HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Public Accounts

PACP • NUMBER 045 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Wednesday, February 15, 2017

Chair

The Honourable Kevin Sorenson

Standing Committee on Public Accounts

Wednesday, February 15, 2017

● (1535)

[*English*]

The Vice-Chair (Mrs. Alexandra Mendès (Brossard—Saint-Lambert, Lib.)): I call the meeting to order.

Good afternoon.

[*Translation*]

Thanks to the witnesses from the Office of the Auditor General of Canada for coming to testify before us once again.

Today, we are studying report 3 of the 2016 Fall Reports of the Auditor General of Canada, entitled: "Preparing indigenous offenders for release—Correctional Service Canada."

[*English*]

I'm very pleased to welcome Mr. Michael Ferguson, Canada's Auditor General, and Madam Carol McCalla, who is the principal in charge of the audit. From Correctional Service of Canada we have the commissioner, Mr. Don Head, and Madam Anne Kelly, senior deputy commissioner. Welcome to all of you.

You all have statements to make, so, Mr. Ferguson, the floor is yours.

Mr. Michael Ferguson (Auditor General of Canada, Office of the Auditor General of Canada): Thank you.

Madam Chair, thank you for this opportunity to present the results of our report on how Correctional Service of Canada prepares indigenous offenders for release back into the community.

Almost 3,800 indigenous men and women were in federal custody at the time of our audit. Correctional Service of Canada is mandated to provide rehabilitation programs and services to meet the unique needs of indigenous offenders. As well, when making case management decisions, staff are required to consider an indigenous offender's aboriginal social history.

Indigenous peoples represent 3% of Canadian adults, but they make up a growing proportion of the federal offender population. As of March 2016, indigenous offenders represented 26% of all offenders in federal custody.

Although Correctional Service of Canada cannot control the number of indigenous offenders receiving federal sentences, it can provide them with timely access to rehabilitation programs and culturally appropriate services, which can influence how long and how many offenders remain in custody.

We found that as the indigenous offender population grew, Correctional Service of Canada could not provide them with the rehabilitation programs they needed when they needed them. Most indigenous offenders in federal custody were serving short-term sentences, which means they became eligible for release after serving one year of their sentences. However, more than three-quarters of the offenders we examined were unable to complete their rehabilitation programs in that time because they were not given timely access to the programs they needed.

[*Translation*]

Parole supervision is a highly effective way to support the successful return of an offender to the community. However, we found that two-thirds of released indigenous offenders had never been on parole. Half of these offenders were released directly from medium- or maximum-security institutions back into the community, which means that they had less time to benefit from a gradual and structured release until the end of their sentence. Overall, Correctional Service Canada prepared indigenous offenders for parole hearings less often than non-indigenous offenders, and when they did, it was later in their sentence.

Correctional Service Canada used the custody rating scale to help determine an offender's security level and need for a rehabilitation program. More than three-quarters of indigenous offenders were sent to medium- or maximum-security institutions upon admission, which was at significantly higher levels than for non-indigenous offenders. Once in custody at higher levels of security, few indigenous offenders were assessed for a possible move to a lower level before release, even after they completed their rehabilitation programs.

[*English*]

We found that Correctional Service of Canada's assessment tools did not address the specific needs of indigenous offenders or consider their aboriginal social history, as required. Moreover, these assessment tools could have resulted in higher than necessary referrals to rehabilitation programs. Although Correctional Service of Canada had developed better tools, it had not yet put them into use.

Correctional Service of Canada has provided several culturally specific programs and services for indigenous offenders. However, access to these services was uneven across institutions.

For example, healing lodges were designed to meet the unique needs of indigenous offenders, but they did not exist in all regions. There were none in Ontario, where approximately 500 indigenous offenders were located. We found that offenders who participated in healing lodge programs had very low rates of reoffending upon release, yet Correctional Service of Canada had not examined ways to provide greater access to more indigenous offenders.

[*Translation*]

Correctional Service Canada also contracts with elders to work with offenders and deliver culturally specific rehabilitation programs. However, we found that staff did not take this work into account when they made recommendations to the Parole Board of Canada. Without this information, the Parole Board would not be able to appropriately consider the offender's potential for successful release.

We are pleased that Correctional Service Canada has agreed with our recommendations and committed to take corrective action to improve results for indigenous offenders.

Madam Chair, this concludes my opening statement. We would be pleased to answer any questions the committee members may have.

Thank you.

[*English*]

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much, Mr. Ferguson.

You have the floor, Mr. Head.

Mr. Don Head (Commissioner, Correctional Service of Canada): Thank you, Madam Chair and members of the committee. Thank you for the invitation to appear before you today to discuss the Auditor General's performance audit, “Preparing Indigenous Offenders for Release”, and the accompanying recommendations.

The report examined whether the Correctional Service of Canada provides timely correctional interventions to incarcerated indigenous offenders and assessed its performance in assisting with rehabilitation and reintegration efforts. It made eight recommendations to improve indigenous offenders' conditional release opportunities, including ensuring timely access to culturally specific correctional programs and interventions, documenting progress and risk reduction associated with participation in culturally specific interventions and the associated impact on the offender's security level, and ensuring consideration of the aboriginal social history in case management documentation and decisions.

CSC fully accepts the Auditor General's findings and recommendations and is currently implementing measures to address them. CSC is committed to supporting indigenous offenders with a revised approach that will focus our efforts to support their successful and safe rehabilitation and reintegration into the community at rates comparable to those for non-indigenous offenders.

While CSC cannot control the number of indigenous Canadians receiving federal sentences of incarceration, our work and interventions could ultimately impact, to some degree, the length of time these offenders remain in custody, the security level of the institution they are managed in, and the timing of the presentation of their cases to the Parole Board of Canada for conditional release decisions.

Our goal is to reduce the gap in successful community reintegration between indigenous and non-indigenous offenders. CSC is committed to enhancing its capacity to provide effective programs and interventions for indigenous offenders and is working collaboratively with criminal justice partners and community stakeholders to support the rehabilitation and safe reintegration of indigenous offenders into the community.

To accomplish this, I'll be working closely with my senior executive team to achieve the progress and sustainable results that Canadians expect.

I would like to share with you some demographic information about CSC's indigenous offender population.

CSC continues to observe an increase in its total indigenous offender population. At mid-year in the fiscal year 2016-17, indigenous offenders represented 23.1% of the total offender population, accounting for 26.5% of those in custody and 17.4% of those on some form of conditional release in the community. Furthermore, over one-third of incarcerated women are indigenous, representing 36.7% as of January 15, 2017.

The indigenous offender population differs from the non-indigenous offender population in a number of areas. For instance, when we look at global statistics, indigenous offenders tend to be younger, they are more likely to have served previous youth and/or adult sentences, they are incarcerated more often for violent offences, and they are more inclined to have gang affiliations and have higher risk and needs ratings.

It is important to state that CSC's approach to indigenous corrections will continue to be culturally sensitive to and inclusive of indigenous communities in order to provide the most effective correctional outcomes and, in turn, contribute to the best possible public safety results for Canadians.

Providing effective programs for indigenous offenders is a key priority for CSC, and while we have made significant progress in identifying and addressing the specific needs of indigenous offenders, we recognize that more work remains to be done.

CSC's approach to indigenous corrections is based on the aboriginal continuum of care model, which was established in 2003 in close collaboration with elders and members of indigenous communities. This approach begins at intake, is followed by institutional paths of healing, and ultimately supports the reintegration of indigenous offenders into the community. The model provides the flexibility necessary to respect the diversity of first nations, Métis, and Inuit people.

CSC offers, within the aboriginal continuum of care, aboriginal liaison services, aboriginal correctional programs, Pathways initiatives, Inuit elder liaison and programming resources, aboriginal women's programs and services, release planning and reintegration services, and healing lodges for both women and men.

● (1540)

These interventions are integral to CSC's strategic plan for aboriginal corrections and the Anijaarniq Inuit strategy. Additionally, with an offender's consent, release planning is completed in consultation and collaboration with the participation of indigenous communities, as per section 84 of the Corrections and Conditional Release Act.

With input from the national aboriginal advisory committee, CSC continues to develop and provide a number of indigenous-specific programs and services to improve correctional results for indigenous offenders and respond to the disproportionate representation of indigenous individuals incarcerated federally. Further to this, CSC also makes targeted efforts to recruit and retain indigenous employees to assist in the delivery of indigenous interventions and to provide culturally relevant perspectives. As a result, CSC is the largest employer of indigenous peoples in the core public service.

In moving forward with the Auditor General's recommendations, CSC will be innovative in its approach to indigenous corrections in keeping with the spirit and intent of the Gladue principles. We will look for ways to improve and enhance several key areas of our policies and operations by examining how individual offender cases are managed. We will review our assessment procedures to ensure that the security levels of offenders are determined by considering individual aboriginal social history factors and that parole officers are proactively preparing offenders, especially low-risk offenders, for presentation to the Parole Board of Canada for decision by the first eligibility date.

Continuing to increase the availability of and access to culturally relevant programs tailored to the needs of indigenous offenders is a key priority. Working to fully implement the aboriginal integrated correctional program model to ensure that indigenous offenders have access to the right correctional programs at the right time to support their successful release is also a priority. Optimizing the roles of our elders and spiritual advisors and the use of Pathways initiatives and healing lodges to provide strong, structured, and culturally supportive environments for indigenous offenders on the path to rehabilitation and reintegration is another one of our key priorities.

Also, enhancing our collaboration with indigenous communities and partners to help increase their participation in the management of indigenous offenders' sentences and successful reintegration as part of the CCRA section 84 release planning process is also a priority.

I must stress that my organization cannot do this alone. CSC will continue to work closely with our partners in the criminal justice system, indigenous organizations, and community stakeholders to address the needs of indigenous peoples. Together we can work to close the gap in correctional results between indigenous and non-indigenous offenders.

In conclusion, Madam Chair, I would like to reiterate to you what I wrote to Mr. Ferguson in our response to the OAG's report and findings, which is that this report marks a milestone in Canada's correctional history. I sincerely believe it is a catalyst for strengthening our nation-to-nation relationships and Inuit-to-crown relationships with indigenous peoples, and that it offers the opportunity to deliver a coordinated and cohesive strategy for improving reintegration results for indigenous offenders.

With that, Madam Chair, I thank you for the opportunity to meet today. I welcome any questions that you or the committee may have.

● (1545)

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much, Mr. Head.

I'd like to go to Ms. Shanahan for the first set of questions, for seven minutes.

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

Thank you all for being with us this afternoon.

To say that this report is shocking only starts to describe the reaction that I think all of us here on the panel had when we were reading this report. I'm sure this is information that is readily available, but we read on page 1 of the Auditor General's report, “Indigenous offenders accounted for 26 percent of all offenders in custody in the 2015–16.... In particular, Indigenous women make up 36 percent of female offenders in custody...”, where in the general population....

I'm not telling you anything you don't know. You know this.

What I'm trying to get to is—and this question is for Mr. Head—that the CSC has had an approach to rehabilitating indigenous offenders since 2003, over 10 years. Can you tell us how many of the incarcerated have access to that rehabilitation program today?

Mr. Don Head: Yes, thank you. That's a very good question.

All offenders have access to all the mainstream programs at any given time. Indigenous offenders have the ability to go down a path that is more specific to their cultural needs. These are opportunities that would have them engaging with elders, possibly participating in the Pathways initiatives in several of our institutions, and possibly even going to healing lodges as part of the gradual de-escalation in security levels.

● (1550)

Mrs. Brenda Shanahan: I understand, Mr. Head. That has been described to us. Those programs are available, but apparently not everyone is getting access to them. In fact, a very small number have access. Can you tell the committee today, as a percentage, how many people are actually able to access those culturally-appropriate programs, are able to get into them, are in them?

Mr. Don Head: It's driven to a large extent by the desire of the offender. We have indigenous offenders who choose not to go down the path that would lead to healing lodges. Some will take the mainstream programs, and they have access to all the mainstream programs. For those who choose to go down the path of the healing lodge and Pathways, they're there, so in terms of percentages, it's hard to give you the number you're looking for.

I can tell you where we stand in terms of the healing lodge beds we have and how many are used. I can tell you about the Pathways initiatives and how many offenders are participating. I can tell you the number of individuals who have section 84 release plans. As I say, though, some of that is driven by the offenders themselves.

Mrs. Brenda Shanahan: If you don't have that information for us today, can you provide it in writing to the committee at a later date?

Mr. Don Head: Yes, I most definitely can.

Mrs. Brenda Shanahan: That's good, because I'm seeing conditions attached to access to those programs. I'm hearing that the offenders—correct me if I'm wrong—have to be in minimum security, whereas most of the offenders are in medium or higher security. Can you clarify the access there, and what measures you've taken to look at who can realistically access the program?

Mr. Don Head: We offer Pathways units in various security levels. It's not just minimum security offenders who can access the Pathways initiatives. We also have elders in all levels of security—maximum, medium, and minimum.

Access to the healing lodges is for individuals who have been classified as minimum security. These facilities are not defined by fences. They're very much open-concept institutions. Going forward, we're trying to accelerate both the intake assessment and the involvement in those programs. We want this to happen within the first month or two that an inmate comes into the system, as opposed to what was happening before, where it could take up to 150 or 160 days for individuals to get involved in programs.

We're literally targeting the first week that they come into the institution. Their assessments are going to include asking them which stream they would like to pursue. They stay in the intake units and start their program primers, and in some cases they actually start their full programs while they're still in intake, without waiting until they've been transferred to another institution.

The other big change we are putting in place is that we will changing the lens through which we look at offenders who have completed the program. We're going to take a bit of what we call a presumptive transfer to lower security upon completion of the program. What the parole officers would have to do in these cases is sort of the reverse of what they're doing today: it's that once an offender has competed their program, the assumption is that they are now ready to be transferred to lower security.

Mrs. Brenda Shanahan: Mr. Head, how is it that in his report the Auditor General found that most offenders still left at their prescribed time without receiving any rehabilitation help? I would like that to be explored throughout this meeting.

Do you have some time to answer that now?

● (1555)

Mr. Don Head: It's not that the offenders were not getting any programming or intervention opportunities. I defer to the OAG to clarify their statement.

The assessment tools that were being used indicated that aboriginal offenders were being referred to more programs than what was possibly necessary. Therefore, they were being kept at certain security levels in certain institutions for longer periods of time. However, the approach we're taking now is that after they've completed the program, there will be a presumption that their security level is being reduced to a lower level security, which should in turn position them much sooner for a submission to the Parole Board for a conditional release consideration.

The Vice-Chair (Mrs. Alexandra Mendès): Okay. Thank you very much, Ms. Shanahan.

Now we gave have Mr. Jeneroux for seven minutes, please.

Mr. Matt Jeneroux (Edmonton Riverbend, CPC): Thank you.

Thank you very much for being here today, both your offices.

I want to get to CSC. In your response to paragraph 3.97, the agency says that you will implement the use of the criminal risk index, as it is a more appropriate tool for aboriginal offenders. Could you comment on the difference between the CRI and what's used with the other offenders? Is it a different program that they use?

Mr. Don Head: Yes, the criminal risk index is an assessment tool that we found through our research that does not appear to have any potential bias built into it. Therefore, it's not going to suggest that an individual be classified at a higher level or held in a higher security level

There were some questions around some of the other tools that we had been using, not necessarily as to their validity, but whether there was a bias in the tool. The current research that has been going on for the last little while is indicating to us that the criminal risk index will be a much better tool and will actually facilitate the assessments much more quickly than the previous tools.

Mr. Matt Jeneroux: To the Auditor General, Mr. Ferguson, what particular characteristics would you suggest or are you seeking for CSC to put in place for that indicator?

Mr. Michael Ferguson: If I understand, that's in terms of the criminal risk index?

Mr. Matt Jeneroux: Yes, please.

Mr. Michael Ferguson: At the time of the audit, we were identifying that CSC was using the custody rating scale to assign indigenous offenders to their rehabilitation programming. The custody rating scale was primarily designed to assign an offender to a level of security. It wasn't designed specifically to assign rehabilitation programming to the offender. In contrast, the criminal risk index is a tool that is more appropriately used to assign programming to offenders. They had already discovered the tool and they had already piloted it, so our comment was that if it looks like that tool is perhaps better than the custody rating scale tool to assign programming to offenders, then CSC should consider using it for all offenders, including the indigenous offenders.

Mr. Matt Jeneroux: If I understand, the rehabilitation piece of it was missing from the original tool?

Mr. Michael Ferguson: When an offender came into the Correctional Service, they applied the custody rating scale. They assessed the offender using that tool, the custody rating scale. By definition, custody rating is a tool that was primarily designed to say what level of custody this person should be held at—maximum, medium, or minimum.

However, they were using that tool, which was designed to assess what level of custody the offender should be held at, to also say what programming, what rehabilitation programming, they should assign them to. The tool wasn't really designed for that.

Given that perhaps at one point it was the only tool they had, maybe it was originally the only approach they could use. Then we discovered that they had found and piloted the criminal risk index, which was a tool that was more designed to be able to identify programming that an offender should use. We simply said that since you've already identified that and you've already started using it in some cases, you should consider using it for assigning programming to indigenous offenders as well.

● (1600)

Mr. Matt Jeneroux: Mr. Head, you piloted this program but you hadn't implemented it, and now with the Auditor General's suggestions you plan to implement it.

Mr. Don Head: Yes, we were planning on implementing it, but the Auditor General pointed out to us that we probably should have implemented it earlier or needed to move on it more quickly, and we've accepted that recommendation.

Mr. Matt Jeneroux: He's helpful like that.

Mr. Don Head: Very much so.

Mr. Matt Jeneroux: Switching gears slightly, you comment on the prevalence of gang membership in the aboriginal prisoner population. Can you compare that to the prevalence in other ethnocultural subpopulations?

Mr. Don Head: One of the challenges we have, particularly in the Prairies region of Alberta, Saskatchewan, and Manitoba, is the prevalence of aboriginal gangs. One of the challenges we have is the placement of certain individuals into certain penitentiaries to be able to follow their rehabilitation plan. With the myriad of different gangs there and their conflicts, we cannot have the Native Syndicate in with this gang or that gang, so we're very careful about how we place individuals. Sometimes that creates some problems in integrating individuals on ranges or integrating individuals in an institution overall. The aboriginal gangs in the Prairie region are the fastest-growing group of gangs that we have to face.

Mr. Matt Jeneroux: That means there's a higher prevalence of them. Is it not just in the Prairies?

Mr. Don Head: It's primarily in the Prairies, and I think it's about 18% of the aboriginal offenders, compared to 8% of the general population. It's just a little over double, which is problematic for us.

Mr. Matt Jeneroux: Do you have any reason for the disparity, any indications of why?

Mr. Don Head: Part of it stems from things that have developed earlier in these individuals' encounters with the criminal justice system. Particularly going through youth centres and provincial systems, they become associated with gangs, and that obviously carries over.

This is one of the things that, although the Auditor General didn't point it out to us, is really part of what's behind some of the issues we've been tackling. The fact that if we do not, in my words, surround an indigenous person right at the beginning when he comes into one of our correctional centres and start to get him engaged in their correctional planning and programs, if we leave any time before we're engaging them directly, the gangs will engage them and fill the void that individuals are looking for. They're looking for somebody to help them, to guide them, etc.

The Vice-Chair (Mrs. Alexandra Mendès): Thank you. Sorry, but you're a little over time.

Mr. Christopherson, you have seven minutes.

Mr. David Christopherson (Hamilton Centre, NDP): Thank you Madam Chair, and thank you, guests, for being here today. We appreciate it.

As full disclosure, I do have some sense of how difficult your job is, Mr. Head. My first cabinet appointment, a very long time ago, was in corrections in Ontario, so I do understand the challenges. That said, this is still a very troubling report.

I'd like to begin by reading a couple of quotes, and it will only take me a moment. This comes out of the decision yesterday of the Superior Court of Justice in Ontario, Brown v. Attorney General of Canada. It is with regard to the Sixties Scoop class action. It may have already come across your desk, I'm sure.

That judgment says, in part, and I quote the words of the judge:

> In my view, under the first stage of the analysis, a prima facie duty of care is established. It is beyond dispute that there is a special and long-standing historical and constitutional relationship between Canada and aboriginal peoples that has evolved into a unique and important fiduciary relationship.

He further states:

> And there can be no doubt that the aboriginal peoples' concern to protect and preserve their aboriginal identity was and remains an interest of the highest importance. As the Divisional Court put it: "It is difficult to see a specific interest that could be of more importance to aboriginal peoples than each person's connection to their aboriginal heritage."

Now, as if that kind of legal framework wouldn't be enough, the legislation that you work under, the Corrections and Conditional Release Act, the law that governs your work, requires that the Correctional Service of Canada provide

> correctional interventions that respond to Indigenous offenders' unique set of needs to support their successful reintegration.

My first question regards the Auditor General's report, page 13, paragraph 3.55, which reads:

> We found that access to correctional interventions varied considerably across institutions and regions. We also found that Correctional Service Canada had not examined whether it provided enough access to culturally specific correctional interventions to meet the needs of the Indigenous offender population.

Given the legal framework, the legal requirement that you have, how can we have an Auditor General report in front of us that says that your department didn't even examine whether you were providing enough culturally specific interventions?

I'd like your comments, please.

● (1605)

Mr. Don Head: Thanks for the question, and thanks for your observation.

There is no question that we did examine that. Did we provide enough? The answer is no, we did not. There are several reasons we could probably go into. One, of course, is the increased number of individuals coming into the system and the capacity to keep up with that. There were challenges around individuals who, to some extent, particularly with some of the youthful indigenous offenders that came into the system, were very much influenced by gangs to not participate in programs. There are all kinds of different factors in play.

Did we have programs and interventions in place? Yes, we did. Did we have enough? The answer is obviously not. Are we trying to close that gap? The answer is yes, and we're trying to do it within the budget constraints we have.

Mr. David Christopherson: Paragraph 3.61 of the report states, “We found that CSC did not ensure that its culturally specific correctional programs operated with the required level of Elder involvement...”. In your bring-and-brag piece in your opening remarks, the top one on the list of what you do is about elders, yet we're finding here that you're not engaging with them.

I'm no expert, but it seems to me that this would be a place of important focus, because they're the interface between your system and the cultural environment that you're dealing in.

Why is there a failing grade on working with elders?

Mr. Don Head: What I can talk about there is our engagement with elders. We have about 140 elders who are working in the institutions, working with indigenous offenders across the country. Some offenders access the services; others do not.

One of the challenges we have is keeping elders, partly because they are elderly.

We have several forums where we discuss this through the National Aboriginal Advisory Committee and the National Elders Working Group, to talk about how we can continually recruit elders and find elders in the community that—

Mr. David Christopherson: Excuse me; this will happen. A few of us will cut you off just because we're running short of time. I apologize for being rude.

Mr. Don Head: No problem.

Mr. David Christopherson: I want to stay focused on my question.

I hear what you're saying. You're talking about the load, but I'm talking about the detail of what you did and didn't do. Again, in paragraph 3.62, in the same report, it states:

> In one third of the offender files we examined, we found that Elder reviews had not been documented.

It's a simple matter, but without the documentation, you could argue that it didn't happen in terms of the next person dealing with it.

In the same paragraph it also states:

> We also found that Aboriginal liaison officers had not received guidance or training on how to evaluate the impact of Elder reviews and interventions on an offender's progress toward successful reintegration.

Please stop telling me how wonderful it is and tell me how you're going to correct the findings that are in this report, because this is telling me that you're not doing that great a job with the elders, or at least there is lots of room to do it better.

● (1610)

Mr. Don Head: If you go back to what you described as my “bring-and-brag” report, we recognize very clearly that there are gaps. We're working to encourage more elders to come into the system. We're working to ensure that our aboriginal liaison officers... in our management action plan you'll see our plan to train the ALOs and the ACDOs to do that.

One of the challenges we had with the elders is that although they're very good at engaging offenders, documenting what they did was a challenge. We had to assign staff members to work with the elders to capture what they were doing.

There is no question.... I'm not saying that we're perfect—far from it, and please don't interpret anything I say—

Mr. David Christopherson: You're a long way from perfect, sir.

Mr. Don Head: Please don't interpret anything I'm saying to mean that we are.

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much, Mr. Head.

Monsieur Lefebvre is next.

[*Translation*]

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

[*English*]

Mr. Head, when I first saw the report, I was shocked and almost embarrassed to go through it. What is most embarrassing and a bit shocking or disturbing is that if it hadn't been for the Auditor General's report, we'd still be dealing with the same stats.

Is there someone within CSC who just deals with indigenous incarceration and rehabilitation and provides services to them? Is there a group that is specifically dedicated to this?

Mr. Don Head: The senior deputy commissioner, Anne Kelly, is responsible for aboriginal initiatives in—

Mr. Paul Lefebvre: So there is.

Mr. Don Head: —CSC, yes.

Mr. Paul Lefebvre: Was there a specific plan before the Auditor General's report came out, other than this 2003 list of programs that we would provide to indigenous individuals? Was there an action plan to make sure that each indigenous offender received services that were required?

Mr. Don Head: The short answer is yes. Were there things that the Auditor General pointed out that we've added? The answer is yes.

Mr. Paul Lefebvre: Now, yes, but Mr. Head, when you look at this report, clearly there were a lot of things lacking in your prior plan, and the fact that all of the stuff that we are seeing coming through this.... There are so many in this report, and one is access to correctional programs. Paragraph 3.50 in the Auditor General's report states:

> We found that Indigenous offenders started their correctional programs an average of almost five months after their admission into custody.

Often, many offenders were there for a short term, so they never received any of the programs. From what we also saw in the report, the ones who did receive access to these programs were less likely to reoffend once they left.

Isn't that the whole purpose of these programs—that when they do go back into the public, they are less likely to reoffend, because they have received the proper services?

Mr. Don Head: Again, the short answer is yes.

Our whole strategy going forward with aboriginal offenders is to have them start their programs at the time of intake, as soon as they come in the door.

Mr. Paul Lefebvre: I guess what I'm saying is, why wasn't that a priority back in 2003, or forever? Why did it become a priority now that the Auditor General raised it? Wouldn't your plan have addressed that?

What I'm going at here is that there is a systemic issue within the CSC, from what I can read through this. Now that you have the Auditor General's report, you'll deal with it. It's extremely disturbing for us—for me, anyway—to see that they're saying they will do it now because they see it, but then you're telling me that you have a specific group dealing with this, and obviously they weren't doing their jobs properly, or maybe not....

What I'm getting at is, what was missing? Why was there that lack?

Mr. Don Head: I think it was primarily because the focus was on trying to address a long list of program needs for offenders while they were incarcerated, as opposed to identifying the main program, the key program, and activating that as soon as possible.

There is no question that there was a gap. That gap has been identified. We have a plan going forward to close that gap and we will now be—as I say, for aboriginal offenders—taking an approach of presuming that their security level is reduced when they complete the program.

● (1615)

Mr. Paul Lefebvre: One thing I can tell you, Mr. Head, is that this committee has taken it upon itself to bring back certain reports or certain departments that deal with these reports. I will make the recommendation that this be brought back, that we follow this, because we have individuals who supposedly, within the services that we offer.... They are offered there, but we're not doing a very good job of ensuring that these programs are followed and that they have access, because there are huge wait times. There are, basically, the ones who don't even get the services, so again there's a systemic problem here. Rest assured that we will asking you to follow up as to how we are improving the services going forward.

Mr. Don Head: Just on those lines, Madam Chair, I'd be glad to share our plan with our time frames, be glad to provide the progress report, and be glad to reappear to show that we're taking this seriously.

Mr. Paul Lefebvre: I appreciate that, and we will hold you to that.

The Vice-Chair (Mrs. Alexandra Mendès): We will definitely follow up on it. Thank you very much.

Go ahead, Mr. Nater, for five minutes.

Mr. John Nater (Perth—Wellington, CPC): Thank you, Madam Chair.

Thank you to our witnesses as well.

I'd like to start by drilling down a little bit deeper into the criminal risk index that my colleague Mr. Jeneroux spoke about earlier.

Could you provide some specific examples or some of the criteria that might be used in developing this index? What might be some of the factors that would increase the index or decrease the index in a specific case? Could you provide a couple of examples of exactly what that would be?

Mr. Don Head: I'll turn to Madam Kelly to give you some insight into that.

Ms. Anne Kelly (Senior Deputy Commissioner, Correctional Service of Canada): Again, I don't have the specifics, but what we were using before—and it was explained previously—was the custody rating scale. The custody rating scale is a security classification tool. Through research we found that there was a better tool, and that's the criminal risk index that's been developed. The criminal risk index is actually to determine the program intensity level that should be offered to the offender, because we have high-intensity programs and moderate-intensity programs, so that's what it determines.

Mr. John Nater: Okay, when you say you don't have the specifics, do you mean you don't have the specifics today or...?

Ms. Anne Kelly: That's right. I don't have them.

Mr. John Nater: Is that something you could provide the committee?

Ms. Anne Kelly: Absolutely.

Mr. John Nater: Okay, I would appreciate that.

Mr. Don Head: Just on that, what we can actually do, if it's helpful to the committee, is provide you a copy of the two tools so that you can actually see the criteria that were being accessed.

Mr. John Nater: That would be appreciated. Thank you.

Following up on that, is this an assessment that would be carried out throughout the individual's incarceration? Would this be updated as it goes along? Would it be something that would play a factor into a parole consideration towards the end of incarceration as well?

Ms. Anne Kelly: Are we still talking about the criminal risk index?

Mr. John Nater: Yes.

Ms. Anne Kelly: Again, it's to determine the program intensity level, so that's done during the intake process. What we do is we determine the needs of the offenders and which program they should.... Well, we have one program now, the integrated correctional program model, specifically designed for aboriginal offenders, and the criminal risk index determines whether they are going to follow the moderate- or the high-intensity program. That's done at intake, when they first arrive into custody.

Mr. John Nater: In your action plan you've talked about centralizing the intake process, the intake analysis. Do you mean centralized from a national perspective or within an institution or a region? What were you talking about in terms of that centralization?

Mr. Don Head: What we're going to be doing, in specific institutions across the country, is have centralized intake units that will specialize in doing the assessments, the planning, and initiating the interventions for aboriginal offenders. This way, rather than spread our resources across 43 institutions, we're going to target institutions in each of our five regions and a couple of extra ones in the Prairie region that will be specialized.

We'll have staff members that will be specialized in assessments, correctional planning, and initiating the programs.

Mr. John Nater: Throughout your action plan, you suggest adding indicators to the offender management system, the OMS. If memory serves, this is a rather dated database. I believe there was a renewal in 2001 to 2006, but it is still a significantly dated system. Are there any concerns about using this system as a work mule, or adding too much to the system, so that you might have a challenge with the management of this system?

● (1620)

Mr. Don Head: There are two things that are happening. First, we're going to be able to make the adjustments that we've committed to in the existing system. Second, I've actually just commissioned the team to look at how we go to a whole new generation of OMS that uses a more modern platform.

Mr. John Nater: Regarding the commissioner's directives that you've suggested you may be introducing into the action plan, have you issued any final commissioner's directives in light of this report yet, and if so, can they be shared with the committee?

Mr. Don Head: Yes, most definitely. There are a couple that have already been modified and promulgated and there are some others that are still in the works over the next couple of months. We can provide you with the ones that are already complete and the list of the ones that are proceeding and where they are in relation to our action plan.

Mr. John Nater: In 10 seconds or less, regarding the timelines identified in the action plan, is the Correctional Service on track to meet the timelines identified, and if not, which ones might be slipping?

Mr. Don Head: At this point in time, they're all on track. I have both my policy sector and my audit sector monitoring our commitments to make sure there is no slippage.

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much.

Mr. Arya, please, you have five minutes.

Mr. Chandra Arya (Nepean, Lib.): Thank you, Madam Chair.

Ms. Kelly, my question may be an unfair question, so if you don't answer it, that's fine.

The indigenous population is just 3%, yet they constitute 26% of the total offenders, and women account for close to 37%. Why is this?

Ms. Anne Kelly: One reason, as was said in the commissioner's opening remarks, is that we do not control the number of admissions —

Mr. Chandra Arya: I understand, but with your background dealing with indigenous offenders, you may have some insight about why this is so.

Ms. Anne Kelly: Again, the warrant of committal admissions is 24%, which is quite high, but we can't control the admissions. What we can control, though, is preparing the offenders for release.

Mr. Chandra Arya: All right. Thank you.

Let me go to my second question.

Mr. Head, you said that your organization cannot do this alone. You require assistance with the successful reintegration and you want to work with your partners. How is it going? How is your relationship with all the institutions that are involved in successful reintegration? What are the problems? What are the challenges? Where do you find the issues?

Mr. Don Head: That's a very good question.

One of the things we are focusing on—I've had several conversations with National Chief Perry Bellegarde from the Assembly of First Nations—is that once an aboriginal offender is released into the community, how do we help keep them out there?

The four key factors for success are employment, housing, the necessary health care that's required, and pro-social support from family and friends.

I've been talking to the national chief about some of the things he can do for us regarding opening the doors to talk to various regional first nations councils and various band councils specifically around the issue of employment. How can we create some employment opportunities, specifically for indigenous offenders?

Mr. Chandra Arya: Thank you.

What are the problems or challenges you're finding with other partner organizations?

Mr. Don Head: Part of the challenge is that the services are not necessarily in the location where individuals want to be released to. For example, if individuals want to be released back into their home community, which may be back on the reserve, some of the supporting agencies and services are not there. For individuals who are looking to be released into an urban setting that they did not come from, the challenge is in getting them hooked up with the services that are there. In some cases, some of those services are already overtaxed.

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much.

Go ahead, Mr. Chen.

Mr. Shaun Chen (Scarborough North, Lib.): Thank you.

I have to say that when I read this report, one word came to my mind, and it hasn't been said today, so I do have to say it. That word is “crisis”. This, to me, is a huge crisis.

In looking at the numbers, as has been pointed out, we see that indigenous men and women represent 3% of the adult population in our country, yet they represent 26% of offenders in federal custody. What's worse is that they're not given timely access to rehabilitation programs. There's uneven access, and beyond that, there's inconsistency across the regions.

I've heard about the types of programs you provide. My sense is that it's not that we don't know what to do; it's that we have to actually to do it. I heard you say, Mr. Head, that the work you do can affect the length of time someone is in custody. It can affect the security level of the institution. It can affect the time for case processing.

You made it very clear, as did your colleague Ms. Kelly just now, that Correctional Services cannot control the number of indigenous Canadians receiving federal sentences of incarceration. I find that type of statement very bothersome. I understand from a technical perspective how that might be true, but the mere fact that indigenous offenders tend to be youth and tend to be repeat offenders.... The work you do isn't just about reintegration into the community; it's also about rehabilitation. The things that they could go through in the programs and services that you ought to be providing and that are culturally relevant can have a very significant impact, and, yes, it can control the numbers of indigenous Canadians who are receiving federal sentences. That is my opinion.

You've stated that several times. I'd like to hear your thoughts on that.

● (1625)

The Vice-Chair (Mrs. Alexandra Mendès): You have five seconds.

Mr. Don Head: Very quickly, there's no question that there are some challenges there. Of the aboriginal offenders that come into the federal system, 74% are coming into the federal system for the first time. They've gone through the youth system and the provincial system four to six times. We're only getting them for the first time.

Sometimes the sentence that we get to work with is very short. If you look at the eligibility dates that exist, for that two- to three-year sentence we literally have to get them in, assessed, and programmed in the first four months, in order to get a report to the Parole Board by the fourth month so that it can make a decision for day parole eligibility by the sixth month on a three-year sentence.

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much, Mr. Head.

Mr. Jeneroux, I'm sorry. I'll have to give you our last three minutes.

Mr. Matt Jeneroux: Thank you.

I would like you to quickly discuss the training that's currently provided for front-line correctional officers and what you think the impacts would be on the resource level of further increasing the training. This pertains to recommendation 3.106, which suggests further training for Correctional Service staff for “Aboriginal social history” factors.

In the department's response, it states that the CSC will build “on existing training initiatives” and “continue to integrate Aboriginal social history considerations into case management training and practices”.

If you wouldn't mind commenting on that, I'd like to hear your response.

Mr. Don Head: Specifically, the aboriginal social history training is for the parole officers and the program officers, not necessarily the front-line correctional officers. They're the ones who do the assessments and reports that go forward to the Parole Board.

We have an allotted number of days each year for what we call “parole officer continuous development training”. We're able to use the five days that are allotted each year to build in the short version of what we call ASH training, aboriginal social history training. We're able to build that in as part of the ongoing training.

In terms of new parole officers, we've also built it into the parole officer induction training. All new parole officers will be receiving that training.

Mr. Matt Jeneroux: Is this new since the Auditor General's report?

Mr. Don Head: It's new within the last year.

Ms. Kelly and her team have gone out in the last number of months to ensure that all our regional management committees and various staff groups understand aboriginal social history and how to use and incorporate it into recommendations and decision-making.

Mr. Matt Jeneroux: Essentially, then, your answer is that there would be no impact because you're already doing it.

Mr. Ferguson, are you satisfied with what they've done in terms of the training initiatives?

The Vice-Chair (Mrs. Alexandra Mendès): That will be the last question.

Mr. Matt Jeneroux: I have a minute left, don't I? You said three minutes. I'm self-timing over here.

Mr. Michael Ferguson: Thank you, Madam Chair.

I can't comment on what they've done. We haven't gone back and audited that.

We were very concerned with what we found on a number of these things, but we were also encouraged by some things in the course of the audit. One was that the department did a very good job of consulting with first nations on some of these issues about what type of programming they should put in place. Another was that the response from the commissioner at the end of the audit clearly showed their recognition that they needed to do better.

That's not taking away from the issues we've seen here and the seriousness of what needs to be done. I can't comment specifically on whether they've done it and to what degree they've done it, but I'm glad that the committee is going to consider having them back. I am encouraged by what I believe is the sincerity of the organization in dealing with the issues.

● (1630)

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much. Thank you all for your presence.

We have to change groups now, so we will suspend for two minutes while we do so.

● (1630)

(Pause)

● (1635)

[*Translation*]

The Vice-Chair (Mrs. Alexandra Mendès): We now resume the session.

Good afternoon.

[*English*]

Welcome again to Mr. Michael Ferguson, our Auditor General, and Mr. Berthelette, who is the principal in this study.

From the Department of Indian Affairs and Northern Development, we have Mr. Joe Wild, senior assistant deputy minister, and Mr. Stephen Gagnon, director general, specific claims branch.

We are going to be looking at report 6, on first nations specific claims, of the fall 2016 reports of the Auditor General of Canada.

Mr. David Christopherson: I have a point of order.

The Vice-Chair (Mrs. Alexandra Mendès): Mr. Christopherson, go ahead.

Mr. David Christopherson: Thank you, Madam Chair.

My point of order is to determine whether we have a big issue or not. If you will allow me just a moment's indulgence, I have a question for the Auditor General.

On page 12 of your report in paragraph 6.44, two-thirds of the way through, you say, regarding some information and study you're doing, “The department did not respond to requests to provide evidence of further collaboration” and so on.

My concern, Madam Chair, is the “did not respond to requests”. Entities not responding to requests from the Auditor General when they are in the midst of doing an audit we take very seriously.

Was this a big issue, sir? Was it a matter of “If they don't respond, it's their loss, because they don't get a chance to make their case”, or was this an actual case in which you asked for information and they just bald-facedly ignored you?

The Vice-Chair (Mrs. Alexandra Mendès): If I may, Mr. Christopherson, it's about the relationship between the department and the Assembly of First Nations. I don't think it has anything to do with the Auditor General.

Mr. David Christopherson: Okay, well, let me hear that clarification, because I read it differently. It looked to me as though it was not like that to the Auditor General.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): On this point of order, Madam Chair, I don't believe that you can ask witnesses to clarify a point of order. I might be wrong, but I think a point of order is not an engagement with the witness.

Mr. David Christopherson: The question is about their report. I can do it in my questioning, but it seemed to be macro enough that I could ask it at the beginning.

The Vice-Chair (Mrs. Alexandra Mendès): The clerk is telling me that you have to reserve that for a question.

Mr. David Christopherson: All right.

The Vice-Chair (Mrs. Alexandra Mendès): I'm sorry. I'm not experienced enough in this seat to impose those rulings.

Mr. David Christopherson: No, that's fine. If that's your ruling, I'll abide by it.

The Vice-Chair (Mrs. Alexandra Mendès): That's what I'm being told.

Mr. David Christopherson: Fair enough. They know it's coming now. I can tweet the short form. Thank you.

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much.

Mr. Ferguson, the floor is yours. Thank you very much for your introductory statement.

[*Translation*]

Mr. Michael Ferguson: Madam Chair, thank you for this opportunity to present the results of our audit on first nations specific claims. Joining me at the table is Jerome Berthelette, Assistant Auditor General, who was responsible for the audit.

The federal government has long acknowledged that it has not always met its obligations to first nations under historic treaties or properly managed first nations' funds or other assets. In 2007, the government committed to a new process, called Justice at Last, which was aimed at resolving long-standing grievances more quickly, fairly, and transparently—preferably through negotiations. Resolving specific claims would provide justice for first nations and certainty for government, industry, and all Canadians.

Our audit examined whether Indigenous and Northern Affairs Canada, the department primarily responsible for implementing the new process, adequately managed the resolution of first nations specific claims. The audit focused on whether first nations had adequate access to the specific claims process, whether claims were resolved and documented in line with selected aims of Justice at Last, and whether results of the specific claims process were reported publicly and completely.

We interviewed officials in the Department of Justice Canada, the Specific Claims Tribunal, several first nations, and organizations representing first nations to get their perspectives on how well the new process was working. However, we did not audit the performance of these organizations.

● (1640)

[*English*]

Overall, we found that Indigenous and Northern Affairs Canada did not adequately manage the resolution of first nations specific claims as envisioned under the new process. For example, more claims were to be resolved than received each year. We found that the department achieved this objective in only two of the eight years since Justice at Last came into force.

Furthermore, the department had stated that every reasonable effort would be made to achieve negotiated settlements and that the vast majority of claims that entered negotiation would likely be resolved by a settlement agreement. However, we found that among the claims entering the negotiation process, more claims were either closed by the department or ended up in litigation than were resolved through negotiation.

We also found that the department's reforms of the specific claims process were not developed in consultation with first nations and that the reforms introduced barriers that hindered first nations' access to the process and impeded the resolution of claims. These barriers included certain practices that did not encourage negotiations— such as “take it or leave it” offers for claims that the department deemed to be valued at under $3 million, significant unilateral cuts in funding to first nations claimants for claims preparation and negotiation, and very limited use of mediation services and information sharing between the department and first nations.

Moreover, the department did not use available information and feedback to improve implementation of the specific claims process. This information included concerns raised by first nations and organizations representing first nations about how the department was implementing the new process. It also included information and feedback from the Specific Claims Tribunal decisions, most of which were in favour of first nations.

[*Translation*]

With respect to public reporting, we found that the department's public reports were incomplete and did not contain the information needed to understand the actual results of the specific claims process. For example, the department publicly reported that the 2007 reforms were a success. However, we found that most of the settled claims used to support this assertion were already either resolved or almost resolved before Justice at Last was implemented.

[*English*]

According to the 2015-16 public accounts, the government has acknowledged a liability totalling at least $4.5 billion for approximately 500 specific claims where the department has assessed an outstanding lawful obligation for the crown.

We are pleased that the department has agreed with all 10 of our recommendations and is preparing an implementation action plan.

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

Thank you.

● (1645)

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much, Mr. Ferguson.

Mr. Wild, I invite you to present.

Mr. Joe Wild (Representative, Department of Indian Affairs and Northern Development): Thank you, Madam Chair. I appreciate the invitation to appear today.

I'm the senior assistant deputy minister for treaties and aboriginal government. I'm responsible for the specific claims process. With me is Stephen Gagnon, the director general of the branch in my sector responsible for specific claims.

[*Translation*]

I would like to tell you briefly what specific claims are, and why they are important to first nations and to Canadians more broadly.

[*English*]

Specific claims are grievances of first nations against the federal government arising from the way Canada administered lands and other first nations assets. Specific claims also relate to how some of the provisions of pre-1975 treaties have been implemented.

Canada is committed to resolving these historic wrongs, whenever possible, through negotiated settlement agreements rather than in the courts. Doing so is one of the many ways Canada is building trust and reconciliation between the crown and first nations. The specific claims process is a non-litigious, alternative dispute resolution process in which first nations may choose to participate.

Continuing to participate in a voluntary and transparent process to resolve specific claims is beneficial to all Canadians. It allows for settlements that are mutually agreed upon, provides clarity of land ownership, and is faster and less expensive than litigation. The government is committed to working with first nations to find practical and fair ways to improve the specific claims process. We will continue to work with first nations to find ways to improve the time taken to resolve claims, to reduce the cost associated with the process, and to ensure that first nations have fair and reasonable access to the process. Our objective is to negotiate fair and reasonable settlements.

The audit findings and recommendations have reinforced the need to find ways to improve the process. The Auditor General tabled his findings on first nations specific claims on November 29, 2016. The report found that the process reforms initiated in 2007 unintentionally created barriers to first nations access to the specific claims process, which, in turn, are impeding the resolution of claims.

[*Translation*]

The 10 recommendations made by the Auditor General focus on better communication with first nations in order to jointly identify ways to improve the specific claims process.

Indigenous and Northern Affairs Canada agrees with the recommendations made by the Auditor General.

In fact, the audit is not the only recent report to identify aspects of the specific claims process that can be improved.

[*English*]

A majority of the findings of the Auditor General were previously raised during the course of INAC's review of the Specific Claims Tribunal Act and are noted in the minister's report tabled in Parliament last November.

Indeed, in June 2016, before the audit was concluded, INAC had started working with the Assembly of First Nations, first nations organizations, and others to identify fair and practical measures to make the specific claims process more responsive and effective. INAC has re-engaged with the Assembly of First Nations, which was provided $400,000 in funding this fiscal year to facilitate discussions on the four key priority issues the AFN identified.

A joint technical working group co-chaired by INAC and the Assembly of First Nations is currently overseeing work being done collaboratively to address four priority issues: funding to support the research and development of specific claims, the process for resolving claims with a value greater than $150 million, better use of mediation in negotiation processes, and clear public reporting. Each of these issues features in the report of the Auditor General, and the recommendations resulting from the collaborative efforts of the joint technical working group will inform the department's reporting on the detailed action plan to implement those recommendations.

[*Translation*]

Indigenous and Northern Affairs Canada has been mandated to renew the relationship between the Crown and first nations people in Canada based on recognition of rights, respect, co-operation and partnership.

Addressing the Auditor General's recommendations will be a significant example of how Canada will implement this renewal.

Indigenous and Northern Affairs Canada is committed to improving the specific claims process by working with first nations and first nation organizations as an integral part of fulfilling our mandate

[*English*]

I'd be pleased to answer any questions you may have.

Thank you.

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much, Mr. Wild.

Now we go to you, Mr. Lefebvre, for seven minutes. Thank you.

Mr. Paul Lefebvre: Thank you, Madam Chair.

Mr. Wild, I notice you're the senior assistant deputy minister. Can you tell us why the deputy minister is not here?

● (1650)

Mr. Joe Wild: No, I can't. I don't know.

Mr. Paul Lefebvre: Usually at these sessions, Madam Chair, we always have the presence of the deputy minister.

Mr. Joe Wild: I didn't have a discussion with the deputy minister as to whether or not there were issues vis-à-vis her availability. My assumption would be that there was a scheduling conflict that she couldn't address in order to be here.

Mr. David Christopherson: That's not good enough. That's not going to cut it.

The Vice-Chair (Mrs. Alexandra Mendès): We will definitely take this up with the deputy minister.

Mr. Paul Lefebvre: Thank you, Madam Chair.

In your remarks, Mr. Wild, you mentioned that the Auditor General's report found that the process reforms initiated in 2007 unintentionally created barriers to First Nations' access to the specific claims process which, in turn, are impeding the resolution of claims.

The Auditor General came up with 10 recommendations. Can you tell us in what way these barriers impede the resolution of claims? Can you expand on that, please?

Mr. Stephen Gagnon (Director General, Specific Claims Branch, Department of Indian Affairs and Northern Development): Thanks for the question.

I'll give you a couple of examples. I don't mean to try to interpret what the Auditor General may or may not have meant, but my understanding from the discussions I've had with first nations groups was that there was a cut to the research funding back in 2012, I believe, so the argument was that if first nations couldn't research claims, they couldn't submit, and therefore they couldn't have them dealt with.

Another example is that we were trying to find a way to deal more expeditiously with the smaller-value claims. In other words, we would define those—and I think the Auditor General may have referenced under $3 million—the point being that you try not to spend a ton of time and money on a claim that would not be worth the amount of money that would come out of it. The practice was that we would send a letter of offer to the first nation. There would be very little communication happening between the first nation and the department, and with a fairly tight deadline to get back to us, the offer would be withdrawn.

Mr. Paul Lefebvre: How long would that deadline have been? You issue a letter and tell them to get back to you in—

Mr. Stephen Gagnon: On smaller ones it would be three months or something like that, three to six months. I think three months was the general timeline for the very small ones.

Mr. Paul Lefebvre: Why was there such a short time frame?

Mr. Stephen Gagnon: To give you a bit of background context, the reforms in 2007 were in response to long-standing criticisms of how long it was taking us to research claims and to resolve them. Our branch put a premium on trying to get the work done quickly so that we could show that we were making progress and that we weren't in processes that weren't going to produce a result.

Mr. Paul Lefebvre: How often did the first nations accept your short-term offer?

Mr. Stephen Gagnon: I don't have a number for that.

Mr. Paul Lefebvre: Is it nine out of 10? Is it 90%? Is it 50%? Is it 20%? Is it zero?

Mr. Stephen Gagnon: It's not zero. We do have a number of claims that were resolved, but I can tell you that the large number of claims that were suspended are the smaller-value ones.

Since typically they are closed because we haven't received a response, I can't give you an actual reason. I can't speak for the first nations, but your assumption may be that they just said, "Well, this isn't negotiation, so we're not negotiating with you."

Mr. Paul Lefebvre: Exactly.

Mr. Stephen Gagnon: There was a case at the Specific Claims Tribunal in 2014 where the issue of that approach to small-value claims was dealt with. The judge told us that, effectively, that this wasn't negotiation, so we have changed the practice in response to that.

Mr. Paul Lefebvre: There was a budget that was allocated to deal with these specific claims from 2007 to, basically, the time of this audit, 2015.

Mr. Wild or Mr. Gagnon, can one of you tell me if the budget changed?

Mr. Stephen Gagnon: I'm sorry; are you making—

Mr. Paul Lefebvre: I'm asking what the budget was. I'll make it more specific.

Mr. Stephen Gagnon: Do you mean the operational budget?

Mr. Paul Lefebvre: Yes, the operational budget to deal with this.

Mr. Stephen Gagnon: There was a fund created at the time. I think it was $2.5 billion. That was the amount available to settle claims with first nations—

Mr. Paul Lefebvre: That was to settle claims. I'm talking about operations.

Mr. Stephen Gagnon: Yes, there was time-limited funding to increase operations to get through what was considered to be a large backlog of files in assessment—I think there were about 540 of those at the time—and to negotiate more expeditiously.

Mr. Paul Lefebvre: Okay.

In the Auditor General's report, the Specific Claims Tribunal overturned 12 out of 14 of the department's decisions not to accept a specific claim because the claim was not found to disclose an outstanding lawful obligation. That was kind of the reason you were asking the Specific Claims Tribunal to overturn it quickly. Why were 12 out of these 14 decisions overturned?

● (1655)

Mr. Joe Wild: Each is case-specific, of course—

Mr. Paul Lefebvre: Yes, but that's a very high number, 12 out of 14.

Mr. Joe Wild: It is. It speaks to the fact that the way in which "lawful obligation" is being assessed and interpreted is too narrow and too conservative. I think that's what we're learning from the tribunal decisions.

The best example I can think of would be the decision in Beardy's & Okemasis Band #96 and #97 v. Her Majesty the Queen in Right of Canada. Our approach had been that if a claim appeared to be speaking to an individual benefit, such as the payment of an annuity, versus something that was vis-à-vis the first nation as a whole, we had no authority or mandate to deal with it.

In the Beardy's case, the tribunal clarified that annuity payments were, in fact, a benefit held by the collective. They just happened to be implemented by way of individual payments. That then caused us to go back to look at and think about reviewing all the cases in which we had dealt with annuities and to reopen those that we had closed.

Mr. Paul Lefebvre: Could you explain to the committee how many of the claims that were sent to the tribunal have since been resolved?

Mr. Stephen Gagnon: Are you asking how many decisions we have received from the tribunal?

Mr. Paul Lefebvre: Yes, those that have been resolved.

Mr. Stephen Gagnon: I think there are about 20 decisions from the tribunal, if you're referring to the actual decisions.

Mr. Paul Lefebvre: Yes.

Mr. Stephen Gagnon: There are about 20 or 21, I think.

Mr. Paul Lefebvre: What is the time frame we're looking at here? There were 20 decisions in the past...?

Mr. Stephen Gagnon: I think the statute came into effect in 2009. It took some time to get the rules created and whatnot. I would say it's in the last seven years.

Mr. Paul Lefebvre: In seven years, we have had 20 decisions?

Mr. Stephen Gagnon: From the tribunal, I think so. I could verify that, but I think that's about right.

Mr. Paul Lefebvre: Wow.

[*Translation*]

The Vice-Chair (Mrs. Alexandra Mendès): Thank you, Mr. Lefebvre.

[*English*]

Go ahead, Ms. McLeod, please.

Mrs. Cathy McLeod: Thank you, Madam Chair, and thank you to all the witnesses who are here today.

I know that this particular audit chose not to look at the tribunal or the independence of your office, but when we had Justice Slade at our indigenous affairs committee, he indicated that there are significant challenges in terms of manpower for the tribunal, both because they have to take judges from the Superior Court and because we have a lack of judges' appointments right now.

Mr. Wild and then Mr. Ferguson, even though it wasn't directly the focus of your audit, could you perhaps comment in terms of the challenges of having a pool of judges who are able to sit on the tribunal?

Mr. Joe Wild: Given that the tribunal is an independent tribunal, we're not involved in the decision-making around the number of appointments or the appointments themselves, so I actually don't have a comment that I can make on whether or not there are a sufficient number of judges at the tribunal at present.

We have heard the concern. I mean, the concern has been made public from various quarters, but I don't have an authority or a role in the actual appointment of the justices.

Mr. Michael Ferguson: We actually touched on this issue in an audit we did on Governor in Council appointments. In it we noted that the tribunal said they didn't have enough members on the tribunal to make the decisions.

We felt that the department actually needed to take a stronger interest in the issue, I guess, and to work with the Department of Justice in terms of identifying what would be needed. We understand that the department wouldn't be involved in the appointment process or anything like that, but fundamentally we felt there needed to be some way to identify the number of positions that were needed, and that could be taken into account in the appointment of judges or that type of thing.

I believe the issue was more with the Department of Justice in terms of the actual appointment. I believe that was the case. However, we did feel that the department for indigenous affairs could take a role in helping to understand whether there are enough members on that tribunal and convince the Department of Justice about moving forward to get those members appointed.

● (1700)

Mrs. Cathy McLeod: Thank you.

I think it would be reasonable to say that as we continue to have a lack of judicial appointments, it's going to filter down in terms of the specific claims tribunal being able to do its very important work and to get to resolutions to claims.

On my next question, it's pretty low-hanging fruit, I think.... When you have an auditor's report come out, I recognize that there are some complex issues that you have indicated you're going to tackle, but there were two, I believe, that were related to the website. I find it amazing. To me, we should get this done, and it can be done within a month or two. It's not something that should take eight months to a year to accomplish. I believe these were in paragraph 6.80 and paragraph 6.47 of the report.

Why does it take so long to deal with some of the lowest-hanging fruit in terms of having a website that's reflecting what's happening?

Mr. Stephen Gagnon: Thank you for the question.

I think part of the issue isn't just what the website reflects; it's that the Auditor General has commented, and first nations have certainly noted, that they don't like the way we've styled some of the information.

Part of the work we're doing with the Assembly of First Nations and others is to work on the kind of information that would be shared so that we have a common understanding of what we're reporting and what it means. They would argue that what we're reporting makes it look like there is more progress than there actually has been, so we're trying to come to some kind of terms.

Again, it's a partly bureaucratic answer. We're revising the overall website content in any event, so that's been caught up in that little, but we are trying to work on that.

Mrs. Cathy McLeod: Certainly from my perspective, if it takes over a year to even come to an agreement around websites, we have significant long-time challenges to actually get to the pieces that are going to matter. Again, to me, that should be a quick conversation. It's low-hanging fruit.

That leads me to the working group. I think you have looked at your joint working group as your mechanism for dealing with these issues. Can you tell me who is on the working group, how often you meet, and what progress you have made?

Mr. Stephen Gagnon: I sit on the joint technical working group, and the Assembly of First Nations coordinates the participation of first nations and other participants.

Mrs. Cathy McLeod: Who is currently sitting on it?

Mr. Stephen Gagnon: There are representatives from the Assembly of First Nations, the Union of British Columbia Indian Chiefs, and the FSIN, the Federation of Sovereign Indigenous Nations, so there's a group of researchers, a group of practitioners, and a group of people from the political organizations.

From the first nations side, they have counsel. We also have counsel. We are in the process of identifying recommendation and have had a few subcommittee meetings where, in the four areas we're working on, we're meeting in smaller groups to make recommendations to the committee that I sit on with my counterpart at the AFN. I think we've had three meetings at the joint technical working group, the more senior one, and a number of subgroup meetings.

You know, to be fair, at this point we've largely focused on the process going forward, so there hasn't been a lot of forward momentum even on the kinds of things you might have characterized as low-hanging fruit, but we are, we think, making some progress. You alluded to it a little bit in one of your earlier comments. We're working at trying to build some trust. The relationship between ourselves and the first nations assembly wasn't all that great, and currently we're trying to rebuild that.

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much.

Mr. Christopherson, you have seven minutes.

Mr. David Christopherson: Thank you, Mr. Chair.

Thank you very much for your attendance today.

I would like to take a moment, while we have the opportunity of being televised, to revisit something very briefly, Mr. Chair.

By the way, if the Auditor General feels it's important enough to comment on the question I asked earlier, that's fine. I only get one shot at this, so I'm going to get my stuff out and then I hope to leave some time for comment.

I want to refer to the last status report of Auditor General Sheila Fraser before she departed.

The heading is “Conditions on First Nations reserves”, but it speaks to attitude and approach.

She said this:

> Between 2001 and spring 2010, my reports included 16 chapters addressing First Nations and Inuit issues directly. Another 15 chapters dealt with issues of importance to Aboriginal people. I am profoundly disappointed to note in Chapter 4 of this Status Report that despite federal action in response to our recommendations over the years, a disproportionate number of First Nations people still lack the most basic services that other Canadians take for granted....
>
> On the surface, it may appear that the government simply needs to work harder to make existing programs work better. However, after 10 years in this job, it has become clear to me that if First Nations communities on reserves are going to see meaningful progress in their well-being, a fundamental change is needed....
>
> In a country as rich as Canada, this disparity is unacceptable.

Mr. Ferguson issued his report, an interim report, halfway through his 10-year term. These are Mr. Ferguson's words to us last fall:

> Another picture that reappears too frequently is the disparity in the treatment of Canada’s Indigenous peoples. My predecessor, Sheila Fraser, near the end of her mandate, summed up her impression of 10 years of audits and related recommendations on First Nations issues with the word “unacceptable.” Since my arrival, we have continued to audit these issues and to present at least one report per year on areas that have an impact on First Nations, including emergency management and policing services on reserves, access to health services, and most recently, correctional services for Aboriginal offenders. When you add the results of these audits to those we reported on in the past, I can only describe the situation as it exists now as beyond unacceptable.
>
> [There] is now...a decade’s worth of audits showing that programs have failed to effectively serve Canada’s Indigenous peoples.... Until a problem-solving mindset is brought to...issues to develop solutions built around people instead of defaulting to litigation, arguments about money, and process roadblocks, this country will continue to squander the potential and lives of much of its Indigenous population.

Now I'll move to the report that's is front of us. I'm just going to read some highlights, because my question to Mr. Wild is going to be about how things have changed.

My specific concern is the attitude. The attitude of some of the decisions that are made here is very troubling. I was very angry by the time I was done with this report. I probably won't get through them all—I'm going on again.

These are snippets of different issues from the report, summaries from the Auditor General. On page 11, it says:

> In 2011, without input from First Nations, the Department developed a separate process to expedite the negotiation of small-value claims. In our view, the following characteristics of this new process introduced barriers to negotiations that were inconsistent with Justice at Last:

That was with no input from first nations.

It continues:

> We noted annual funding to First Nations for claims research decreased by 40 percent from $7.8 million in the 2013–14 fiscal year to $4.7 million in the 2014–15 fiscal year. According to Department officials, this funding decrease was undertaken as part of the Deficit Reduction Action Plan.
>
> ... We found that the absence of methodology resulted in funding cuts that were arbitrary and unevenly distributed.

Here is another one:

> For example, we found that the Department arbitrarily set the maximum amount of a loan that could be provided to a First Nation at $142,500 per year or $427,500 over three years. We found a departmental study that suggested annual funding of $240,000 for a First Nation to negotiate a specific claim.

It's insulting.

Here is another issue:

> After 2008, Indigenous and Northern Affairs Canada no longer shared the report with First Nations before sending it to the Department of Justice Canada. Consequently, after Justice at Last came into effect, First Nations were not made aware of Indigenous and Northern Affairs Canada’s analysis and interpretation of the claims submission. It is our view that this awareness is necessary to understand the factual basis for a legal opinion and help....

Again, there is that attitude.

● (1705)

I'm on page 18. It says, under “Incomplete reporting”:

> . We found that some results were either not reported publicly or not reported clearly. The Department’s public reporting of results was incomplete and masked actual outcomes. In our view, parliamentarians and Canadians would, therefore, have difficulty understanding the real results of Justice at Last.

There's more and more. I'm running out of time.

Here is another one: “In our view, parliamentarians and Canadians have received an incomplete view of how long it takes for a claim to be processed.”

Help me understand. Every time, we hear “This is the moment there's going to be change”, and there's never change.

Mr. Wild, give me some reason that my colleagues and I on this committee should believe that this time it's going to be different.

● (1710)

Mr. Joe Wild: We are committed to the process that we've been jointly designing with the Assembly of First Nations and other first nations organizations to work together to ameliorate the process. We know there are problems. We know there are a lot of problems. I don't think it was ill-intentioned . I just want to be fair to the public servants who work in the department and have worked on this file over the past decades. I don't think it was ill-intentioned.

I think that in the balancing act of trying to figure out how to move a large volume forward, mistakes have been made in doing that in a process that has reconciliation at its heart.

I think the government is clearly committed to moving forward in that spirit of reconciliation. I think we are committed to jointly designing policy and processes that enable us to move forward. That's what this action plan reflects, and that's the commitment that we have: to work together with the Assembly of First Nations and other first nations organizations to design a process that will better meet the interests of all parties, which is getting to negotiated settlements.

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much.

Madam Shanahan is next.

Mrs. Brenda Shanahan: Thank you, Chair.

Thank you to the panel for being here with us.

When I was reading the report, in the first few pages, by paragraph 6.7 and the description of this Justice at Last program, I had a glimmer of hope. It was something that was on the right track. We know that there are claims across this country. Each one of us in our ridings is affected by claims that have been simmering for decades, if not from the beginning of our Confederation.

The idea that we had a plan that would not only address the backlog of claims and their slow resolution, settle the specific claims, and compensate first nations for past damages associated with Canada's outstanding lawful obligations and then, in paragraph 6.8, in return for this compensation, provide an agreement from first nations to never reopen these claims seemed to be something that would really get us back on track.

What happened? What happened with that plan? What we saw in the Auditor General's report were obstacles that were put up, these "take it or leave it" offers for claims that were done with very little interaction with the first nations. There were significant unilateral cuts in funding to the first nations claimants for claims preparation and negotiation, and then very little use of mediation and negotiation, the very tool that I would think would have gone into the Justice at Last programming. We didn't choose mediation; in fact, we fell back on having to use the justice system, which already was problematic and expensive.

Why did we not use mediation right from the get-go?

Mr. Joe Wild: I don't have an explanation as to why mediation wasn't used more frequently. I can put forward, I guess, a host of different issues that I think were there. It fundamentally comes down to whether or not the government at the time saw that as a viable tool for resolving claims, just as it last did—

Mrs. Brenda Shanahan: Could you just repeat that for us, Mr. Wild?

Mr. Joe Wild: Sure—

Mrs. Brenda Shanahan: We had this program, Justice at Last, that was specifically set up to use mediation, but that maybe there was a political decision.

Mr. Joe Wild: I'm not saying necessarily that there was a political decision; I'm saying that I think there has been....

I'm not trying to promote this as an excuse—I want to be clear about that—but I'm not sure that the culture of the government was ready for what it would mean to go down the path of using mediation. I think this has been a sticky point. There's a long learning curve, in that it's not a tool that people within the public service are necessarily comfortable with when talking about claims that have, at their core, compensation.

We are trying to find a way to become more comfortable using mediation, and there is work being done around looking at what we need to do to train public servants so that they better understand how to use the tool.

● (1715)

Mrs. Brenda Shanahan: Okay.

Mr. Joe Wild: The best way I can put it, I guess, is that there's a culture change issue that we have to unpack and get our hands wrapped around.

Again, I'm not trying to put this out as an excuse. I think it's taking us time to get there.

Mrs. Brenda Shanahan: I understand that. I appreciate what you're saying.

I'd like to go to Mr. Ferguson, then, to just give us an idea.

Part of our function here is of course to review how the public monies are spent. Mr. Ferguson, could we have a quantifiable estimate of how much time and money would have been saved if INAC were using more of a mediation approach, as was originally intended?

Mr. Michael Ferguson: Certainly I wouldn't be able to put any estimate on it. You'd have to be able to identify exactly how many of these cases would go to mediation.

One thing I want to point out is that what we were concerned about on mediation was the way the department implemented it. As we say in the audit, they set the mediation service up within the department, so almost by definition the first nations weren't going to see it as an independent way to resolve those differences of opinion. Certainly the—

The Vice-Chair (Mrs. Alexandra Mendès): Mr. Ferguson, I'm sorry—two seconds. The bells have started ringing. I just have to ask my colleagues whether they'll allow us to continue until 5:30.

Is everybody agreed that we continue till 5:30?

Some hon. members: Agreed.

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much.

Mr. Michael Ferguson: That was our concern. We felt that by virtue of their setting up the mediation service within the department, whether it was actually independent or not, the first nations weren't going to perceive the mediation service as independent.

Mrs. Brenda Shanahan: Okay. That's very interesting.

How much time is left?

The Vice-Chair (Mrs. Alexandra Mendès): You have a minute and a half.

Mrs. Brenda Shanahan: Okay. I'll give it to my colleague T.J.

Mr. T.J. Harvey (Tobique—Mactaquac, Lib.): Thank you.

I always believe that you can't evaluate what you don't measure. Paragraph 6.56 of the Auditor General's report says:

> We found that Indigenous and Northern Affairs Canada had a process to consider the impact of decisions from the Specific Claims Tribunal, but was unable to provide us with evidence that it had a formal process to identify improvements and make required changes. We also found no evidence that the Department improved the specific claims process by using formal feedback from internal and external parties on the specific claims process or information regarding First Nations' concerns about this process.

If you go to the recommendations, the report clearly lays out what the recommendation is, but it says that the expected final date of completion is “ongoing”.

My concern with that assertion is that this has been ongoing since 1948, and we're still not gathering the appropriate information. If we haven't gathered it in the last three-quarters of a century, what are the odds that we're going to gather it in the next 12 to 15 months? It says that it's a “key interim milestone” of fall 2017.

I love these recommendations in reports. Mr. Christopherson knows that I love my dates. I like firm dates, like October 31 or December 1—definitive times at which we're going to have key measurable objectives that we're going to get to.

I want to know whether you want to reflect on this and what you think the appropriate timeline is to start gathering the information that's needed to move forward.

The Vice-Chair (Mrs. Alexandra Mendès): Mr. Harvey, you have 30 seconds, please, for an answer.

Mr. Joe Wild: Are you asking us, or are you asking the Auditor General?

Mr. T.J. Harvey: Do you want the Auditor General to put a timeline together for you? Do you think that's something the department should do?

Mr. Joe Wild: I'm sorry. I didn't understand the end of the question, that's all. Just to make sure that I'm following which recommendation you're talking about, are you talking about paragraph 6.66?

Mr. T.J. Harvey: Yes, and it is a direct reference to paragraph 6.56, right?

Mr. Joe Wild: Right.

Mr. T.J. Harvey: One is what they found, and one is the recommendation based on that.

● (1720)

Mr. Joe Wild: That is noted as ongoing because it's going to be a continuous process of discussion and dialogue with the Assembly of First Nations. We'll be making improvements and then we'll continue to have dialogue with them about what further things they think we're going to need to improve in the future.

Mr. T.J. Harvey: Okay, I understand that, but what I'm saying is we've been having an ongoing conversation for three-quarters of a century—

The Vice-Chair (Mrs. Alexandra Mendès): Mr. Harvey, I'm sorry.

Go ahead, Ms. McLeod, for five minutes, please.

Mrs. Cathy McLeod: Thank you, Madam Chair.

I want to pick up a little bit where I left off. In your document there are 10 recommendations. When you gave us the update, all but two of them required working with the Assembly of First Nations in that collaborative process. The website didn't...but I just heard that the website does too.

You're telling me that you're going to be moving forward on all 10 recommendations in a collaborative process. Is that accurate?

Mr. Joe Wild: There are aspects of reporting that require collaboration with the Assembly of First Nations so that we can make sure what we are reporting meets their needs and their interests. The specifics of the technicality around the website are an issue we're working on with Shared Services Canada, and that doesn't involve others.

Mrs. Cathy McLeod: This chart should reflect that need.

Then I see in your statements that they had four areas of priority. Does that mean we should be expecting a focus on the four areas of priority and real movement on them, and the other six are going to get left in abeyance?

I really want to understand how you're designing and working with these technical working groups to move forward in terms of some action. Do you have a subgroup? Is your technical working group only on specific land claims, or is it on a whole host of issues related to first nations?

Mr. Stephen Gagnon: There's other work going on with the Assembly of First Nations. This specific one we're talking about is just on specific claims resolutions.

I would say those four priorities are also ours. We identified them jointly with the first nations, and that doesn't preclude us from having other discussions. We just thought that as there are so many things, we were going to focus on these because they were of more importance.

Mrs. Cathy McLeod: How often are you meeting?

Mr. Stephen Gagnon: I think we've had two or three meetings over the last.... We've had subcommittee meetings. I should have that number, but I don't have it with me now. I've met three times since the summer on this. We are trying to meet every couple of months on it at the joint working group, and then do subcommittee work in between those meetings.

Mrs. Cathy McLeod: Would it be possible to have a reflection tabled with this committee in terms of dates of the meetings, who attended, and the focus?

Mr. Stephen Gagnon: I'd want to confer with the Assembly of First Nations on that, but if you're saying to report back from time to time on whether we're making progress, I think that's possible.

Mrs. Cathy McLeod: Would it be fair to say that in regard to the small claims of $3 million and how you're going to move those forward in a more facilitative fashion, you haven't dealt with that yet?

Mr. Stephen Gagnon: We have in one sense. A discussion about that case ended by saying that we can't just send a letter, so we changed our practice as a result. That doesn't preclude further work with the Assembly of First Nations and other stakeholders on ways to improve it. It is an issue. We haven't come up with any joint recommendations yet, though, if that was your question.

Mrs. Cathy McLeod: I'm going to switch topics for a minute.

As I go through the chart in terms of how this process works, I'll say that I'm from British Columbia and perhaps know better than anyone how important it is that we create resolution to these long-standing issues.

I also live in a rural area, and the one person I think seems to get left out regularly.... Is there any place where third parties that are going to be impacted in terms of decision-making will fit into this, where they're at least included or are aware of what's happening? Whether it's ranchers or tourism operators, I have example after example of situations where I think you would get to better specific claims resolutions if you also, in some cases, had that insight and perspective. Often there are cases in which people have worked side by side together in a valley for years. That's a piece that I see as missing.

● (1725)

Mr. Joe Wild: We need to distinguish between specific claims and land claims.

Mrs. Cathy McLeod: Yes.

Mr. Joe Wild: Land claims have a completely distinct process, which has public consultation embedded in it. It depends on the nature of what is being addressed through a specific claim, so there are—

Mrs. Cathy McLeod: I understand that, thank you.

Mr. Joe Wild: There are, depending on the aspects.... If a specific claim is bringing up return of lands, and if those lands are crown lands, there are public consultations that occur in that regard. If it's strictly about dealing with cash compensation, then no, there wouldn't be public hearings on that aspect.

The Vice-Chair (Mrs. Alexandra Mendès): Thank you very much.

Mr. Chandra Arya is next, for five minutes, please.

Mr. Chandra Arya: Thank you, Madam Chair.

Madam Chair, I would like to place on record my anguish that the deputy minister is not here. According to my knowledge, the deputy minister is the designated official accountable. The invitation from the committee clerk has gone to the deputy minister, and we have the assistant deputy minister saying he doesn't know why the deputy minister is not here.

Having said that, I'm looking at the recommendations and the key interim milestones. In 6.45, the OAG's recommendation is:

> In cooperation with First Nations, Indigenous and Northern Affairs Canada should make its negotiation practices to expedite small-value claims...

The interim milestone states:

> Fall 2017: With the agreement of the Assembly of First Nations / Canada Joint Technical Working Group, strike a Sub-Committee to examine....

Do you mean to say that we have to wait until fall of this year before a subcommittee is formed?

Mr. Stephen Gagnon: No, sorry. Before we'd be able to get recommendations that we think might be joint recommendations, a subcommittee would be formed.

Mr. Chandra Arya: By the fall of 2017, you're going to get recommendations from the subcommittee.

Mr. Stephen Gagnon: I think the reference there is to the joint technical working group, which I sit on. Ideally, by next fall we will be in a position to make recommendations to our minister. The first nations have their own political organizations that they would need to get feedback from. It's that sort of thing.

Mr. Chandra Arya: Then there is recommendation 6.47:

> [INAC] should update its website to reflect the full range of negotiation practices for all types of specific claims.

I come from the private sector. If a website needs to be updated and if somebody tells me it takes one year to update the website, that's absolutely unacceptable to me. I see you mentioned something to do with the shared services, but I guess there's the technical part. I think what OAG is suggesting is the content.

Mr. Stephen Gagnon: I don't want to speak for the Auditor General, but the issue has been that first nation groups would dispute the way we characterize certain parts of the way we're doing it. The real work is to try to get to a common understanding of what it means when we call a file "closed".

The way it's been explained to me is we called them “closed” because we're not working on them anymore, because we don't see progress or they've gone to some other forum. However, the first nations say, “But the claims haven't gone away. They're still out there, unresolved.” We need to find a way of communicating so that we understand that we're comparing apples to apples.

Mr. Chandra Arya: Mr. Ferguson, can you kindly explain the recommendation? I'm still confused.

Mr. Michael Ferguson: It was simply that we saw a number of negotiation practices, which have been talked about today—sending the letter and some of those things—that the department had implemented, but the department had not communicated this way handling those claims to the first nations. We simply felt they should make the first nations aware of how they are handling the claims—that is, explain how the claims are being handled—and the obvious way to make that available would be to put it on the website, document what they were doing, document how they were actually handling those claims, and let people know that's how they were doing it.

Maybe the first nations wouldn't agree with it, but the starting point would be to let them know that this was how those claims were being handled.

● (1730)

Mr. Chandra Arya: That was my understanding. I'm quite surprised it will take one year to do that—more than one year, for that matter.

Mr. Stephen Gagnon: Again, we're trying to do things collaboratively. We have been accused in the past of doing things unilaterally. We would post things to which the first nations said they'd had no input, and then that undermined the credibility of the reporting. That's how I understand it. We would like to do it as quickly as we can, and that is the timeline we're trying to work to.

Mr. Chandra Arya: Have I used up all the time?

The Vice-Chair (Mrs. Alexandra Mendès): We have 20 seconds left, and it's 5:30.

Thank you very much to our witnesses today, Mr. Gagnon, Mr. Wild, Mr. Ferguson, and Mr. Berthelette. This is obviously not an easy subject to discuss, and we may very likely call you back. We probably haven't finished, but I'll have to discuss that with my colleagues.

Thank you again for your presence.

The meeting is adjourned.