



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Public Accounts

PACP • NUMBER 033 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Thursday, November 17, 2016

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Chair

The Honourable Kevin Sorenson

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• (1530)

[English]

The Chair (Hon. Kevin Sorenson (Battle River—Crowfoot, CPC)): Good afternoon, everyone. Welcome.

It's Thursday, November 17, 2016, and this is meeting number 33 of the Standing Committee on Public Accounts.

I will remind everyone, not only committee members but those in the audience as well, that we are televised today, so if you wouldn't mind, please mute your phone, put it on vibrate, or shut it right off. Otherwise, we have larger hammers than this to shut them off for you.

I want to advise the members of Parliament on our committee that the Auditor General has offered to provide this committee a special briefing between 10 o'clock and 10:45 on Tuesday, November 29, immediately following the lock-up session with all parliamentarians. We have already extended our thanks to him and accepted the offer, so we should be prepared for that as well.

Today we are considering report number three of the spring 2016 Reports of the Auditor General of Canada. Report number three is an audit of the Governor in Council appointment process in administrative tribunals. We have a number of witnesses appearing before us today, who are here to answer questions from our committee.

From the Office of the Auditor General of Canada, we welcome Mr. Michael Ferguson, Auditor General of Canada, and Sharon Clark, principal; from the Privy Council Office, Janine Sherman, deputy secretary to the cabinet, senior personnel and public service renewal, and Donnalyn McClymont, assistant secretary to the cabinet, senior personnel secretariat; from the Department of Indian Affairs and Northern Development, David Dendooven, the corporate secretary, and Stephen Gagnon, director general, specific claims branch; from the Department of Public Safety and Emergency Preparedness, Jean Cintrat, director general, cabinet and parliamentary affairs and executive services directorate; and, from the Department of Industry, Shelley Dooher, corporate secretary, office of the corporate secretary.

We'll begin by inviting our Auditor General to please give us his comments.

Welcome.

Mr. Michael Ferguson (Auditor General of Canada, Office of the Auditor General of Canada): Mr. Chair, thank you for this opportunity to present the results of our audit on the Governor in

Council appointment process. Joining me at the table is Sharon Clark, the principal responsible for the audit.

In May of this year we presented for tabling an audit report that examined the process used for Governor in Council appointments. This recruitment process is separate from the one that the federal public service uses to appoint public servants. Work on this audit was completed in February 2016, and we've not audited actions taken since then.

[Translation]

The focus of this audit was to determine whether departments worked with the Privy Council Office to ensure that timely appointments of qualified individuals were being made to selected administrative tribunals to maintain continuity of service. We also assessed progress on some of the areas for improvement identified in our 2009 audit of the appointment process. These included the guidance provided by the Privy Council Office, the number and length of vacancies, and the notice given to appointees concerning their reappointments.

In the recent audit, we focused on administrative tribunals that have a direct impact on Canadians. We looked at the roles played by the Privy Council Office, by selected administrative tribunals, and by the departments reporting to the ministers responsible for those tribunals. We did not audit the appointment decisions or the roles played by ministers, ministers' offices, or the Office of the Prime Minister.

• (1535)

[English]

This audit is important because administrative tribunals regulate specific areas of the law or provide individuals with a way to appeal the government's decisions, such as those on immigration status or first nations claims. Appointments to these tribunals must be timely to ensure that the tribunals can carry out their work. Appointees must also have the right background and experience to carry out their roles effectively.

In our 2009 audit, we found a lack of guidance on the appointment process and lengthy delays in making some appointments to small entities and crown corporations.

We've found that since that audit, the Privy Council Office has issued guidance and information to ministers, departments, and tribunals on vacancies and on steps in the appointment process; however, this guidance was not accessible on the Privy Council Office website. The guidance also didn't address exceptions to the process, such as the appointment of judges to tribunals.

We also found that many key positions weren't filled for long periods. These delays affected decision timelines for tribunals, which in turn affected individual Canadians and other stakeholders. For example, at the Immigration and Refugee Board of Canada, the average time to process immigration appeals grew from 10 months, which we reported in our 2009 audit, to 18 months. Given the importance of the work these tribunals perform, these delays and the resulting backlogs are concerning.

Furthermore, we found that appointees weren't given sufficient notice of decisions on their reappointments. While this notice was more timely than what we reported in our 2009 audit, we found that it still didn't meet the requirement of six months' notice for reappointment of full-time appointees established by the Privy Council Office.

[Translation]

Finally, we found that, while the selection processes for chairs and other full-time appointees were open and transparent, the part-time appointments that we looked at were not. Candidates for part-time positions were not evaluated against established criteria. In our view, without a documented assessment, it is not possible to demonstrate whether the process results in appointees with the necessary expertise and skills. The Privy Council Office has stated that "making qualified appointments is the key to the achievement of the government's objectives and the strengthening of accountability".

We are pleased to report that the Privy Council Office and the departments and tribunals included in our audit agreed with our recommendations and committed to take corrective action.

Mr. Chair, this concludes my opening remarks. We would be pleased to answer any questions the committee may have.

Thank you.

[English]

The Chair: Thank you very much.

We'll now move to Ms. Sherman, please, for her opening comments.

Ms. Janine Sherman (Deputy Secretary to the Cabinet, Senior Personnel and Public Service Renewal, Privy Council Office): Thank you, Mr. Chair and members of the committee.

I am pleased to be here today to also discuss the findings of the report of the Auditor General on the Governor in Council appointment process for administrative tribunals.

I think it would be helpful if I first take a few minutes to describe the appointments process. I would also like to take this opportunity to give you an update on the government's new approach to Governor in Council appointments and how that approach relates to administrative tribunals in particular.

• (1540)

[Translation]

In terms of the process and how it works, let me begin by noting that Governor in Council appointments are made by the Governor General on the advice of the Queen's Privy Council for Canada, as represented by cabinet. Ministers actively manage all the Governor in Council positions within their portfolios and the Privy Council

Office provides operational support and non-partisan policy advice to the Prime Minister and to cabinet ministers. Appointments are made on the recommendation of the responsible minister to the Governor in Council. It is the process leading to that ministerial recommendation that is established by the Prime Minister.

[English]

On February 25, 2016, the Prime Minister announced a new approach to Governor in Council appointments, which requires open, transparent, and merit-based selection processes that will support ministers in making recommendations on high-quality candidates who reflect Canada's diversity in terms of gender, linguistic, regional, employment equity, cultural, and ethnic representation.

This approach applies to the majority of appointments to both full-time and part-time positions on commissions, boards, crown corporations, agencies, and tribunals across the country. It is the inclusion of part-time positions within an open, transparent, and merit-based approach that is the most significant shift in how appointment processes are now managed.

[Translation]

The government has made clear to us that communicating opportunities to Canadians is an important cornerstone of their open, transparent, and merit-based process. The Canada.ca website provides access to Governor in Council appointments information and to the Governor in Council appointments website where opportunities are advertised. In addition, appointment opportunities are advertised on the website of the organization filling the position and listed in the *Canada Gazette* while the application period is open.

To build broader awareness, positions may also be advertised in other media, for example, social media, online, and in newspapers.

[English]

In order to apply, candidates register and create an account for their GIC appointment applications on the GIC appointments website, where they will be able to apply for any of the opportunities that are listed.

To support the government's objectives around diversity, applicants are asked to provide information on their second official language proficiency and, if they wish, they are able to self-identify in their online profiles as members of an employment equity group, such as women, indigenous peoples, visible minorities, and persons with disabilities. Candidates may also choose to self-identify as members of ethnic or cultural groups.

Under the new approach, merit is being assessed through rigorous selection processes, with selection criteria that are public. These qualifications and criteria reflect the organization's mandate, taking into account as well the minister's mandate and the priorities established by the Prime Minister.

Let me spend a few minutes on the mechanics of the selection process.

PCO manages or participates in all selection processes. In each case, a selection committee is established. It reviews applications to ensure they meet the established criteria. The committee selects a short list of candidates for further assessment through interviews and written assessments as may be required. Candidates that the selection committee considers to be highly qualified for appointment also undergo formal reference checks to further assess personal suitability.

The committee then presents formal advice to the minister on the most qualified candidates for consideration. The minister then uses that selection committee's advice in finalizing his or her recommendation to the Governor in Council.

[*Translation*]

To support this new approach, the senior personnel secretariat at the Privy Council Office has been working closely with departmental contacts. Since the February announcement, we have undertaken a number of communication, outreach and information sharing initiatives. We held information sessions, in collaboration with the Prime Minister's Office, to provide guidance, information, and tools to departments and organizations and all ministerial office staff involved in supporting their ministers on the Governor in Council appointments. We will continue to collaborate and discuss best practices with these key stakeholders.

• (1545)

[*English*]

Our engagement efforts have ensured that ministers' offices and portfolio departments and organizations have the information they need to support their ministers in making recommendations to fill current and upcoming vacancies. We have shared materials on our GIC appointments website for all stakeholders and will continue to share materials on both internal and external websites as we implement new policy guidance and direction over the coming months. This sharing of materials is well aligned with the recommendations in the Auditor General's report.

[*Translation*]

Information sharing has been paramount during the transition to the new approach to Governor in Council appointments. An important area discussed with departments and agencies is exceptions to the new process, a point also raised by the Auditor General in his report.

Given the government's commitment to open processes, the vast majority of positions will normally be subject to a formal, advertised selection process. Exceptions need to be made for positions with requirements found in the legislation that establishes certain organizations.

For example, legislation may specify a Governor in Council appointee must be a sitting judge or a person nominated by a third party, such as a provincial or territorial government, a First Nation, or a user or other stakeholder group. We are not seeing many of these exceptions and, when they do arise, the Privy Council Office works closely with its partners to identify and verify the exceptions on a case-by-case basis.

[*English*]

It is also worth noting that during implementation of the new process, the government has decided to make appointments or reappointments to positions that are essential for the good governance or continuity of government business that may not include the full set of these new measures that were announced earlier this year. As these are transitional situations, such appointments or reappointments are generally for one year or less, subject to any legislative provisions. This transitional measure helps to ensure that organizations can continue to function and that services continue to be delivered to Canadians without interruption.

As I've noted, the changes to the appointments process are intended to contribute to the recommendation of high-quality candidates with a goal of better reflecting Canada's diversity. They also align with the recommendations from the Auditor General's report on the Governor in Council appointment process for administrative tribunals. The objective of the Auditor General's report, as my colleague has noted, was to determine if timely appointments of qualified individuals were being made to selected administrative tribunals to maintain the continuity of service to Canadians. My colleagues from other departments are here to answer questions related to specific recommendations made regarding the specific administrative tribunals that were examined, but I would like to take just a few more minutes to provide some context for their remarks by setting out a general overview of selection processes for administrative tribunals.

[*Translation*]

As for all Governor in Council appointments, with few exceptions, opportunities for positions in administrative tribunals are advertised publicly and candidates are invited to apply online. The exceptions are in the case of positions that need to be filled by sitting judges. The Privy Council Office works with the administrative tribunal and portfolio department to apply the spirit and intent of the new approach to help ensure that we meet the government's commitment to diversity. All selection processes for administrative tribunals follow the kinds of established selection processes that I mentioned earlier.

[*English*]

As part of this, PCO is working closely with four large administrative tribunals to implement measures to support enhanced consistency in the approaches undertaken to assess candidates for these very important decision-making positions. We intend to use the lessons learned and best practices from the large tribunals to identify ways that the efficiency and timeliness of selection processes for positions in the smaller administrative tribunals can be implemented.

Implementing this new approach has required capacity building within the Privy Council Office and within the departments and organizations that are responsible for supporting GIC appointments. We very much appreciate the advice of the Auditor General to help ensure the ongoing improvement of the overall appointment system, and we are committed to continuing to act on the Auditor General's recommendations as we work closely with partners to implement the government's approach to GIC appointments in administrative tribunals and other organizations across government.

In closing, as it is implemented, this new approach to GIC appointments is key to providing Canadians with an opportunity to be considered to serve in our democratic institutions that are fundamental to the decisions and programs that directly impact individual Canadians.

I would be pleased to take any questions you may have on the appointment process.

● (1550)

The Chair: Thank you very much, Ms. Sherman.

We'll now move to the first round of questioning and that goes to the government side with Mr. Lefebvre.

[Translation]

You have seven minutes.

Mr. Paul Lefebvre (Sudbury, Lib.): Thank you very much, Mr. Chair.

My thanks to the witnesses for their presentations.

As a lawyer and an officer of the court, it disturbs me to see the unacceptable delays in appointing judges to important tribunals.

Ms. Sherman, I noticed that your presentation deals with the new system for appointing judges, not the old one. However, the audit covered the period from March 2010 to November 2015. You talked to us a little more about what is happening with the new system since February 2016.

When I look at the tribunals experiencing a major shortage of judges and delays for the parties wanting to be heard, I see huge repercussions. I found one of those cases to be outrageous. I understand the system, but I just want to check a few things before I talk about that case in particular.

According to your explanation, recommendations for appointments come from the Queen's Privy Council for Canada, represented by the cabinet. Decisions on the appointments are therefore made by the Governor General on the advice of the Queen's Privy Council for Canada, represented by the cabinet. Ministers actively manage all the Governor in Council appointments in their portfolios and the Privy Council Office provides operational support and non-partisan policy advice to the Prime Minister and the cabinet ministers. So you make the recommendations to the ministers and they decide. Is that indeed the case?

In the case of the Specific Claims Tribunal, it reads as follows:

[English]

At the Specific Claims Tribunal Canada, where members must be superior court judges, a 2014 analysis indicated that it required one additional full-time member

and "a sufficient number of part-time members to bring the number up to four full-time equivalents."

So there is a need. The quote continues:

Despite this need, which was confirmed by the Department of Justice Canada, no appointment was made to the Tribunal between 2012 and the end of our audit period.

So, three years. The quote continues:

After the audit period, Tribunal officials told us that this need had increased to six judicial members. A shortage of appointees at this Tribunal means further delays in addressing First Nations claims in a timely manner. Tribunal officials told us they had to inform interested parties that the Tribunal could not confirm hearing dates due to the lack of available judges.

Did you provide recommendations of judges to fill these positions? Were those recommendations made?

The Chair: Ms. Sherman, and also from the department, perhaps after Ms. Sherman, you could respond if you want to.

Ms. Janine Sherman: There is a process in terms of appointing judges, which, as the Auditor General noted, is slightly different in that it requires agreement with the judiciary. There is a process by which the Minister of Justice will work with judicial affairs in terms of making sure there are people available who are suitable for the positions. That is the process we support in terms of making those recommendations.

I would ask my colleague to perhaps speak specifically in response to the case for that tribunal.

The Chair: Mr. Dendooven.

[Translation]

Mr. David Dendooven (Corporate Secretary, Department of Indian Affairs and Northern Development): The department as such plays no part in the appointment of judges to the tribunal. All we do is look at the Privy Council Office's website and see whether appointments have been made. For example, in May of this year, we saw that three appointments had been announced.

Mr. Paul Lefebvre: Mr. Dendooven, I would like to go back to one point.

According to the Auditor General's report, from 2010 to 2015, the tribunal was in desperate need and no appointments were made. So I would like to know if a recommendation was made. You tell me that it is not your responsibility. I understand what you said and I thank you very much for it. However, who made the recommendation? I thought it was the Queen's Privy Council for Canada.

Who made that recommendation?

● (1555)

[English]

The Chair: Ms. Sherman.

Ms. Janine Sherman: I would clarify that...and you're correct and have described the improvements in the process that have been made recently. Under the previous process, the process for appointing judges to GIC positions is the same in the sense that it requires the Minister of Justice to work with the judiciary and develop a list or a roster of judges who are available for those appointments.

Mr. Paul Lefebvre: Okay, and I guess I'll ask my question again.

Was there a list made or not?

Ms. Janine Sherman: I was going to say that the process, in terms of those appointments, is different now. There was not a list made by a selection committee at that time. It was a process that was managed through the Department of Justice, with the Minister of Justice and judicial affairs. So I'm not in a position—

Mr. Paul Lefebvre: My question is, why not?

This is not normal, this is not acceptable that we have first nations claims that are not being addressed because somebody is not naming somebody, and nobody wants to say... From what I'm hearing here, you guys are passing the buck. Basically you're saying, "We don't know who appoints this." Yes, you do know who appoints this—

Ms. Janine Sherman: Yes, we do know.

Mr. Paul Lefebvre: I'm asking, was there or was there not a recommendation made of somebody who could sit on this tribunal?

Ms. Janine Sherman: I'm not in a position to—

Mr. Paul Lefebvre: Who is then, if you're not?

Ms. Janine Sherman: —provide information on whether the recommendations were made—

Mr. Paul Lefebvre: Why not?

Ms. Janine Sherman: —because the public service is there to support, as I mentioned, the process for appointments. In this case these are appointments that are managed through a negotiation and a discussion with the judiciary and the Minister of Justice. PCO, in our role, does not support that process. It is—

Mr. Paul Lefebvre: I'm sorry. Again, I rarely get upset, and the chair knows this. This is not acceptable at all.

Mr. Joël Godin (Portneuf—Jacques-Cartier, CPC): No, it isn't.

Mr. Paul Lefebvre: Thank you. Yes. I guess I'm replacing Mr. Christopherson today.

Some hon. members: Oh, oh!

Mr. Paul Lefebvre: Again, seeing that there is a crying need, and they told us they had to inform interested parties that the tribunal could not confirm hearing dates due to the lack of available judges, and you're telling me you're not sure who names the judges. Well, you know who does—

Ms. Janine Sherman: No.

Mr. Paul Lefebvre: —but you can't tell us if it was done or not.

The Chair: Thank you very much, Mr. Lefebvre. I don't want to chance your getting upset with me, but your time is up now.

We'll now move to Mr. McColeman, and perhaps we can come back to an answer there a little later.

Mr. Phil McColeman (Brantford—Brant, CPC): Thank you all for being here today to let us drill down into your findings.

Auditor General, as you presented and we listened to your comments, and I've underlined and highlighted a few of them, I would consider it quite damning if this were my organization you were bringing this report to. Do you view it in that fashion?

Mr. Michael Ferguson: When we did this audit, and again we had done a similar audit in 2009 when we found a number of problems, we felt that the problems with the appointments were

affecting service to Canadians. When we came back and looked at this again, we put that specific lens on it, looking at some of the tribunals where they make important decisions, whether it's on refugee files or the competition or the specific claims. The ones that we looked at were focusing on organizations that make important decisions for Canadians on questions that Canadians need resolved.

At the time we noticed an improvement in process. More guidance was provided by the Privy Council Office. More notifications were issued by the Privy Council Office. I think fundamentally what we're looking for in this whole area is it's important to make sure that these positions are filled because of the decisions that have to be made. For us, the final result on this, and we made recommendations, is going to be less about process and what changes have been made to process, and much more about if there are fewer vacancies, are vacancies being filled faster.

I think fundamentally, yes, we were disappointed that we found that the results were very similar to what we had found in 2009. What we're looking for going forward are indications that there are fewer vacancies, and vacancies are being filled faster.

● (1600)

Mr. Phil McColeman: Anecdotally, I do have some experience on a couple of these administrative boards, just through individuals who have applied. It totally verifies what you're saying, which is there's seemingly some kind of a barrier in the selection process, or perhaps a lack of qualified individuals who put their names forward for these positions. Then the operation of some of these organizations becomes absolutely dysfunctional. It leads to things like untimely Parole Board hearings, and Parole Board hearings that sometimes don't even happen, and other types of things that can greatly affect Canadians.

Madam Sherman, you've watched this. You've been at the heart of it. Can you share with us specifics of what these barriers might have been?

Ms. Janine Sherman: I think there are a number of things to first note. We do spend a lot of effort in terms of providing information to ministers and to departments about vacancies so that they can be effectively managed. This means we will look at vacancy reports with some forward dating so that departments are aware and can prepare in terms of future vacancies. I cannot speak to the specific situation in one or more of the administrative tribunals over time. There are often posted vacancies. We usually have very good uptake in terms of candidacies. There may be regional or location differences potentially. Sometimes there are specific locations that need to be filled and there may not be candidates there.

I'm not saying that is the case in the Parole Board, but it is one thing that might be a factor. We do work very assiduously to make sure that.... This is something that I think we have learned in terms of the Auditor General's report, that it does require a lot of information being available. The more attention we pay to future vacancies and the more attention we pay to timely processes, then we can avoid those situations where there are vacancies.

One other point I would note is that sometimes there are vacancies listed on our website—they may show up there—that are potential positions on particular tribunals or organizations, and the organization itself may feel that those are not necessary to fill at that point in time given caseload demands or whatever their operational requirements are. There may sometimes be cases like that.

Mr. Phil McColeman: I don't know whether you can comment on this. If I'm overstepping a line here, Chair, obviously I would like to be told.

Does this bog down when it gets to the political level, the political process, the minister's office, and their desires in terms of what they want to see happen and what it is that you're providing them?

Ms. Janine Sherman: Mr. Chair, I don't think I'm in a position to speak to the political process. My job in terms of senior personnel and the GIC appointments process is really doing, as I mentioned, the operational support and some of the advice. There may be reasons or considerations on the political side, but I'm not really party to that nor can I speak to it.

Mr. Phil McColeman: What happens on these administrative boards? I can think of one—and I will not mention it—that I'm aware of where they don't even have quorum to make decisions. What happens in those situations? Does someone ring an alarm bell within your organization to say that you have to get this complete dysfunction fixed soon, quickly, and there's a hurry-up process?

•(1605)

Ms. Janine Sherman: That's a very important point. That is part of the information that we seek to share and provide with departments. Departments and ministers' offices are also responsible for managing, as I said, the appointments in a minister's portfolio.

Yes, we do. That is part of how we would triage or prioritize selection processes in terms of making sure they get launched in a timely way.

There may be a situation where a member resigns or sometimes there may be a death and if an organization is very close to quorum, if that one or two vacancies makes a difference in being able to meet quorum, those are situations that are raised in terms of an alert being given. There can be temporary measures to make sure quorum is maintained while a selection process may in fact already be under way or gets launched.

The Chair: Thank you, Ms. Sherman.

We'll now move to Mr. Weir.

Welcome to our committee.

Mr. Erin Weir (Regina—Lewvan, NDP): Thanks very much for having me at the public accounts committee. I was pleased that Mr. Lefebvre was so animated in his comments, because I'm not sure I'll

be able to live up to Mr. Christopherson's usual standard in that regard.

My first question is for the Auditor General.

I wonder, in terms of the appointment process for administrative tribunals, whether things have become better or worse since 2009.

Mr. Michael Ferguson: Again, in the course of the report, we identified that there had been some changes. More guidance was provided to the departments, and more information sessions were provided, information about upcoming vacancies. Certainly some of the things the Privy Council Office had said they were going to do in response to our 2009 audit were done.

In terms of the four tribunals we looked at, not every one of those appointments was handled through the Privy Council Office. Our concern, however, was that we were still seeing delays and impacts. I think we talked specifically about the Immigration and Refugee Board where the delays had gotten worse and moved from 10 months to 18 months. Again, I know the Privy Council Office isn't involved in all of those.

One of those situations that's concerning in the audits we produce is that sometimes there can be improvements in process without having improvements in results. I think what's really important to focus on in this whole file is not just the process—and yes, making more improvements to the process will hopefully get us there—but also on how many vacancies are filled, how quickly they are filled, what the results are, and if these organizations can operate with the number of members they need to make the decisions they have to make.

Mr. Erin Weir: Would it be fair to say that overall there has been an improvement in the process but not necessarily in the results?

Mr. Michael Ferguson: Again, it wasn't a direct one-to-one comparison of the organizations we looked at in 2009 to the organizations we looked at in this most recent audit. Again, I can certainly say things were done to the process that made improvements, particularly in providing information to departments about upcoming vacancies. Overall we were disappointed with the extent of the vacancies that still existed and the impact they were having on some very important decisions.

Mr. Erin Weir: Thank you.

Ms. Sherman, about the new website for appointments, I wonder if this is a well-promoted website, that job seekers and prospective applicants would know to make a submission on.

Ms. Janine Sherman: Yes, I think it is. Certainly if you google appointments you'll land there. More importantly, it is also accessible through the canada.ca web page, where all government traffic is directed, so I think it is fairly visible and available. We certainly do work to make sure it stays that way.

Mr. Erin Weir: Does it happen that the government decides it wants to appoint someone, and then encourages them to submit through the website, or does someone have to put in their submission through the website on their own initiative to be considered in the first place?

•(1610)

Ms. Janine Sherman: Mr. Chair, we obviously would not see the impetus for that application. We see the individual's application through the website. Whether or not they've been encouraged to apply, it always comes from the individual. They create a user profile, so we know it is that person who is applying.

Mr. Erin Weir: You mentioned merit and diversity as objectives of the new process. Do you see a trade-off between those goals?

Ms. Janine Sherman: No, I think that merit is the baseline. Open, transparent, and merit are the fundamental elements of how the selection process is structured. Diversity is equally important, but it follows on merit. Merit is always the baseline for measuring an applicant's qualifications. The diversity information is helpful in potentially making choices. Those are elements that... Each one of the qualified candidates would meet the merit criteria.

Mr. Erin Weir: Just to understand the mechanics of the process, someone would need to meet a certain baseline in merit, and then after that, appointments might be decided based on the diversity criteria.

Ms. Janine Sherman: Again, Mr. Chair, I would note that ministers make those choices. We provide them with information. The first level of information we do going through the selection process is the assessment against all those selection criteria, which are education, experience, knowledge, and personal suitability. Attached to all of that is diversity information on those qualified candidates.

Mr. Erin Weir: Essentially are you turning that information over to the ministers and they're making the ultimate assessment of what's most important and whom to appoint?

Ms. Janine Sherman: That's correct.

Mr. Erin Weir: Okay.

If you wanted to finish up the answer that you didn't quite have a chance to give when you were cut off, feel free to use a minute for that.

The Chair: I think that went back to Mr. Lefebvre's question, which dealt with the lists: are there lists being submitted, being readied, and is there access to those lists?

Ms. Janine Sherman: Right.

That is part of the process, and that is something on which we have provided greater clarity and guidance to departments in terms of how judges are appointed to GIC positions. Whether there are currently lists available, I'm not in a position to say. That is something that is worked out through the Minister of Justice and the judiciary. There may be ongoing negotiations at any point in time to develop rosters of judges—and that is one of the things that will help us be better prepared—who are suitable for some of these Governor in Council appointment positions, but I cannot speak to the specific case.

You asked if there was a recommendation made. If there were a recommendation, it would be a cabinet confidence. I can tell you there were not appointments made in the time period that you were referencing.

The Chair: Thank you, Ms. Sherman.

We'll now move to Ms. Mendès.

[*Translation*]

Mrs. Alexandra Mendès (Brossard—Saint-Lambert, Lib.): Thank you very much, Mr. Chair.

I am going to continue along the same lines as my colleague. My questions go to Ms. Clark.

If I understand correctly, you were responsible for the audit. Which obstacles led to this difficulty in submitting the names of suitable judges to sit on the tribunal?

The Specific Claims Tribunal is extremely important for First Nations. But there seems to be a problem with recruitment and selection, two stages that must be followed by a list to be submitted to the minister. Did you manage to identify the problem and, if so, how?

Ms. Sharon Clark (Principal, Office of the Auditor General of Canada): Thank you for the question.

As you can see, a lot of parties are involved, including the Minister of Justice, the Department of Justice, the Department of Indian and Northern Affairs and the Privy Council Office. As we explained in the report, there is a different process for judges. So it's not exactly the same process and, in addition, the pool of candidates is much more limited.

•(1615)

Mrs. Alexandra Mendès: So there are fewer suitable judges for seats on the tribunal.

Ms. Sharon Clark: Exactly. They have to be superior court judges.

Mrs. Alexandra Mendès: Are there also language criteria that include aboriginal languages?

Ms. Sharon Clark: There are other criteria, but—

Mrs. Alexandra Mendès: Mr. Gagnon, would you like to finish off the answer to that question?

[*English*]

Mr. Stephen Gagnon (Director General, Specific Claims Branch, Department of Indian Affairs and Northern Development): If I've understood the question, my group is in charge of the assessment of claims and the negotiation of claims. In the event that we don't accept a claim for negotiation, or we have been negotiating for more than three years, the first nation has the option to go to the tribunal. I can only tell you what I think I know about the appointments, because we're not involved in the selection of judges or recommendations, and I think that's by design. When the reforms were brought into place, there was a concern because the department used to be the group that negotiated the claims, and there was no independent place somebody could go.

I can tell you what I think I know about the judges. Generally speaking, it would be judges familiar with certain case law in certain regions. For example, the chair is from British Columbia. We have a large number of claims, both in negotiation and proportionally at the tribunal, that are from British Columbia. I think they try to do that so that there are judges from various superior courts across Canada. They wouldn't all be from Ontario, per se, or Quebec or British Columbia. I think that's how they do it.

Mrs. Alexandra Mendès: Do you agree that we have a disproportionate number of judges lacking in the tribunal, and that it seems to be a recurring problem?

Mr. Stephen Gagnon: Again, it's a tough thing for me to express. I know that the chair of the tribunal himself has said that a number of times in his annual reports. Those are public documents. I know from time to time he's expressed that view, but my role at the tribunal is quite separate.

Mrs. Alexandra Mendès: Mr. Chair, through you to the Auditor General, how can we make a recommendation to improve this? Where does it come from?

Mr. Michael Ferguson: When you look at the components of this, it starts with the appointments having to be superior court judges. You're starting with a very small pool of possible appointments, and you have a number of these different tribunals that need to draw from that pool. That's why there's the conversation between the Department of Justice and the judiciary to sort that out.

Really, to get to the bottom of this...and we very much did identify that, with the specific claims tribunal, there was a shortage of members for the tribunal to make its decision. Unfortunately, it seems that everything is focused on the end of the process. What I mean by that is, and maybe I have this wrong, but it's certainly the way I perceive it, when there's a vacancy, there's this process to try to identify who we might be able to pull out of the sitting judges to sit on a tribunal. I think it sounds much more like a classic case of succession planning, so that when judges are appointed in the first place having a bit of an idea of when there might be vacancies on tribunals and which judges might be in the pool they can draw from. I think it's the area where there really has to be a lot more forward thinking in terms of how it's not just about who's getting appointed to the court, that it's also who's going to be able to fill these tribunal positions. Otherwise we can't make decisions on things like first nations specific claims.

Mrs. Alexandra Mendès: If I were 10 years ahead of time, I would ask who will need to be....

Thank you very much.

The Chair: All right. We'll move back to Mr. Godin.

Mr. Godin, we're in the second round now, which is a five-minute round.

[*Translation*]

Mr. Joël Godin: Thank you, Mr. Chair.

My thanks to the witnesses for being part of this exercise.

Mr. Ferguson, my remarks will probably be a little familiar to you, because unfortunately, they apply to a number of departments. I am pleased to hear that you have noticed an improvement in processes

that were in place before 2009, as a result of the 2009 report and the one in 2015. It covers 15 years or so. There were improvements, but unfortunately—and here, I am going to say what you are used to hearing me say, although it is not directed at you—the organizations are still waiting for the audits before they react.

My question goes to the other witnesses.

In his opening statement, the Auditor General mentioned that the various organizations accept the recommendations. But I feel we see that in all the reports. So why do you wait for the Auditor General to do an audit before you put improvements to the systems in place? Do your organizations have self-evaluation mechanisms—once a year, once every two years, or however often you like—that mean that you do not have to wait for an audit from the Auditor General before you take action? The problem for taxpayers is that, if you are lucky in the lottery that gets you a report from the Auditor General, you may have 20 years before you have to evaluate yourselves and improve the systems you have in place.

My question is simple: why is there no self-evaluation system? If there is one, can you tell us about it?

• (1620)

[*English*]

The Chair: Perhaps Ms. Sherman, please.

Ms. Janine Sherman: I take your point. The reports of an auditor general are always very focused in terms of giving us recommendations of a specific nature with regard to that particular audit. I do think there are ongoing improvements beyond the timing of those reports. Certainly in 2009 there were significant deficiencies found, and those were addressed, and they have continued to be addressed and improved over the time period, certainly in terms of the role the Privy Council Office plays in providing guidance and information and supporting ministers and departments with information about vacancies and the timeliness of making appointments. I hear you. I do think there are several opportunities throughout our work in departments, where we look for ways to improve. We do have internal audit processes in departments. We have our annual performance reports. I think those are opportunities where we also take stock of what taxpayer dollars we have spent on particular activities and what the results are, and we do seek to improve and find efficiencies in the way we do our work and the results we see.

There are sometimes delays, and there are sometimes things that don't get done as quickly as we would like, but in terms of the appointment process, I think that the Auditor General's findings certainly confirmed for us certain things that we were trying already to do better with regard to the full-time and leadership positions under the previous approach that were our responsibility. That's why, for example, I think, when they conducted the audit, they found very fulsome files and documentation about how we were supporting the process. That's something that was happening in between audit times. I think it is something that we as public servants are always concerned about, how taxpayer dollars are spent, and we're always looking to find efficiencies and improvements.

[*Translation*]

Mr. Joël Godin: I will be quick.

I appreciate your telling us that your department does pay attention to this. I would now like to hear comments from the officials from the other departments. As I understand it, there are different levels and things are done stage by stage. If the problem is not addressed from the start, it creates a domino effect that prevents the problem from being solved.

[English]

The Chair: We'll have to come back to that, Monsieur Godin, because unfortunately we are out of time.

We'll now move to Mr. Chen, please. You have five minutes.

Mr. Shaun Chen (Scarborough North, Lib.): I want to hone in on the Auditor General's report and specifically his examination of the Immigration and Refugee Board of Canada.

As is stated in the report under paragraph 3.39 on page 9, the Immigration and Refugee Board changed the appeals process last year to address the backlog of cases. I want to stress how important it is that we have timely processing of these cases. I've met many residents in my own constituency. I met one lady who is trying to have her husband sponsored so he can be with her and the family in Canada. They've waited for over two years from the point of filing the application, it being rejected, and then waiting for an appeal. It's very stressful for families to have to wait that long. It's not good for the children. I empathize with constituents who have spoken to me about cases such as this. It's quite heartbreaking sometimes to hear about the struggles they face without having the family united. This is not unique.

As identified through the report, these cases are part of the 11,000 outstanding immigration appeals. Each of these cases takes 18 months to process on average at this point, which is almost double the time it took—10 months in 2009—as reported in the audit at that point. The point I want to underscore is the importance of having that fair appeals process. As Canadians I believe it's very important for us as a country, not just for the appellants and their families to have that time to appeal, but for all of us to know there's a fair and thorough process.

I'm concerned with respect to the comment under paragraph 3.39. This might be outside the scope of the Auditor General's report, but I'm concerned that this backlog is simply being addressed by changing the appeals process, as noted in the report. I'm wondering if the Auditor General could comment on any further insights that might have been gathered with respect to this issue. I understand there is an appeal process. There are a number of appointees. To me it's not just a matter of ensuring those appointments are filled. If the process were being changed to address a lack of appointees, that to me is concerning. If the number of appointees is insufficient to address the backlog, then perhaps there needs to be a greater number of appointees.

• (1625)

Mr. Michael Ferguson: Mr. Chair, I'll lead in and then I'll pass to Ms. Clark.

We can comment on the period of time under the audit. As we said in paragraph 3.38 we identified this backlog, and the time to process the backlog had moved from 10 to 18 months. Things weren't getting better at that point, but in paragraph 3.39 we also identified that they

did start to make some changes and that started to reduce the backlog a little. I'm not sure what's happened since then.

I'll ask Ms. Clark if she has any other information that can help you understand what was going on at that point, but the Immigration and Refugee Board would probably have to respond to what's happened since then.

Ms. Sharon Clark: The process at the IRB is different. They do their own recruitment. It doesn't go through PCO. They have a very high number of GIC appointees. That number is lower than it was in 2009 when we did our audit because they changed some of those positions so they're now public servant positions. They go through a different process and not through the GIC process. As part of that transition, the GIC appointees who had started with a given file were asked to complete those files and not have someone new suddenly take on new files. They made the decision to carry a bigger backlog during that period. We talk about it in the report because it's important and it has very real impacts, as was mentioned. We wanted to bring attention to the impact of not filling all those positions in a timely manner and the impact of carrying that backlog. I think we're getting that message across. We did have a lot of meetings with IRB at which they told us they were cognizant of this, and they were taking action.

• (1630)

The Chair: Thank you.

Thank you, Mr. Chen.

We'll move to Monsieur Godin.

[Translation]

Mr. Joël Godin: Thank you, Mr. Chair.

I will eventually go back to my previous question if I still have some time before the end of the session.

My other question goes to Ms. Sherman.

You mentioned that appointments are delayed or not made at all because of a lack of staff. According to my reading, there are two solitudes responsible for these appointments not being made. There is the political end saying that it will put things to one side and delay the decision; then there's the internal end. That is where our wonderful government professionals come in. If the internal end does not have the necessary staff, if it's overloaded and does not have the appropriate tools, it may be tempted to not make any recommendations. That being the case, the message is not passed on; it does not get to the decision-makers so that an appointment process can be started.

I do not know if you understand my question. I want to know whether it is the officials in the trenches or their political masters who have been providing Canadians with less satisfactory services or with slower access to those services?

[English]

The Chair: Ms. Sherman.

Ms. Janine Sherman: Mr. Chair, I would like to clarify in terms of the delays and staff requirements, that when I made my remarks it was about building capacity in terms of the new approach, which has expanded the open, transparent, and merit-based process to a much broader range of appointments. I am not trying to imply that there are not sufficient resources, it's simply that we have been adapting to the implementation of the new policy approach and supplementing the resources that we have in order to deal with a bigger volume. I'd just like to clarify that.

In terms of delays, there are two sides to the appointment process. The Privy Council Office and departments that support ministers do indeed have to do their work and work through selection processes and provide that advice and information to ministers. It is fair to say that the more formal the process is, the longer it will take. Obviously, having an application process and going through the steps that a merit-based approach implies does take some time, but what we are working to do is actually look at the whole range of appointments, do some forward planning and make sure that we are setting up the system so that we can provide that advice and information on a timely basis, which will then enable ministers, in their responsibilities for making recommendations, to do that on a timely basis.

It's a lot of project planning, absolutely. I think both sides, in terms of the public service and the political responsibilities, have to work in sync and have to follow some important timelines. That's what we're trying to do in terms of some of the process improvements that we have spoken about.

I hope that answers your question.

[Translation]

Mr. Joël Godin: Basically, you are telling me that, now you have new tools at your disposal and a new system to use, the appointment process will be sped up. Is that a correct understanding of what you said?

[English]

Ms. Janine Sherman: I think we have the tools in place through the online application process, through some clarity in terms of how the process will apply to all of the positions, in order to do our work efficiently. I do not think it necessarily will accelerate any single process, but we are working with providing information more broadly to our colleagues and other stakeholders to make sure that we are tracking the vacancies and planning ahead so that we don't end up with long-term vacancies.

• (1635)

Mr. Joël Godin: Quickly,

[Translation]

Ms. Sherman, why do you say that you will not accelerate the appointment process?

[English]

Ms. Janine Sherman: Mr. Chair, I said it would not accelerate the appointment process because we are taking the merit-based selection process and applying that to a broader base of appointments. In doing that, as we are through this transitional time of implementing the new policy approach, we are learning as we go. We are taking lessons learned and applying them.

The fact is that we are applying the selection process to a much higher volume of appointments. It isn't that it necessarily will accelerate that process, but it will apply rigour, and with the appropriate planning and sort of prioritizing of which appointments need to be made to fill vacancies, we will be able to keep pace with appointments and do them on a timely basis.

The Chair: Thank you, Ms. Sherman.

We'll now move to Mr. Arya, please.

Mr. Chandra Arya (Nepean, Lib.): Ms. Sherman, in your presentation, on page 2, last line, you said, "To support the Government's objectives around diversity, applicants are asked to provide information on their second language proficiency."

If you ask me, the moment you ask for second language proficiency, you are cutting out large sections of Canadians, especially new Canadians and ethnic minorities. I can understand the bilingual requirements. I understand that we have to support bilingualism, but when there is no requirement, you also try to ask if applicants know the second language. When that question is asked, trust me, lots and lots of Canadians who are otherwise very highly qualified will not even apply.

There are millions and millions of unilingual Canadians who are qualified. They are not eligible many times because of that requirement. Though eligible, just because you ask whether applicants know the second language, they will not apply. Especially this is more true among the new Canadians and the ethnic minorities. So I think that you're wrong that, in the name of diversity, you are asking for second language requirements. In fact, you are dampening the likelihood of the people with limited language capacity to apply.

The Chair: Ms. Sherman.

Ms. Janine Sherman: I appreciate that view. That's an important consideration. There are only a few Governor in Council appointments that have a statutory requirement for bilingualism. Those are primarily agents of Parliament. Bilingualism is something that is obviously a preference. It's always good to have bilingual candidates, but it is not.... We do ask for it in the user profile. I do believe that applicants, when they apply for a position, will be looking through the selection criteria that a particular position requires.

Mr. Chandra Arya: When there is a requirement, I understand. I have no issues there. But even when there is no requirement that the applicants have to be bilingual for the position, the moment you ask if they know the official second language, it dampens....

Ms. Janine Sherman: Mr. Chair, may I?

The Chair: Go ahead, Ms. Sherman.

Ms. Janine Sherman: Thank you.

That is something, and we can certainly monitor that in terms of whether we are getting a high number of applicants for a particular position. It is information. It is not intended. I take your point that this may have an effect on people's willingness to put themselves forward, but it is something that doesn't say they have to be bilingual. It will ask for a level of proficiency.

Mr. Chandra Arya: I understand.

I can certainly tell you that I know many, many others who, the moment you ask if they know the second language, they say, "Okay, here it goes again," and they'll not be looked at. That is the thing.

On page 5, last paragraph, you said that the "changes to the appointments process are intended to contribute to the recommendation of high-quality candidates with a goal of better reflecting Canada's diversity."

How do you measure whether the appointments are leaning towards that?

• (1640)

Ms. Janine Sherman: That's a very good question. One of the ways we can look at that is certainly the data we are collecting on applicants in terms of who is applying and how they are. It's very early days in the process, in terms of the use of the website and the online applications. The government will be accountable for the appointments it makes and how representative they are as it proceeds through the implementation of this new policy approach.

The Chair: Very quickly, Mr. Arya.

Mr. Chandra Arya: We are amending the Canada Corporations Act requiring public companies to publicly submit a report identifying their board members and whether their boards are diverse enough.

Do you intend to do that for the GIC appointments?

Ms. Janine Sherman: Again, that would be a policy decision of the government. That is not something I would be in a position to give you a view on.

The Chair: Thank you, Ms. Sherman.

We'll now move back to Mr. Weir.

Mr. Erin Weir: Thanks very much.

Where a lack of appointments is actually slowing down these administrative processes, I'm wondering whether consideration has been given to the possibility of appointing tribunal members on an interim basis.

Ms. Janine Sherman: That is part of the government's approach in terms of implementing the policy, to make use of what I've referred to as transitional measures. Where there may be a selection process under way and a vacancy that is critical in terms of the continuing business of government, there would certainly be consideration given by the government to putting someone in place for a shorter period and not putting them through the selection process. Sometimes those are reappointments of existing members whose terms have expired, and those are short term, less than a year or up to a year, and subject to any legislative provisions. Sometimes there will be legislative provisions that require an appointment to be for a certain period of time. It may only be made for three years, in which case we wouldn't be able to do it for one year. We would have to do it for a three-year period.

Mr. Erin Weir: In terms of the specific panels where the auditor has identified problems resulting from the lack of appointments, was the reason for this that there was a legislative barrier to appointing people on an interim basis? Why wasn't that tool used?

Ms. Janine Sherman: The one thing I should clarify is that during the period of the audit, which was 2010 to 2015, there was a

different process in place. The transitional appointments are something that this government has put in place through the implementation of the new policy approach, but at any point in time, in managing the appointments to a tribunal, the minister would have the option of looking at temporary appointments, if they were needed.

Mr. Erin Weir: Thanks for clarifying that.

In terms of the Competition Tribunal, what were the specific problems with appointing enough members?

Ms. Janine Sherman: Mr. Chair, I'll ask my colleague from Industry to respond.

The Chair: Ms. Dooher.

Ms. Shelley Dooher (Corporate Secretary, Office of the Corporate Secretary, Department of Industry): Thank you, Mr. Chair, for the question.

First of all, I'd like to say that ISED agrees with the recommendations of the Auditor General. We are wholeheartedly taking action on them and we're helping implement the framework.

With respect to the Competition Tribunal, it's important to know that the legislation calls for a set number of judicial and lay members, up to a maximum. It doesn't mean they all have to be in place all the time because it really depends on workload. I would say a couple of things. As far as I know, and I've only been in my position since December 2015, to the best of my knowledge the tribunal was able to deal with its workload.

There's one thing that might be missing from the dialogue today. One of the important things that PCO has put in place when we look at these new processes for lay members is that we're allowed to do larger competitive processes and establish pools of candidates, and to draw from that pool over a period of time. That really allows us far more flexibility when we're speaking about a need that could arise quickly because the workload changes, and we already have a qualified group of people.

I hope that answers your question.

• (1645)

Mr. Erin Weir: Thank you.

The Chair: Thank you, Mr. Weir.

We'll now move to Ms. Hutchings. Welcome to our committee.

Ms. Gudie Hutchings (Long Range Mountains, Lib.): Thank you. It's wonderful to be here filling in for my colleague.

My question is for you, Ms. Sherman.

Regarding the online portal, where potential applicants apply, where they go in and they get their profile, I have a few questions. Are they notified once their profile is set up? I guess they'll know eventually if they are accepted or not, but do they get a notification when there are new positions? If someone was interested in an indigenous position or agriculture, would they get information that there are new positions available, or do they have to reapply every time?

Ms. Janine Sherman: There are two things on the profile. You first have to register and create your user profile. In that process, people will get confirmation that they are registered on the website. Once they have their registration and they apply for specific positions, they will upload their documents and have confirmation of that. Then they will be notified of the process. They will be contacted should there be further steps, if they will be selected for an interview or that next step.

Right now, we do not have the capability on the website to send automatic messages to people about other positions they might be interested in. When they do apply for a specific position, there often will be a flag in the notice of opportunity that they may be considered for other similar positions. We do have a process we're working out to make sure, as my colleague mentioned, about creating a roster specific to one entity. We are also working to see that, if people are qualified and perhaps there is a similar position they might be interested in, we would be able to consider them for that, too.

Ms. Gudie Hutchings: I'm from a rural riding, as are many of my colleagues in the House. We hear often how connectivity and broadband are issues. If now the main place to apply is online, do you think that's going to be an impediment to people applying from rural ridings? We want to make sure we have our country represented from coast to coast to coast on all tribunals and boards.

Ms. Janine Sherman: Absolutely.

I don't think so. We are certainly sensitive to some of those issues. I'm not the expert on all the technicalities, but we have tried to make the system work with a minimum amount of space required, in terms of loading particular documents. We do have some experience. We also support the Independent Advisory Board for Senate Appointments, where we had a four-week period for applications and lots of traffic on that website. We were able to service people from all across the provinces who were affected. We haven't seen any difficulties yet.

Ms. Gudie Hutchings: Seeing as it is 2016, do you use many forms of social media? I know that if I want to get the word out in my riding, I use Facebook. It seems to be the thing. Have you given consideration to doing that type of social media awareness?

Ms. Janine Sherman: We are working on that. We don't have a broadly based approach for that, but certainly in terms of individual notices of opportunities where we are working, we may have a specific recruitment strategy or advertising strategy that would involve social media. So yes, those are things we're certainly hoping to make use of.

Ms. Gudie Hutchings: Thank you.

The Chair: You have a little time left. It is your party's time. I'll give it to someone on this side.

That would be Ms. Shanahan. Go ahead, Brenda.

Mrs. Brenda Shanahan (Châteauguay—Lacolle, Lib.): Thank you very much, Chair.

Actually, I want to come back to the Auditor General's point around what the real problem is here in expediting the filling of vacant positions. It seems to be around succession planning and forward thinking.

I would like to hear from each of the department representatives here today what their department is doing now to identify vacancies before they come up, succession planning. How are you supporting that?

• (1650)

The Chair: Go ahead, Ms. Sherman.

Ms. Janine Sherman: I can give a brief perspective in terms of how we are working with departments to that end. We certainly do track and monitor vacancies across the Governor in Council population, and share information with departments in terms of their minister's portfolio and upcoming vacancies. Having that information enables the departments to work in terms of the resources and the allocation of their time to those processes.

I don't know if my colleagues would like to add to that.

Mr. David Dendooven: Yes, over at INAC we have a small unit whose main purpose is to review all of the appointments for which our minister makes a recommendation to the Governor in Council. Those are the things we look out for, to see what's coming down. We're speaking with the different sectors, as well, which know the boards and organizations very well, to identify if there are unexpected deaths, for example. We monitor that, and we have a special unit that checks that and makes sure we're there and able to identify any vacancies and the like.

The Chair: Does anyone else have any comments?

Mr. Cintrat.

Mr. Jean Cintrat (Director General, Cabinet and Parliamentary Affairs and Executive Services Directorate, Department of Public Safety and Emergency Preparedness): Thank you.

At Public Safety Canada we also track vacancies very closely and keep an eye on upcoming vacancies, provide that information to the minister's office and to the organizations with whom we work in the portfolio. To the extent possible, we also try to work ahead on any vacancies in preparing the support material and documentation that the minister requires to be able to make a decision in the end.

The Chair: Thank you.

Ms. Dooher, you're next.

Ms. Shelley Dooher: We have a dedicated team that tracks these very closely. In my 30 years as a public servant, the engagement and training that PCO has undertaken on this initiative is unprecedented. We have weekly calls and beyond that many follow-ups, so I think they are, in their own gentle way, forcing us to ensure that we have processes in place to help us manage not only the workload, but to ensure that we have vacancies that are coming due, and that we are dealing with them.

The Chair: Thank you. That is good to hear. Congratulations for you—what did you call it—peaceful ways.

Voices: Oh, oh!

Mr. Joël Godin: She said gentle ways.

The Chair: Gentle ways, all right.

Mr. McColeman, please, you have five minutes.

Mr. Phil McColeman: I want to deal with the succession issue. From a background of owning a building company, I think in terms of blueprints and of step one, step two, step three. This is for any of you, I suppose, but perhaps the Auditor General could begin. I tend to view my time here observing a lot of political influence. If there's an elephant in the room, that's what it is; when it gets to the political level, in many cases these are patronage appointments. These are people who eat, drink, and breathe the same ideology as the current government. Maybe I'm dead wrong. We're trying in a way to be correct about making sure they have the required skill sets.

Don't get me wrong in the sense that incompetent individuals would be appointed, but I want to be candid with you, if I can. Again, use your own discretion on whether you want to answer or not.

In your experience over time with this, and considering that it seems to me that perhaps a better approach from that step-by-step process would be putting time limits on ministerial staff and ministers to make decisions, and getting people in place on a timely basis, that's one of the major criticisms.

I have anecdotal personal knowledge of someone who was trying to find out whether he would be reappointed and kept saying he needed to know to plan his life, spent an extra year, and then suddenly found himself not being told. I'm not going to bring up names or situations or anything like that, but that's the reality. I know the situation.

That's a broad thing to state, but what are the political realities that you can share with us that could make it better, from your point of view? I'm not expecting overnight change in any particular government not wanting to have control politically of these appointments, but if there were a step by step process, if ministers had a deadline they had to decide by, would that help?

• (1655)

The Chair: I don't want to cut into Mr. McColeman's question, but in one of the paragraphs, you said, and I think this builds on what Mr. McColeman said, "It is also worth noting that during implementation of the new process, the Government has decided to make appointments or re-appointments to positions that are essential for the good governance or continuity of government business that may not include the full set of new measures announced this year."

When we read something like that, it might be easy to say here's the new process. We have the process, but because the government wants continuity of government policy and government business, they're just going to appoint whomever. Is that fair?

Ms. Janine Sherman: I think that my point in putting forward the government's approach to the reappointments on a transitional basis...and many of them are reappointments of incumbents, that is, people who are in the position and they are extending their term. I'm not in a position to say that it is political influence. I think that is an incumbent whose term is being extended in order to have a selection process that will meet the requirements of the open, transparent, and merit-based process. It really is a transition in terms of getting to the full selection process that I outlined, which does take some time in terms of advertising, managing a selection process, vetting and considering candidates, and then of course providing advice to the

minister. That does take a certain amount of time. As I mentioned, in a project planning sense we do have timelines and ideas about how long that takes, which is part of the information that we work with among the network of departments that support ministers.

There is a good understanding about the time frame that is involved. In order to ensure continuity, where terms may have been expiring in February, March, or June, the government did take an approach of reappointing or making some temporary appointments. I wouldn't take that as an end run on the process that has been announced. It is definitely a transitional approach.

There are some inherent timelines in terms of how the process works. Ministers are wanting to manage their vacancies and make sure that the organizations they are responsible for have the appointments and the people in place to carry out the mandate that they are accountable for. Within the system there are some timelines that are clearly in place. Our job in the public service is to back it up from those timelines and make sure that we can support their recommendations to the Governor in Council with a sound process.

The Chair: Thank you, Ms. Sherman.

Mr. Lefebvre.

[*Translation*]

Mr. Paul Lefebvre: Thank you, Mr. Chair.

Mr. Dendooven, a little earlier, you mentioned that you work with a team in Indigenous and Northern Affairs Canada and that you make recommendations to the minister. Is that for positions on the tribunals for which the department is responsible?

Mr. David Dendooven: I am sorry, Mr. Chair. I did not understand the question.

Mr. Paul Lefebvre: A little earlier, you spoke about your role and about recommendations for candidates for positions on a tribunal.

Mr. David Dendooven: Actually, I may have not have expressed myself correctly.

Mr. Paul Lefebvre: Okay.

Mr. David Dendooven: My team works like those in the other departments. We are there to support the minister. We work closely with the Privy Council Office to support the new process.

I talked about the team's work, which is to make sure that there is some monitoring of the positions to be filled, now or later. We have to be ahead of the game.

• (1700)

Mr. Paul Lefebvre: For how many years have you held the position?

Mr. David Dendooven: I have only been there for a few months.

Mr. Paul Lefebvre: Thank you.

I am going to quickly go back to my question and repeat it.

My question is simple. During the audit period, between March 2010 and November 2015, did your department or the Privy Council Office receive or make any recommendations for any candidate to sit on the Specific Claims Tribunal Canada?

Mr. David Dendooven: I was not there at that time.

If I understand your question correctly, as my colleague mentioned earlier, because of the nature of the work we do within the department and the work of the tribunal, as employees of the department, we must keep some distance between us.

As for the recommendations to the tribunal made to the Governor in Council by our minister and the Minister of Justice, we are not involved at all. During our conversations with the Auditor General of Canada, we emphasized—

Mr. Paul Lefebvre: Who makes those recommendations? I want to know. It is a simple question.

Mr. Paul Lefebvre: Canadians should know whether they can trust the system. We have a tribunal. The Auditor General comes and tells us that there have been no appointments in three years. There is a vacuum, there is a problem and there are unacceptable delays. However, you are telling me that you don't know what is happening. The question I am asking is simple and I would like to get an answer, please.

[*English*]

The Chair: Go ahead, Ms. Sherman.

Ms. Janine Sherman: It is the minister who makes the recommendations to the GIC—

Mr. Paul Lefebvre: Somebody tells the minister the recommendations.

Ms. Janine Sherman: Absolutely. Because a judge is required, there is a separate and distinct process that happens with the Department of Justice, with the judiciary and the chief justices in the provinces of those superior courts.

I cannot speak to what those activities were during the audit period.

Mr. Paul Lefebvre: Why not?

Ms. Janine Sherman: They are not within my responsibility. That is the management of judges.

What we do is exactly as you have pointed out. The department will be cognizant of what the tribunal is looking for in terms of the demands. The Department of Justice would be working with the judiciary in terms of judges who may be available. I don't know what is involved in those discussions. But that is the process it goes through, whether they're—

Mr. Paul Lefebvre: I find it odd that we just.... Mr. Dendooven mentioned to us a bit earlier as well that there were three people named to this tribunal in the month of May. Am I correct? Then for three years, there were none. I'm just asking why. Again, nobody can provide me an answer. I don't find it acceptable for the Canadian public and our first nations that want the claims to proceed that have been delayed for years, decades in some cases, to know their cases cannot even be heard, and nobody here on this panel can tell me why.

Mr. Chair, I just find that unacceptable.

The Chair: That is noted.

We'll go to Monsieur Godin.

[*Translation*]

Mr. Joël Godin: Thank you, Mr. Chair.

I have the privilege to go back to my previous question. Witnesses who have not had a chance to speak will be able to do so.

I would like to invite the officials from the various departments in turn to say a few words about their self-assessment system. If we continue to play the Auditor General's audit lottery, we may have to wait another 10 years for measures to be put in place. Some of the members of Parliament will probably no longer be in the House at that time. You have to have a functional public service that self-assesses so that the system is improved, so that we get over the history and rigour is applied.

Can you tell me whether there is a way to improve the processes without having to wait for a visit from the Auditor General?

• (1705)

[*English*]

The Chair: Where do we want to start?

I don't know if the question was clear. Well, the question was clear. It was on what you are doing within the departments, not so much on self-assessment but on recognizing the vacancies that may be coming, assessing when you need to act. You get your phone call from Ms. Sherman once a month, or whatever, saying that these are the things happening. That's a good.... That's one extra measurement. Is each department getting that call? Is each department putting out a benchmark of things that need to be done so that we don't have the vacancies and the...?

Is that fair, Mr. Godin?

[*Translation*]

Mr. Joël Godin: Mr. Chair, I would like to add some information for the officials.

You will understand that the clients served by your departments are Canadian taxpayers. So, as clients, they want to have adequate services. It is not normal to keep people waiting. There have been waiting periods of 10 months, but the delays are 18 months right now.

Are you putting measures in place to improve the processes? I think my question is very clear.

[*English*]

The Chair: We'll start with Mr. Dendooven.

[*Translation*]

Mr. David Dendooven: We are actually receiving calls every week, since all departments are in the process of learning the new system. I am sure my colleagues will also point that out.

As public servants, we are very aware that we are working for Canadians. So we are evaluating the work that we do to ensure that we are doing it, first and foremost, for Canadians.

In terms of the Department of Indian Affairs and Northern Development, the unit responsible for appointments ensures that the work is done effectively. As a result of the Auditor General's review of the tribunal, we have reassessed our processes to ensure that we respect its independence and that we cannot be accused of interfering with the candidates whom the Minister of Justice recommends to the Governor in Council.

[English]

The Chair: Please go very quickly because we're short on time and others want to comment.

[Translation]

Mr. Joël Godin: Today's audit covers the period from 2009 to 2015. Unfortunately, in your case, Mr. Dendooven, you were not there, but do the other departments have mechanisms in place to self-assess and improve on an annual basis? This can be done every year, but it can be done every three months, every six months or every two years. The important thing is to have a continuum in improving the system.

[English]

The Chair: Go ahead, Ms. Sherman.

Ms. Janine Sherman: Other departments—

The Chair: I see your light is on. We'll go back to Monsieur Cintrat.

[Translation]

Mr. Jean Cintrat: Thank you, Mr. Chair. I can answer that.

Our department may not have an audit system specific to this file as such, but it has a broader auditing system that follows up on the audit, which is always the case.

Since the spring, we have set up an internal one-stop shop, which coincided with the tabling of the Auditor General's report and the implementation of the new Privy Council policy. Since then, my team has been managing the one-stop shop for the entire portfolio of the minister's office and the Privy Council Office. So all the information goes through my office. This enables us to know the status of the files at any point. This allows us to deal directly with the minister's office in order to inform him of future vacancies, for example, and to work with him to discuss and decide on various options for the appointment process when necessary.

We now have a very clear idea of the positions that are supposed to be vacant six months or a year in advance. We then start a bureaucratic process, because it is our role as public servants to provide the minister with the administrative machinery he needs to make those appointments, knowing that it is ultimately his decision and the decision of cabinet.

• (1710)

[English]

The Chair: Was there anyone else who wanted to wade in? No.

We'll move to Mr. Weir, please.

Mr. Erin Weir: To return to the Competition Tribunal, it seemed Ms. Dooher was making the point that there's a maximum number of appointees that need not be met at all times, and there's a roster of other qualified people who could be appointed. By contrast, my reading of the Auditor General's report was there was a real concern that a lack of appointees was delaying hearings that were very important to Canadian businesses and consumers.

I'm wondering if I can get the Auditor General to come back on this question.

Mr. Michael Ferguson: Mr. Chair, it brings me back to the fundamental point. We can look at vacancies and we can look at

processes, but the real measure that matters is the timeliness of decisions.

We identified here that it took 16 months to appoint an individual with the expertise in economics needed to hear cases before the tribunal at the time. If you need that type of expertise, and you don't have it, it doesn't matter if you're only one member below your maximum number. You may be well above your quorum and that type of thing, but if you are missing a key competency, then it can affect the ability to make decisions.

Again, the key measure on all of these things is whether these organizations are able to make the decisions on a timely basis. If they are not, is it because they don't have the number of members? Maybe the reason is something else.

In this case we were able to see that with the number of shortages we identified, it seemed to be having an impact on the actual decision-making of some of these organizations.

Mr. Erin Weir: Thank you.

Now I have a more general question. We've been talking about the appointment process, but we haven't really talked about the orientation or training that might be available to people after they are appointed to these tribunals.

I wonder if there is anyone on the panel who would like to speak to that question.

Ms. Janine Sherman: Mr. Chair, I can start.

Yes, the Auditor General did look at some of the training and orientation we do. There is certain information that is provided through the fact that the appointees are now public office holders, and if they are in what we would refer to as leadership positions, we do meet with them and inform them of those responsibilities.

For the role of PCO, we attend other orientation and information sessions that are managed for various groups of appointees and provide information and training about their broader responsibilities.

The organizations themselves will provide more specific, job-specific training, and orientation to their responsibilities. Some of my colleagues might want to comment on what that is.

We do work to make sure first of all that they understand their responsibilities in terms of their public appointment status, and then the more specific training is usually done with on-boarding processes within the organizations.

The Chair: Mr. Cintrat.

Mr. Jean Cintrat: The Parole Board of Canada, which is under the umbrella of Public Safety, has a very well-established training and on-boarding program for their membership, and I believe they also have an annual assessment of them.

Mr. Erin Weir: For the Auditor General, are you more or less satisfied with the orientation and training that's in place? Do you have any suggestions on that front? Is this something you might examine in the future?

Mr. Michael Ferguson: We identified that the Privy Council Office was offering one-on-one sessions to newly appointed chairs and there were a number of different types. In paragraph 3.71 we also talked about the work of the Canada School of Public Service and identified that a lot of what they offer is non-mandatory. It was a bit concerning that only 13 of the 37 chairs...although seven of them may not have had the opportunity, if we assume they did, it still would have been only 20 out of 37 chairs, so 17 didn't participate in some of that.

It's very important to understand where some of these people are coming from. If they are people who have never had any contact with government in the past and they're now coming to work in a government environment, things are different in government. There are different things that you can and can't do when you work in a government environment, different things that you need to pay attention to, so it would be cause for concern to think that only about half the chairs coming into roles would be taking advantage of those types of training sessions.

It is just an indicator that a little more work still needs to be done on this front to make sure that people are well oriented to what they are coming into.

• (1715)

The Chair: Mr. Weir, that's a good question.

We'll go to Ms. Mendès.

[*Translation*]

Mrs. Alexandra Mendès: Thank you very much, Mr. Chair.

I would like to thank all the witnesses for being here with us today and for giving us a lot more details on how the various departments work and the positions that need to be filled in those administrative tribunals.

I think one of the things that strikes us the most—and I am thinking about my colleague on my right—is that there has been some laissez-faire over the years in terms of appointments and those to whom the duties have been assigned.

We do not necessarily have action plans because it's not appropriate in this specific context, but we have three tribunals. I tip my hat to the folks from Public Safety Canada, because I think they have done their job in a rather exemplary fashion.

Would it be possible to have a letter from your departments—the committee can make a formal request for that—or a progress report on how things have changed since February when the new process was set up? Is there a better balance between the positions to be filled and the recruitment and positioning of those people? I am asking for a progress report on each of the tribunals, particularly the Immigration and Refugee Board of Canada, the Specific Claims Tribunal of Canada and the Competition Tribunal.

Mr. Cintrat, you are exempted from this request.

[*English*]

The Chair: Thank you, Ms. Mendès.

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

Mr. Phil McColeman: Mr. Cintrat, how many vacancies currently exist on the national Parole Board?

Mr. Jean Cintrat: There are 19.

Mr. Phil McColeman: There are 19 vacancies out of how many positions in total?

Mr. Jean Cintrat: There are 89.

Mr. Phil McColeman: That's 89, okay. Is the cohort capable of keeping up with the requirements of the numbers of people requesting hearings and such, or does 19 vacancies mean deficiencies in hearings?

Mr. Jean Cintrat: Mr. Chair, I would respectfully refer that question to the board. I'm not in a position to say whether or not this has an impact on their operations. The government launched a selection process to fill positions of members on the board in October, and the government has also proceeded with the transitional appointments of five members over the last few weeks to help with the workload.

Mr. Phil McColeman: Thank you.

The Chair: We don't have any other questions here, but I would like to take the chair's prerogative.

I think our Auditor General brought up an interesting scenario, that if you are seeking someone with strong economic background, and there's just no one in the pool for that particular position, then you're going to have a vacancy. I think there should be a certain level of confidence there. If we've recruited well and done all the things we think we've done, and there's still, for some reason, not quite the threshold of merit we would like to see, then we don't have it.

The other thing is that there are a lot of people in our constituencies across the country who always come to members of Parliament and ask how to get on one of these boards. Typically, we tell them to look at the website and apply. I'm not certain how many do. It's like sitting at the coffee shop back home. Everyone is an expert and is sure he or she can do the job, and probably better than the bureaucrats who are there now.

If they apply, that's good. Do they just not get put into the pool? Do they get told they are no longer being considered, or are they held in this limbo out there where they're sitting by the phone waiting, because they know government wants their expertise? Maybe you're just saying, "We don't have that expertise in this group right now."

Ms. Sherman.

• (1720)

Ms. Janine Sherman: Mr. Chair, there is a process. Applicants are advised when an appointment is made and that process is over. They would be aware at that point that they were not being considered for that particular position. We do try to close the loop on that.

If a process takes a certain amount of time, people may be wondering what's going on. We're looking at ways of giving people updates on where their application may be. The website does allow them to write to ask about various processes they may have applied for. They would be told that the process is still ongoing or that they should have received an email, for example, that the process is complete.

The Chair: Going back to the Parole Board of Canada, it sounds as if, of 89 positions, 19 are vacant. But in the Parole Board of Canada, it's not just an open pool of 89. There are some very specific regions you seek. For example, you would seek someone to sit on the Parole Board in the western region, the British Columbia region, the prairie region, or the Atlantic region. Is there any one region right now where it's very obvious that the significant number of openings are specific to one region?

Mr. Jean Cintrat: I'll have to look at the statistics. Specifically, I believe that the Quebec region is the only one with a full contingency of appointments, and the rest are scattered across the country.

The Chair: It's not as if there is one region that has 10 or 12 openings and then just a sprinkling across the rest of the country. It's fairly equal.

Mr. Jean Cintrat: That's correct.

The Chair: Good.

We'll go to Mr. McColeman, and then we will close.

Mr. Phil McColeman: Further to that, another number I'm wondering if you could provide, if you don't know it off the top of your head, sir, is the number of applications you have currently in the queue for positions on the national Parole Board.

The Chair: Mr. Cintrat.

Mr. Jean Cintrat: It's 441.

Mr. Phil McColeman: Of those 441—and we can't find 19, for some reason—how many have qualified and are through to the point of being recommended to the ministry?

Mr. Jean Cintrat: We're just at the point of looking at the applications right now.

Mr. Phil McColeman: Okay. Thank you.

The Chair: I want to thank all of you for coming today.

In the course of the rest of the day, or perhaps over the next few days, if all of a sudden you have more information that you would like to share with our committee, we would encourage you to do that and submit it to our clerk. If you think that you should or could have answered a question a little better, please feel free to send that in as well. As we study this, it would help us understand the appointment process a little better.

Thank you for coming and helping us to understand better.

Thank you, committee.

The meeting is adjourned.

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