mind. We work in cooperation with the Legion. We consult with each other on things we have in common. Of course, the service bureau of the Legion is only one aspect of its mandate and the many things it does on behalf of veterans.

In providing the services such as we do, my experience has been that we're complementary organizations.

Mr. Bob Zimmer: That's the word I was thinking of just now. It's more of a complementary relationship than a conflict relationship.

Mr. Anthony Saez: If I could add to that, in fact we do a lot of training for the Legion for the work it does representing clients before VRAB, so there's a close working relationship there.

Mr. Bob Zimmer: Right. It's good to hear.

The Chair: Very briefly, Mr. Zimmer, please.

Mr. Bob Zimmer: That's all I have. Thank you.

The Chair: You're very brief.

Mr. Bob Zimmer: Yes, I am.

The Chair: You should give lessons to Mr. Lobb. It would be good.

I want to thank our witnesses very much. We do have to change gears. Thank you for coming. You've added to our study.

We'll suspend to change witnesses. Thank you.

- _____ (Pause) _____
-
- (1630)

The Chair: Okay, folks, we're going to get back to business. We have about an hour with this panel, and time does fly.

I want to start by welcoming Mr. Harold Leduc, who has some experience with VRAB, and also Mr. Cal Small and Abraham Townsend, from the RCMP.

As a matter of fact, Mr. Small is from the RCMP Veterans' Association. Mr. Townsend, if I'm correct, you're on the national executive of staff relations and provide the programming. You two are going to share 10 minutes, and Mr. Leduc has 10 minutes, if I understand correctly.

Without any further ado, please proceed, Mr. Leduc.

Mr. Harold Leduc (As an Individual): Mr. Chair, and committee members, thank you for the opportunity to present today.

This is a very important subject for our veterans, and it's also an important subject for the nation. There is a certain promise made to veterans when they sign up and then they are disabled in the service to their country.

I'm here today because I'm seriously concerned with the way that VRAB has downturned in the last few years in not providing fair and impartial hearings that Parliament has wanted for our veterans. It has significantly changed.

I'd like to address an elephant in the room, as well. I'm sure we've all read the papers. I have an outstanding issue that's going on, with approximately 60 breaches of my privacy since I joined the board. It's the use of that information and how it was used that's under investigation, not only by the Human Rights Commission, but also I'm dealing with the minister.

I would like to put that to rest because my presentation is not about that. It's not about me. I want to end that by saying that here are my medals and my decorations. I don't wear them because I've lost pride in my service and sacrifice to this country because of the way I've been treated. I'll put that to rest.

Now what I'd like to do is go on to my presentation. As a veteran with PTSD, my heart is racing, so if I appear a little nervous or anxious, that's what's going on.

The Chair: Take your time.

Mr. Harold Leduc: Inside I'm calm.

What I'm going to focus on is something I'm not alone in my thoughts. I have a number of colleagues who also believe this is true but they are absolutely intimidated and afraid to speak out.

As you can see in my brief—and I'll try not to read it, but I'll speak to it, though—I've provided three excerpts from different places. One is from section 3 of the Veterans Review and Appeal Board Act, which we're told continually by the Federal Court that we should follow. We all know what it says, and I won't read it.

The next one I have presented is what's in the Veterans Review and Appeal Board's introduction to new members. Of particular interest is the last sentence and just a bit before it. It reads, "... decision so that the applicant knows that a full and fair examination of their case took place. In a non-adversarial system, it is essential to remember as a member that all parties in the process are working for the applicant." That is just about completely gone.

The third one is part of the members' code of conduct. This is found on the Internet. It's also part of the oath of office that we sign. The very last part of it states that we "shall not delegate the duty to decide to any other person."

Unfortunately what's happened is that our staff are the ones who train us. Our staff were appointed to render fair decisions in accordance with the legislation and in a non-adversarial approach. Our staff do not have to buy into that and they don't. Sometimes the staff come from the department, and therefore they already have a bias toward the departmental policies. That impacts us in our decision-making and it's a huge impact, but I'll get into that in a minute.

I mentioned board management as a group because we really don't know who makes the decisions. The chair has delegated his day-to-day operation of the board to the deputy chair and he has essentially told all members to defer any decision-making to the legal unit. In board management we have the chair, the deputy chair, the director general, and the senior legal counsel, but we don't know who is sending us the decisions because we're not involved in any of the decision-making that impacts us.

The problem that happens is that the staff are empowered and they act as if they are another panel member, which is absolutely wrong. We are the ones who make the decision. We go to the hearing and we hear. The reason for going to the hearing is to gather the testimony and clarify the information we have.

When I first started on the board, our decisions were one or two pages long. We didn't need scads of medical information. For entitlement we only required a doctor's note that provided a diagnosis of a disability, and from that it was our job to make a connection to service, based on the evidence we had. We never searched for information as happens now. If our legal unit came up with a piece of information that was new, we just thanked them and said that was not part of the evidence we had before us.

Today I have witnessed people adding things to the file without even a thought of sending it off to the veteran and the veteran's advocate.

I've witnessed veterans and their advocates being disrespected at the hearings. I've stopped hearings because of it.

It's one of those things that makes it very difficult not to grant everybody a disability because we've changed that non-adversarial system to provide veterans with what the government and the people of Canada have said in their statute that they owe the veterans. The fact of the matter is, people still have to prove and we still need the evidence. However, we've changed that non-adversarial process to a very adversarial process.

Some members do that at the hearing by challenging the advocate and the veterans, rather than just getting clarification on the evidence. I think last week or the week before there was a situation where a veteran with post-traumatic stress disorder felt as if he were being cross-examined. I heard about that story a year before you heard about it. I went to a fellow veteran's funeral and I heard about it there. I brought it back to the board and told the chair, because the chair is responsible. I don't know if anything was done with that information.

● (1635)

It's real. It's live. It's what is going on. I'm not here to say that everything is wrong with the board. I'm not here to say that every member is bad, that every staff member is bad. What I'm here to say is that if we speak about only the good things that are happening, we'll never get to the root of why some of the veterans, after they get their decisions, go out and commit suicide.

It's real. It's real for veterans. We're talking about real people here, not policy.

I realize that I'm starting to run out of time here.

The favourability rate is another one that impacts our impartiality. The impact on our impartiality is that it's become a factor where we were told to remember that we don't have to grant. We were told that by the deputy chair before going into hearings.

It's become such a contentious issue that has frustrated members, because they don't want to know about these favourability rates. We never had them before. We had them by region, but never by the individual. If two of us sit on a panel, and one agrees and one doesn't agree, then the one who doesn't agree gets a favourable rating, which really doesn't work statistically.

The idea behind this is that the board is in trouble. As I mentioned earlier, we didn't need a whole bunch of medical information. Now the staff and some of the members want more and more and more. I don't know why. Our job was so simple before. We took what was before us, listened to the testimony, figured out whether it was credible or not, and made a decision. But we keep being asked for more.

Section 38 of the VRAB Act says that we have the ability to go out and ask for independent medical opinions. We've been directed that we can't do that on our own, that we have to go to the legal unit. If the legal unit looks at one of the medical opinions we have, they will typically come back and give a legal opinion on a medical opinion.

It just doesn't work. I don't think we need to be doctors to adjudicate. I think we just need to be reasonable, and understand why we're there.

Mr. James Sprague, an expert on administrative tribunals, spoke to us. He told us of the importance of our independence and whatever. He told us that, really, in a tribunal itself, we're appointed by the Governor in Council, by the Governor General. We are independent from government in decision-making but dependent on the minister for administrative purposes. We were told that we shouldn't be going to the department for medical advice, but we do.

With respect to performance assessments, for my first three years on the board, I had wonderful, excellent performance assessments, and then all of a sudden they took a downturn. Information that was used before a human rights mediation was used in 2011 on my performance assessment. We don't see what the staff say about us; we get surprised by it.

That's a controlling factor, in my opinion and in the opinion of a number of members.

On the hearing loss policy, which we heard about before, I don't think there's a veteran in this country who's getting a fair hearing on hearing loss, for the simple fact that the policy was changed and we had no opportunity to discuss the department's policy. We were basically told that we would use it. It treats hearing loss differently from any other condition under the Pension Act or the Canadian Forces Members and Veterans Re-establishment and Compensation Act.

A concern we have as well is that we're guided by the Federal Court, but when we get Federal Court decisions, our senior legal adviser, or whoever is tasked to do this, will give any number of reasons that they don't agree with the decisions that come back, saying that we should defer to a new panel. For any decision that comes back that doesn't agree with our decisions, basically, we're given every reason that we shouldn't believe it, but any decision that comes back that agrees with the board, we rarely get any comments on it.

It's just like any decision we write that is not favourable to the applicant. Rarely do we get an opinion that comes back from our staff saying that we've made an error in our decision and we should grant favourably. I can almost guarantee that. I do not recall, in the seven years I've been on the board, ever getting a legal opinion that says that we did not make the decision within the language of sections 3 and 39 of the VRAB Act.

● (1640)

There's a real disconnect. Our staff are the ones who train us.

It doesn't matter who you appoint to the board. I personally don't believe in quotas, having a certain number from the military, or from this or that. I don't believe in that. Personally, I believe you need the right people. But as long as you don't fix the problems that are in a board, that are tainting the members or getting them to grant in a certain way so that they're not pressured in their jobs.... I mean, members have been told, "If you want an easy time on the board, then just listen to what we have to say."

There is a lot more I could talk about, some of which I wrote in my brief, but I'll just leave it at that.

I'm open to answering any hard questions you folks have for me.

•(1645)

The Chair: Thank you very much, Mr. Leduc.

Mr. Harold Leduc: I don't have an axe to grind, believe me.

The Chair: We'll now turn to Mr. Townsend or Mr. Small.

You are splitting your time, so whoever would like to start, go ahead.

Mr. Small.

Mr. Cal Small (National President, Royal Canadian Mounted Police Veterans' Association): Thank you, Mr. Chairman.

Good afternoon, ladies and gentlemen.

I'm Cal Small, president of the RCMP Veterans' Association. It is a pleasure to be with you this afternoon. If you don't mind, I will read what I have in order to keep within the time limit.

At the time I accepted your invitation I was to have been accompanied by Mr. Bill Gidley, who until the end of July of this year was the executive director of the association, and as recently as two weeks ago was a national advocate. I might add that Mr. Gidley appeared before this committee on April 3 of this year. A couple of weeks ago Mr. Gidley found it necessary to resign his position due to health issues. It is regrettable that he could not have joined me here today, because he was the one who took all the phone calls, all the emails related to matters concerning veterans affairs and the Veterans Review and Appeal Board. In other words, Mr. Gidley was the person in our association most familiar with the issues of interest to this committee.

The main focus of the RCMP Veterans' Association during the last few years has been to ensure our retired members are aware of the services offered by VAC and how these services can be obtained. To accomplish this we have had meetings with the Minister of Veterans Affairs, with the Veterans Ombudsman, with the Canadian Legion and with senior officials from the Department of Veterans Affairs. The Canadian Legion service officers are not only prepared to help our retired members prepare and submit their applications to VAC, but have also trained three of our veterans in order that the association might be in a position to provide these services to its members. This was done on the assumption that retired members would find it easier to communicate information pertinent to their application to somebody with a similar background.

On October 7, 2009, past-president of the association, Mr. Dale Lively, Mr. Bill Gidley and I, as well as the late Peter Martin, former deputy commissioner of human resources for the RCMP, met with Mr. Greg Thompson, former Minister of Veterans Affairs. Among the many issues discussed was the need to have some RCMP veterans sitting on VAC committees, and in particular the need for a retired member on VRAB. Mr. Lively strongly felt that a retired member as an adjudicator would be an asset and that he or she might have more empathy with the RCMP member client and would probably be in a better position to appreciate the context related to

the disability in question, and would give the board a little more credibility as well.

On November 4, 2009 the same group met with Mr. Brian Ferguson, senior assistant minister, Veterans Affairs in Charlotte-town, P.E.I. and the senior staff. Again, among many other topics discussed, the lack of RCMP representation on VAC and VRAB committees was again discussed. The point was made that it would be difficult for board members, who 97% of the time dealt with military clients and issues, to appreciate and understand many of the problems associated with policing.

I am pleased to note that a retired member of the RCMP is currently one of the VRAB adjudicators. This year, Mr. John Larlee, chair of the Veterans Review and Appeal Board, has provided an opportunity to past-president Tim Hoban, Bill Gidley and myself to witness VRAB hearings. Speaking for myself, I was struck by the informality of the process, by the efforts of the adjudicators to ensure they understood the issues and, finally, by the complexities of the cases. I was not aware of the decisions made in the cases that were heard.

Finally, I am aware of the various issues and criticisms concerning the composition of VRAB, the adjudication process, as well as the board's independence relative to VAC. I don't believe, however, I am in a position to offer anything more in the nature of constructive criticism than has already been received by this committee.

The main concern of the RCMP Veterans' Association is that its members be aware of the medical and psychological issues that could qualify them for benefits from VAC, that they know the process sufficiently well to be able to access these services, and finally receive fair and transparent hearings at the various levels.

•(1650)

Again I would like to thank you very much for including the RCMP Veterans' Association in these hearings.

The Chair: Thank you very much, Mr. Small.

We'll now go to Staff Sergeant Townsend, please.

S/Sgt Abraham Townsend (National Executive, Staff Relations Representative Program, Royal Canadian Mounted Police): Thank you, Mr. Chair.

Good afternoon, committee members.

As introduced, my name is Abe Townsend. I'm a member of the RCMP, but I'm not here representing the organization. I'm here representing the 24,000 regular and civilian members.

I've been an elected representative since 2004. The SRR program, staff relations representative program, is the official labour relations body for our members.

While our members perform their duties as safely as possible, injury, both physical and psychological, is an unfortunate consequence of service, and subsequently, our members are entitled to disability, and in the case of death, to survivor benefits as well.

At present, there are approximately 9,500 clients, of whom 3,100 are still serving, the remainder being either retired or survivors.

I make reference to the numbers reluctantly, because each and every number represents an individual, an individual with a family, likely, that has suffered loss through service.

I look at the Veterans Affairs stats, and 75% are approved in the first instance. Of those that go to appeal, 60% are approved on appeal. Now, you've jumped the first hurdle, you've jumped the second hurdle, and 25% at the appeal board are approved. You continually jump hurdles, and we're continually getting approval, albeit in a diminishing way.

Members whom I talk with who have gone through this express frustration that the further you go in this process—they use words like “discouraging” and “distant” and “disheartening”—the more it becomes very litigious and removed from the individual, albeit that it's their case going forward.

I'd like to believe, and I do believe, that those who designed the current process had the best of intentions to balance the individual's needs against the greater community's. Sometimes when I look at the bureaucracy that has grown from this, I wonder whether that balance needs to be reassessed and adjusted so that it truly does serve the disabled veterans, whether CF or RCMP veterans or serving members, in a little more balanced way.

Those are my opening remarks.

The Chair: Thank you very much, Mr. Townsend.

We'll now go to committee members for questions.

We'll start with Mr. Stoffer, for an actual five minutes this time.

Mr. Peter Stoffer: Thank you, Mr. Chairman.

Mr. Leduc, Mr. Small and Mr. Townsend, thank you all for your service and thank you all very much for coming.

Mr. Leduc, I have to say I'm very sorry that an honoured veteran like you feels unable to wear your medals because of the way you were treated. On a personal level, I apologize to you for that.

You said that you were called during a pre-hearing discussion by the deputy chair who told you, “Remember, you don't have to award.”

What was that person's name?

Mr. Harold Leduc: Well, I guess I can't be hurt any more. It was James MacPhee, the deputy chair.

Mr. Peter Stoffer: Is James MacPhee still the deputy chair?

Mr. Harold Leduc: Yes.

Mr. Peter Stoffer: Thank you.

You also said that if you, meaning the members, want an easy time on the board—I'm paraphrasing now—just do what they more or less say.

Is that correct?

Mr. Harold Leduc: Yes.

Mr. Peter Stoffer: Can you give us any names of people who may have said that?

Mr. Harold Leduc: I can't off the top of my head, no.

Mr. Peter Stoffer: Okay, very good.

Mr. Harold Leduc: I could get back to you.

Mr. Peter Stoffer: If you don't mind, that would be great.

You also said that some staff members from the department are involved. Are these members from the VRAB department or from DVA?

• (1655)

Mr. Harold Leduc: Do you mean involved in our decision-making?

Mr. Peter Stoffer: Yes.

Mr. Harold Leduc: People come from the department, transferred as employees over to VRAB. For instance, our policy adviser and trainer at one time came from policy at Veterans Affairs, so it was difficult for them to make a transition.

Mr. Peter Stoffer: I see. We constantly hear from the minister that he can't become involved because VRAB is a quasi-judicial, arm's-length agency that is independent from him, although that didn't happen in the Steve Dornan case.

Here is one question that a lot of members have asked me, quite clearly: Do you believe that it is a quasi-judicial, independent, arm's-length board with absolutely no influence, persuasion, discussion, winks, nods—you name it—from the department? You've been there for seven years, and I'm sorry you weren't reappointed.

Mr. Harold Leduc: Not in an overt way. If we need a clarification on a table of disabilities, the board goes back to the department for clarification. That should never happen. We have our own expertise. We're Canada's experts in this stuff, so we should be able to figure it out on our own. That's where the influence comes in.

Mr. Peter Stoffer: My last question is for Mr. Small and Mr. Townsend.

For years you folks have asked the government for the veterans independence program for your retired members. Can you advise us how your request to have VIP for retired or disabled RCMP members is going?

S/Sgt Abraham Townsend: Do you mean at this moment in time?

Mr. Peter Stoffer: Yes.

S/Sgt Abraham Townsend: It's my belief that it's going nowhere.

Mr. Peter Stoffer: Are you still trying, though?

S/Sgt Abraham Townsend: We still would like to see our members and our retired veterans who are within the Veterans Affairs system of pension have this available to them, but at this time I don't believe there's the will to see it happen.

Mr. Peter Stoffer: Very good. Thank you. That's it.

The Chair: Ms. Adams is next, please, for five minutes.

Mr. Peter Stoffer: That's under five minutes, isn't it?

Ms. Eve Adams: My first question is for Mr. Small. Thank you very much for appearing here before us today.

We've heard quite a bit of testimony over the last few weeks about what the ideal composition of the board should be. Whether it's the Royal Canadian Legion or other veterans associations, what they keep coming forward with is that there ought to be more members of the board with military background.

Our Conservative government was in fact the first to appoint somebody with RCMP experience, as you kindly noted. I don't know whether you caught it, but the minister just made an announcement that there have been four new appointees, who among them have 107 years of military experience. The idea is that they would bring their military experience and their very basic common sense to the table, and bring that background to bear as they render their decisions.

Do you think that's the correct approach?

Mr. Cal Small: I would be inclined to agree there would be some benefit to having some military, and some RCMP, possibly, when you're thinking of the RCMP. You also have to remember there are many female members of the RCMP. For example, if the board is listening to a case involving an RCMP member, I rather suspect that if the member listening to the case is from the RCMP, he might bring to the hearing a different set of values from those that somebody who wasn't very familiar with the RCMP might.

As I mentioned earlier, I sat in on a hearing, and frankly I was impressed. I thought it was very informal and I thought the adjudicators made a lot of effort to make sure they understood the issues. I was quite impressed by the process. That was the only time, and I don't know what the end result was.

Yes, I think there would be some value in the composition of the board being somewhat different.

Ms. Eve Adams: Thank you, Mr. Small.

That's what we're looking at here as parliamentarians. We're looking at VRAB and asking what is working and what might be improved. We will prepare a report that makes recommendations at the end of the day.

Mr. Leduc, if I might direct my next question to you, let me begin by saying on behalf of our government, on behalf of Canadians, that I'd like to thank you for your service to our nation.

Mr. Harold Leduc: Those are hollow words, ma'am.

Ms. Eve Adams: Could you tell us, though, what is working at VRAB, in light of your extensive experience there?

• (1700)

Mr. Harold Leduc: What is working? What's working at VRAB is that there are some good, appropriately chosen people as adjudicators, and there are some good staff members there. But I would say that at this time it's a struggle for them to ensure they make the right decisions following the rules. It's a struggle.

I would say that what's working is not as important as what's not working, for the simple reason that people shouldn't have to fight with staff to support their decisions. I think it's important that we look at...

There's a process redesign coming at the board. The members aren't on board with it. They don't even know all the details or what's going on. They say that veterans organizations have been consulted;

however, the process of redesign is going to make matters worse, if we don't fix the interference in the independence.

What the process of redesign will do is put every statement of case before the hearing in the hands of our legal unit and quality assurance analysts. They will pretty much predetermine a decision and give their opinion to the members before the hearing, so that the members are going in with a rather biased approach.

Ms. Eve Adams: Mr. Leduc, could I zero in on what you think is actually a good aspect to VRAB?

Mr. Harold Leduc: A good aspect of the board, ma'am, is to just follow section 39 of the VRAB Act and to have empathy for the people who are before you, whether they're RCMP, military, or whatever. I know that from my military experience—and I was a paratrooper, so it was pretty rigorous—I would rather be a paratrooper than a member of the RCMP. Those guys get beat up really bad.

Voices: Oh, oh!

Ms. Eve Adams: It's just that we've had a number of veterans who have come forward, and when we've put the question to them about whether they would like to see VRAB continue, to a person they've all said yes, that this is an independent avenue of appeal where they're provided with free legal counsel to appear before the board. They say that it gives them another chance to make their case, and they say to please continue to have VRAB exist.

You have a very unique insight. You've worked there for seven years. Can you point to the aspects of VRAB, though, that really function well?

Mr. Harold Leduc: Well, as I said, as long as the members are independent... There are some pretty smart people on the board. Everybody on the board is smart; it's just that people have a different perspective. Don't forget that the board, when it was first established, had all military members on it, because they wanted people who walked in the other people's boots. That's basically what it was all about.

Although I'm not big into quotas, I think that at least 51% of the board members should have had some kind of service, whether it's RCMP, military, or whatever. I think you need at least one person on each panel who will have walked in that person's boots so that they have empathy. Also, we have to make sure we understand that empathy is not biased, right? There's a difference.

In 2005 when I got there, the board worked extremely well. We had a higher favourability rate than the department. The Bureau of Pensions Advocates was coming to the board rather than referring back to the department. Now, it's completely the opposite.

The Chair: Thank you very much.

We'll now go to Mr. Casey, please.

Mr. Sean Casey: Thank you, Mr. Chairman.

Thank you, gentlemen, for being here.

Mr. Small and Mr. Townsend, we've been trying for many months to get permission to hear from Mr. Leduc, so all my questions are going to be for him. At some point, I would like to talk to you about what the government is doing to your pensions, but that's not the subject of this hearing.

Mr. Leduc, I want to pick up on a couple of points raised by the parliamentary secretary. One of the answers you gave, sir, was that there are some good members on the board. I take it by that qualifier there are some who shouldn't be there.

Mr. Harold Leduc: They have a different take. Some of them feel that veterans are looking for a handout when they come before the board. They haven't bought into the generosity of the legislation and the intent of the process. They're not bad people.

Mr. Sean Casey: Can you offer us anything more in terms of what should be done by way of the appointment and selection or training process, such that people with that bias or attitude don't make it through?

Mr. Harold Leduc: The screening process has to be good at the onset. The questions have to be designed in a way such that you can draw out a person's empathy or understanding of what the system is all about. As far as training goes when they get on the board, we spend three months with our staff, and we don't see other members. I think that from the get-go we should be mentored by other members who are out in the field and actually making the decisions.

• (1705)

Mr. Sean Casey: I want to ask you a couple of questions about procedural fairness. There's a couple of things that you said that give me great difficulty.

In one, you indicated that in advance of a hearing you received some sort of a document or an opinion from members of a legal unit or QA unit. Is that right?

Mr. Harold Leduc: That's only on very difficult or very complicated cases. Agent Orange was a case. We received that.

But with the process redesign that's coming, that will be the fact for every case that comes before the board.

Mr. Sean Casey: When you receive these documents or briefings, are they also provided to the veteran and their representative?

Mr. Harold Leduc: Absolutely not.

Mr. Sean Casey: You have information in front of you that will impact on your decision and which the veteran and his representative don't have.

Mr. Harold Leduc: That's right.

Mr. Sean Casey: That's shocking.

Mr. Harold Leduc: Just like after the fact, if we get legal opinions—those kinds of opinions—I have asked to send them out to the advocate and the applicant, and I've been told no.

Mr. Sean Casey: We heard this once before. Mr. Griffis was here. He has 22 years' experience with the judiciary. He was representing a veterans organization. He said that he had a letter from Mr. Larlee last September, which you referred to here, saying that the board had the right to seek medical advice.

My question is the same. When the board exercises that right, is the medical advice given to the veteran and the veteran's representative, and do they have a chance to test it, to cross-examine on it, and to make submissions in relation to it?

Mr. Harold Leduc: In that circumstance, yes.

Mr. Sean Casey: They do.

Mr. Harold Leduc: Yes.

Mr. Sean Casey: Your opportunity to seek medical advice outside of the hearing, is that something you could do after you've heard from the veteran and received submissions from his counsel?

Mr. Harold Leduc: It comes down to the benefit of the doubt. If you have two equal medical opinions, the way the law is written, the benefit of the doubt goes to the one that's most favourable to the veteran. Oftentimes that's not the case, so people will push for the one that isn't favourable. If we're not clear on the medical information, then we seek an independent medical opinion.

Mr. Sean Casey: When you do that, the veteran has an opportunity to attack that medical opinion or to say why you should accept his instead. Do they have that chance?

Mr. Harold Leduc: Yes.

Mr. Sean Casey: Do they have it in front of you or is it something that's done in writing?

Mr. Harold Leduc: No, we send it to them when we get it. Sometimes it takes eight months. They and the advocate will have an opportunity to rebut or agree with it and send it back. Then we'll make our decision.

Mr. Sean Casey: Thank you.

You indicated that favourability ratings are kept.

Mr. Harold Leduc: Yes.

Mr. Sean Casey: They keep a tally of how many times you ruled for or against. What possible benefit, or justification, is there for that?

Mr. Harold Leduc: Well, one is intimidation. The second one is that we had a higher favourability rate when I first joined the board than the department, and now the tables have turned, so it's worked.

Mr. Sean Casey: Did I get the impression from your initial remarks that when a case is sent back or overturned by the Federal Court it's treated with some disdain and disrespect? I don't want to put words in your mouth, but explain to me the direction that's given to the board when you have a case that has been overturned on judicial review or sent back by the Federal Court, which is what the ombudsman used all that paper on.

Mr. Harold Leduc: Typically, we'll be briefed by our legal unit. We'll have a headnote and they'll go through it. At the end of it, the legal unit will say they don't agree, especially when one comes back and overturns our decision. It plants a seed in some people's minds that we should follow the legal unit, because, for whatever reason, they don't agree.

The Chair: Thank you very much.

Mr. Kramp, welcome.

Mr. Daryl Kramp (Prince Edward—Hastings, CPC): Thank you, Chair.

One of my colleagues is away today. I don't regularly sit on this committee, but I can tell you that I am honoured to do so today, particularly given my very strong personal feelings and sentiments for veterans issues. My father was a veteran in the Second World War. He served in Holland and Belgium and was injured. He came back. We're both lifetime members of the Legion. I myself am a member as well. I worked with the Prince Edward Regiment. Most important, I'm right near the Trenton air base.

My office deals with a significant number of veterans issues and appeals. I can assure you that I do thank you on behalf of the veterans and their organization. I can tell you, those are not hollow words.

• (1710)

Mr. Harold Leduc: Thank you.

Mr. Daryl Kramp: I think it is important for the record, though, to get some of the minute details read into the text so that we can proceed and the regular members of the committee can deal with this issue.

When were you appointed, Mr. Leduc?

Mr. Harold Leduc: When was I appointed?

Mr. Daryl Kramp: Yes.

Mr. Harold Leduc: I was appointed on November 7, 2005 by the Liberal government. I was reappointed by the Conservatives on November 7, 2007.

Mr. Daryl Kramp: At the time, of course, we always think we make the right decisions in life. I wish I had a dollar for every time I made a mistake. Do you feel the decisions you made throughout your term were consistent with the act, and were not just your personal opinions?

Mr. Harold Leduc: I had been working with the department as a veteran since 1992. In fact, I helped create the New Veterans Charter, and I helped amend the Pension Act, so I'm very well aware of what Parliament expects. There were a couple of times when I was ground down by pressure of the staff, and I can count them on one hand. But for the most part, I absolutely stuck by the act.

Mr. Daryl Kramp: For the most part, you agree with the decisions you have made, with an unfortunate—

Mr. Harold Leduc: Yes, even the ones when I said no.

Mr. Daryl Kramp: Fine, thank you. I appreciate that.

Over your period of time, how many cases do you think you would have reviewed? Would you have any idea? Are we talking 15, 20, 1,000? Give us a ballpark figure, if you would.

Mr. Harold Leduc: It's more. It's in the thousands.

Mr. Daryl Kramp: Okay, thank you very much.

I'll move to Mr. Small. As an ex-officer, I personally understand how important it is to have the life experiences of a veteran on the board, at least in my humble opinion again.

For the benefit of this committee, and I know it's been stated but I'd like you to extrapolate on why you think it is important to have that hands-on personal experience of someone who has not only lived it, but has felt it.

I'll go back to Mr. Leduc for a response as well, if we have a moment and if I don't run out of time. Mr. Leduc, you had mentioned you didn't feel it was important to have a high composition of veterans. You said maybe 51%, but I'll get back to you in a second for you to respond to that.

Mr. Small, I'm looking for your personal opinion, and maybe Mr. Townsend as well, as to the composition of the veterans on the board. Should it be 70%, 100%, 20%? How important is it to have that personal experience?

Mr. Cal Small: It's difficult for me to answer that question. I think if a board member had that type of experience, it would be more easy for him to put things into context. I think that without that context, it may be somewhat lacking if you're just reading a file or listening without being able to put the injury or whatever into a proper context.

Possibly this would be of great value which could be added to the board in instances of that nature.

Mr. Daryl Kramp: Okay, thank you.

Mr. Leduc.

Mr. Harold Leduc: From my experience, sir, here is an example of when that works really well.

I heard a case in which a young man said, "I carried a rucksack that weighed about 175 pounds". I said to him, "Sir, with my experience, in the airborne, the heaviest I carried was between 100 and 125 pounds". I asked him, "Did you actually weigh the rucksack?" He said, "No". I said, "So, it's what you believe," and he said, "Yes".

I accepted that. It's what he believed. Another colleague may have said his testimony was not credible, but I was able to associate with him.

Mr. Daryl Kramp: Okay, thank you very much.

The Chair: Mr. Townsend, do you want to make a comment?

S/Sgt Abraham Townsend: Briefly, if I may, it's very important to us. Peer review... Who knows our work better than we do? Whether you're a veteran of the RCMP or a veteran of the CF, we're a collection of honourable people who can adhere to principles of law in making decisions about the experiences we've shared with others. We've always struggled because we're the minor client of Veterans Affairs. There should be some RCMP representation in that mix. But I think what is fundamental is that the mix should predominantly be those who walk in the shoes of those being judged, for lack of a better word.

• (1715)

The Chair: Thank you very much.

That's your time. Well done, Mr. Kramp.

Ms. Mathyssen, please.

Ms. Irene Mathyssen (London—Fanshawe, NDP): Thank you, Mr. Chair.

I thank the witnesses very much for being here and helping with this study. I, too, would like to say I appreciate very much your candour and the integrity that you bring to these hearings.

I'll start with Mr. Leduc. I want to get very clearly on record some bits and pieces—and Mr. Casey alluded to this—in regard to the situation where a Federal Court decision overturns a VRAB decision.

We heard some contradictory testimony here. In one case we heard that the appeal board could ignore the court. Another witness said that if a judge is telling you to fix this and get the decision right, you'd better do it—"I've given you an order."

There does seem to be a resistance by VRAB, based on what you've said, to listen to the court and, instead, to listen to the legal advice they receive.

The other piece I wanted to ask you about is the add-in evidence. We've heard a statement from the chair of the Veterans Review and Appeal Board that hearings are not adversarial and no one is ever arguing against the veteran. Yet you've suggested that this legal advice, or those who are supporting the board members in their decisions, are actually adding evidence or bringing in additional evidence.

My question is for clarification in this regard. Does the appeal board say that the court may have said one thing but the board is not going to listen, that they're going to listen to the legal advice they get? On the add-in evidence that very clearly goes against the veteran, contrary to what the chair has said, is it something that we should be very concerned about in regard to the way the board operates?

Mr. Harold Leduc: I can only speak from my experience, and what I've given you is my experience.

I don't know that anybody blatantly comes out and says that they're not going to listen to the Federal Court. I don't think that happens. I think what happens is that people simply don't agree with the decision. People don't agree with our decisions either, and that's fine. The fact of the matter is that it's the culture of the board. I think the culture of the board is simply one of denial right now, for the most part. It's tough to work there if you're going to grant favourably. It is pure and simple.

The non-adversarial part doesn't only happen with the staff. I've also witnessed colleagues saying, "I've read the evidence, and this is how I see it. Now you tell me why I should be persuaded from that view." Well, that's adversarial.

Through the legislation, we have the ability to make inquiries, to clarify the evidence, but we don't have the right to cross-examine. That's an adversarial process. There are fine lines.

Ms. Irene Mathysen: You've indicated that you'd like to see an inquiry in regard to the board, some kind of an investigation. What would you like?

Mr. Harold Leduc: Personally, I would like to see somebody go through our decisions. The board has complete authority to review our own decisions on our own motion, because we know there are some people who have absolutely deferred their decision-making to the.... I could provide a list of names in camera. I could also provide a list of board members who would be the appropriate people to review those decisions.

I would like to see an investigation, first of all, of our documentation. I've read some of it. It's right. It guides us appropriately. Then I would like to see how we apply that. I would like to see an investigation of how the decisions are made and how they go through the different filters and things, how we are appointed to make decisions and yet forced, as we've heard earlier from the gentleman sitting in this chair... We are independent decision-makers and shouldn't face any interference, but there is interference daily.

• (1720)

Ms. Irene Mathysen: That would be different from having a concrete set of rules or parameters, so that decisions are always consistent, so that someone coming with this body of evidence would be assured that no matter who was hearing the case there would be a consistency and a fairness to it.

Mr. Harold Leduc: Consistency is absolutely important, but we need to have consistency by everybody's singing from the same song sheet and understanding the legislation and our guiding values.

Right now, they're trying to achieve consistency by forcing us, through favourability rates and other things, to make decisions that are coming down to a certain level.

The Chair: Thank you very much.

Mr. Lobb, go ahead, please.

Mr. Ben Lobb: Mr. Leduc, with the introduction for the new VRAB members—and you put it right in there—the whole idea is reasonable doubt or the benefit of the doubt.

In our constituency office, people come in all the time. I've been doing this now for four years, so we've had a couple of people roll through who have come in about a Canada pension plan disability. The one thing I can't understand is, it seems to me that we're asking more of our veterans than we are of people who get Canada pension plan disability. Can you shed some light on this? Where are we coming from on this one?

Mr. Harold Leduc: I think I mentioned it earlier. When I first joined the board, we only needed a doctor's letter that said the person had a certain diagnosis and it's on for more than six months. That establishes a disability under the Pension Act. All we did from that was hold a hearing, look at the documentation, and find whether we could make a link to service. When we couldn't, sometimes we'd weigh the evidence that was before us and we'd assess whether it was credible or not.

You've got to be a Philadelphia lawyer just to figure it out, because the veterans have a higher burden now than they did before, and I don't know why, because the rules haven't changed. They absolutely have not changed. It's the people and the steps.

I think, and this is only a personal opinion, the previous chair kept a tight grip on his staff because he had five years as a board member out in the field, and then he was the deputy chair, and then the chair.

It is unfair to the current chair that he was parachuted into the job with absolutely no experience. I don't think he even had experience in the public service. It's tough to deal with staff, because they're steady, and we're the ones who keep moving in and out.

Mr. Ben Lobb: The other thing I want to ask you about is this idea of a favourability rate. We had the department come in, and they swore up and down that their adjudicators on the department's side do not receive or have ever seen a favourability rate. We'll take them on their word for that. I'm almost certain that VRAB came in here during the same meeting and made claims of the same account, but I can't remember their testimony.

Is this favourability rate something that is strictly internal or is this something that VRAB has talked about in public? What are your thoughts on the favourability rate?

Mr. Harold Leduc: It's a very secret thing. At first, when I joined the board in 2005, the favourability rate was done by region, and it changed around 2007 or 2008 to favourability rates being aimed at a person.

You can't do it. If you and I were sitting on a panel and you agreed and I didn't, I would get a favourable decision against my name. It doesn't work that way, because that's what the law says.

Mr. Ben Lobb: The only time I would personally be interested in a favourability rate would be if somebody's favourability rate was only 5%. We'd want to know why they're against the veteran time after time.

Mr. Harold Leduc: We have that, but the ones who are questioned are the ones with the higher favourability rate.

Mr. Ben Lobb: That's very helpful. I hope that when VRAB comes back, they may be able to shed some light on this.

I certainly would like to see, if it's possible, the outcome of this to maybe look at more of the way we look at CPP disability. Obviously, people are injured or they were injured somewhere along the line. They present a doctor's note or two and they can receive compensation until 65. I hope that—

Mr. Harold Leduc: Sir, we only have to follow the rules. They're clear.

Mr. Ben Lobb: Okay.

Mr. Chair, how am I for time?

The Chair: We're so impressed, we're going to give you another minute.

Mr. Ben Lobb: I appreciate that.

The next question I have for you is on the publication of results. I'm not sure how many results there could be since 1995. It could be close to 100,000 by now. Is there value for taxpayers' dollars to publish all of these results?

• (1725)

Mr. Harold Leduc: Through Can LII, absolutely, for the simple reason that you're only getting a vetted version of what should be out there. I'm sure you won't see one of my decisions out there. I'm very sure of it.

The reality is that they should be out there, because I've not granted some as well as I've granted some, and I made some errors.

Mr. Ben Lobb: Okay, let's say it's 100,000 results. In what form would you like to see them? Obviously some of it will have to be redacted for privacy issues, but as far as who the person was on the review team, everything else, that part should—

Mr. Harold Leduc: The name of the members should be on there because I tell you, when the members saw their names on some of the decisions that came out in the media, they paid close attention and they changed the way they did business for a while.

Mr. Ben Lobb: Okay. I hope some day, if you're back before the committee, you will feel good enough that you can put those medals back on. It would be nice to see.

Mr. Harold Leduc: Thank you very much. That will be up to the minister and the Prime Minister.

The Chair: Thank you very much, Mr. Lobb.

Mr. Zimmer, close it out please.

Mr. Bob Zimmer: Thank you for coming today. My questions will be addressed to Harold and if I have time, to you folks as well.

One thing I would like to say is a sincere thanks for your service. I've had uncles and cousins who have served and those medals don't come cheaply. We definitely respect you.

I know you've had seven years of experience and I guess for us we really do want to fix whatever's wrong with VRAB.

What would be your two recommendations? I'm sure there are more, but perhaps you could boil it down to two. You talked about some today already. Give us a good few that you would recommend we go ahead on.

Mr. Harold Leduc: One would be impartiality. Restore the members' impartiality and get the members and staff to buy into the generous nature of the legislation, the non-adversarial part of it. You can't make it any clearer than what's written in there.

Mr. Bob Zimmer: Do you have another one?

Mr. Harold Leduc: I thought that was two. Impartiality, as in leave us alone to make our decisions. The second one was to get everybody at the board bought into the generous....

Mr. Bob Zimmer: Okay, the generous....

Mr. Harold Leduc: It would take some intensive training from people outside the board.

Mr. Bob Zimmer: Sure. I don't know if you've had the chance to look at Mr. Larlee's action plan.

Mr. Harold Leduc: I don't typically concern myself with that. Look, we're on the road five days a week every week, in a different city.

Mr. Bob Zimmer: I just wanted to know if you had the chance to see the changes that are coming forward and if you think they will, I guess, face muster. What are your thoughts?

Mr. Harold Leduc: There should be no changes made at the board until the problems of impartiality and bias are fixed. Absolutely no changes. There are big changes coming. Video conference hearings would be one example. Every other tribunal in Canada will use a video conference as a last resort. VRAB is going to use it as a first resort. These are special people we're supposed to be dealing with. The veteran is going to be asked at the hearing if he minds appearing by video conference. Well the veteran has waited three to six months to get a hearing, so he's not going to say no.

Mr. Bob Zimmer: I also wanted to ask, being that you've been there so long, what have been some positive elements for you? I know it's been a struggle, but what are some positive things? You have said that you ruled on some cases and in positive ways and the numbers reflect that, the fact that VRAB has approved a lot of appeals. Can you tell us a few good things that you're going to walk away with?

Mr. Harold Leduc: There is no better job in this country than serving the people who have served our country and have been disabled in the service of that country. Although I share it, I have taken this as an absolute privilege to be able to hear cases. They are very special people. The Government of Canada and people of Canada have dictated that these people would be treated with respect and dignity. They're not getting it now. Despite that, I will take from my experience that I had that rare, rare opportunity to do that. Not many people can say that.

Mr. Bob Zimmer: Thank you.

Mr. Harold Leduc: I would just like to say that my family has been in the service since 1691 in Canada, so I understand all about it.

Mr. Bob Zimmer: Thank you. Do I still have time?

At least we do have time for Cal and Abraham. By the way, Abraham, cool name. Cal is too, but Abraham is a cool name.

Voices: Oh, oh!

Mr. Bob Zimmer: I just wanted to know what the VRAB process is to you. You've talked about it a little bit, but what is it to the RCMP?

S/Sgt Abraham Townsend: To the RCMP, the VRAB process—the hearing, the appeal board—is layers of frustration. If you have the endurance to continue through the process, it's like dealing with an insurance company. At the end of the day, if you can endure all the hurdles, there's the possibility of a positive outcome.

I'll mention as an anecdote that I got a message from a member who's gone back twice now to the Federal Court and not once did the Federal Court tell the board to do their job in accordance with the law. The member went back a second time for the Federal Court to tell the board to do their job, and on the second occasion the court awarded costs.

Maybe that's a rare event, and it absolutely should be the most rare event of all because our knowledge of what's available, the process to get the recognition for our disability, shouldn't be adversarial. It should be peer review. The presumption of doubt goes too far. As it becomes more litigious, it becomes more distant. I don't think it truly serves the veteran in the fullest way.

● (1730)

The Chair: Thank you very much. We are over. Mr. Townsend had the last word.

I do want to thank our witnesses very much. That was very helpful for our study. We appreciate your taking the time to be here today.

I want to remind the committee that we're going to spend the latter part of the Wednesday meeting doing business.

Thank you very much.

The meeting is adjourned.

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