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The Honourable Shawn Murphy

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• (1530)

[English]

The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)): I'd like at this time to call the meeting to order.

[Translation]

Welcome, everyone.

[English]

I want to welcome everyone here today.

This meeting is called pursuant to the Standing Orders to deal with chapter 2, on the Governor in Council appointment process, of the 2009 status report of the Auditor General of Canada.

The committee is very pleased to have with us today, from the Office of the Auditor General of Canada, Richard Flageole, Assistant Auditor General. He is accompanied by principal Anne Marie Smith.

From the Office of the Privy Council, we have the Clerk of the Privy Council, Kevin Lynch. He is accompanied by Yvan Roy, deputy secretary to the cabinet and counsel to the Clerk of the Privy Council for legislation and House planning and machinery of government. I think he has the longest title in Ottawa. And we have Patricia Hassard, deputy secretary to the cabinet.

From the Immigration and Refugee Board of Canada, we also have the chair, Brian Goodman. He is accompanied by Sylvia Cox-Duquette, senior general counsel.

On behalf of all committee members, I want to extend to all of you a very warm welcome.

We are going to ask for opening statements now. We normally start with the Office of the Auditor General. Then we'll go to Mr. Lynch. Then we'll go to Mr. Goodman.

Mr. Flageole, the floor is yours.

Mr. Richard Flageole (Assistant Auditor General, Office of the Auditor General of Canada): Thank you, Mr. Chair, for this opportunity to discuss our chapter on the Governor in Council appointment process.

As you mentioned, I am accompanied by Anne Marie Smith, who is the principal who was responsible for this audit.

Our audit examined the process used to make Governor in Council, or GIC, appointments to crown corporations, small federal entities, and the Immigration and Refugee Board.

[Translation]

Overall, there was unsatisfactory progress since our previous audits, with some issues having first been raised as long ago as 1997. Our audit found that there are still long delays in making GIC appointments in these organizations, and that there is a lack of communication about appointments and re-appointments and a need for sustained attention paid to the staggering of appointments.

We found some improvement in the areas of transparency in selection processes for chairs and chief executive officers of crown corporations and heads of small agencies through the creation of a website to publicize vacancies, and in training and orientation of appointees.

The audit found timeliness of appointments to be a problem, with large numbers of positions in crown corporations remaining vacant or occupied by appointees with expired terms for a lengthy period. For example, as of September 20, 2008, 16% of appointees' terms had expired an average of 373 days earlier, and 7% of positions were vacant. In small entities, there was an average gap of 91 days between the end of appointees' terms and their re-appointment, and average periods of vacancy of 296 days for 13 agency heads.

[English]

Another matter of concern was with communication with candidates, appointees, and the organizations to which they are appointed. Nearly half of the chairs and CEOs of crown corporations whom we interviewed commented on the lack of communication, with a third using the terms "black hole" or "black box" to describe the appointment process as they awaited information on outcomes. In small entities and the IRB, notification of appointment and reappointment decisions was also not done in a timely fashion.

We noted many instances in which individuals were not notified of reappointments until after their terms had expired. We also noted that the organizations themselves had difficulty in obtaining information on appointments. In three cases, directors learned at a board meeting that they had been replaced days earlier.

The Immigration and Refugee Board is a case study of the seriousness of issues that can develop as a result of insufficient attention being paid to appointments. High vacancy rates and high turnover of board members have significantly contributed to increased delays in rendering decisions and to a large backlog of unprocessed cases. The result is uncertainty for claimants and significant costs to social programs. As of September 20, 2008, there were about 10,000 unresolved appeals and more than 50,000 unprocessed refugee claims. At that time, the board had a 23% vacancy rate and a high rate of turnover.

We are aware that the refugee case inventory has grown since we completed our audit. The IRB 2009-10 report on plans and priorities indicates that the refugee protection division expects to begin the fiscal year with a pending inventory of approximately 65,000 cases and to receive an additional 50,000 new refugee claims this year. Depending on the number of decision-makers available and their level of experience, the board expects to have the capacity to finalize up to 25,000 refugee claims in 2009-10. Therefore, the pending inventory could be over 90,000 by the end of this fiscal year.

This is very serious. Action needs to be taken, and the committee may wish to ask the board about what steps they will take to address this situation.

• (1535)

[Translation]

The government's response to our recommendations in the report gives little assurance or definite undertakings as to how it intends to address the concerns that we raised. Your committee may wish to explore this further with representatives from the Privy Council Office, including whether the government has developed any action plans, timelines or other strategies to address the issues raised in the chapter.

Finally, you will note in our report that officials of the Privy Council Office express their view that aspects of our audit went beyond the Auditor General's mandate and encroached on the exercise of discretion by ministers and the governor in council. As we indicated in our letter to the chair, we are satisfied that the findings in the report fall entirely within our mandate.

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

Thank you.

[English]

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

We're now going to turn to Mr. Kevin Lynch, the Clerk of the Privy Council and secretary to the cabinet.

Mr. Lynch.

Mr. Kevin Lynch (Clerk of the Privy Council and Secretary to the Cabinet, Privy Council Office): Thank you, Mr. Chair and members of the committee.

The Auditor General's status report, chapter 2, looked at the federal government's process for making Governor in Council appointments to crown corporations, other small federal entities, and the Immigration and Refugee Board of Canada. I am pleased to have

the opportunity to meet with you today to discuss the findings of the Auditor General on the Governor in Council appointments process, as well to as to update you on measures the government is taking to continue to improve the GIC appointments process.

I'm joined, as you noted, Mr. Chair, by Yvan Roy and Patricia Hassard.

[Translation]

Mr. Chairman, GIC appointments are those made by the Governor General on the advice of the Queen's Privy Council of Canada, as represented by cabinet. The responsibility for recommending appointments rests with ministers. The role of the public service is to implement processes, agreed to by the government, that bring to the political decision-makers a slate of candidates who meet the requirements and have the qualifications for the position, and reflect the diversity of Canadian society. In *Accountable Government—A Guide for Ministers and Ministers of State*, first released in 2006, the Prime Minister set out his expectations with respect to GIC appointments. The guide states that "it is essential for appointees to be well qualified, and that senior government appointees be chosen through a process that ensures broad and open consideration of the proposed candidates." Further, it specifies that an important aspect of the appointment process is the desire to ensure that GIC appointments reflect Canada's diversity, in terms of linguistic, regional and employment equity representation. The public service is supporting the government in meeting these commitments by developing new policies and guidelines.

• (1540)

These are drawn from best practices in other jurisdictions, that support an accessible and rigorous appointment process. Many such changes have been implemented since 2006.

[English]

The GIC appointments process is, by its nature, a complex one, with built-in checks and balances appropriate to the public sector. Private sector appointment processes and practices are not necessarily the benchmark for the GIC appointments process. The Prime Minister's Office, Mr. Chairman, plays a lead role in establishing the policies and is responsible for the overall coordination of GIC appointments as well as liaison with ministers' offices. Privy Council Office, PCO, provides operational support to and advice on the appointments process, including appointment policies, practices, and remuneration. PMO and PCO, as well as ministers' offices and their departments, consult and work closely with their respective organizations to understand their appointment needs.

The December 12, 2006, passage of the Federal Accountability Act provided legislative authority for the creation of a Public Appointments Commission, PAC. The legislative framework provides for a PAC that will have specific roles in the appointments process through the establishment of a code of practice for selection processes. The code will set out the steps necessary for a fair, open, and competency-based selection process for GIC positions in agencies, boards, commissions, and crown corporations.

Consistent with this legislative intent, the government has introduced a number of new processes and practices since 2006 to make the appointment system more rigorous. The management of vacancies has been improved, and both the transparency of the process and access to appointments have been increased.

I would like to highlight, Mr. Chair, for the committee, six such changes, which very much respond to both the spirit and the intent of prior advice we received from the Auditor General.

First—and this is a key one—to ensure that ministers and their departments are better equipped to manage appointments within their portfolios and understand the expectations of the government, PCO has developed and distributed a document entitled “A Guide to Managing the Governor in Council Appointments Process”. It focuses on the key elements required for a rigorous process. This document provides guidance on effective vacancy management, guidelines for making reappointment decisions, overall expectations, and appropriate steps for recruitment. It also provides specific guidance on effective communications with organizations and appointees on appointment issues.

[Translation]

Second, it is recognized that vacancy management must be improved. To that end, PCO now provides ministers and their departments with a monthly report outlining all appointments set to expire within the upcoming 12 months. This monthly report is meant to assist ministerial and departmental planning and to better ensure that appointment and re-appointment decisions are made in a timely manner.

A third change, in the same vein, addresses the management of upcoming expiries. The government has issued new guidelines setting out expectations for ministers to provide notice to appointees as to whether or not they will be re-appointed.

For full-time appointees, ministers now should determine whether a re-appointment will be recommended at least six months before the end of the appointee's term. For part-time appointees, this now should be at least three months before a term expires.

The fourth change relates to increasing transparency and access to the GIC appointment process. In April 2006, the government launched the governor in council appointments website, where opportunities for GIC positions are advertised. Interested candidates have access to selection processes for leadership and quasi-judicial positions in more than 200 government organizations.

The fifth change increases the rigour of the appointments process. The government has broadened the scope of its recruitment efforts for leadership and quasi-judicial positions. Qualified candidates for these positions are recruited following rigorous selection processes, which include the development of the appropriate selection criteria,

public advertisements and the assessment of candidates through interviews and reference checks.

The sixth change addresses the need for enhanced training and orientation, for both stakeholders and appointees. This now includes one-on-one orientation sessions for new chairs, heads of agencies and CEOs of crown corporations, and regular workshops on how to implement the appointments process for departmental officials and exempt staff in the ministers' offices.

● (1545)

[English]

As these changes indicate, Mr. Chairman, we are working to strengthen the process for GIC appointments. There are always opportunities for improvement, in particular with respect to vacancy management. To manage vacancies well, it's also important to identify the optimal number of GIC positions that are required in an organization to accomplish their legislative mandates and to determine whether existing GIC positions are apportioned where they can be most effective. In some cases, the optimal number of appointees may be less than the maximum allowed under the legislation. To examine this issue, a review led by the President of the Treasury Board will look at how the management of federal agencies, boards, commissions, and crown corporations is impacted by the number of GIC positions and whether the current size is required to optimize their effectiveness. This review is now under way, and it's anticipated that the President of the Treasury Board will submit his report and final recommendations by the end of 2009.

The Auditor General's status report that we're discussing today looked at the government's process for making GIC appointments and examined the extent of progress made in implementing her previous recommendations on appointments. Given the GIC's broad discretion conferred by statute to make appointments, the Auditor General has indicated that her office did not audit the decisions made by the GIC or the roles played by ministers, their offices, or the PMO. We share this view that the audit should not encroach on the exercise of discretion by ministers and the GIC, nor should it comment on the exercise of ministerial discretion, as that would be beyond the scope of the Auditor General's mandate.

The GIC appointment process is a complex one with distinct roles and responsibilities being exercised at the political and public service levels. The role of the public service in the appointment process is to provide advice and operational support. It is not to make decisions on individual appointments. The decision-making takes place at the political level through the exercise of ministerial responsibility and GIC discretion. While these two elements are linked through the common objective of an effective and efficient appointments process, the separation of responsibilities remains clear: PCO manages the process, while the decision-making authority on specific appointments rests with the political level.

In any given year, to conclude, Mr. Chairman, approximately 1,000 appointments are made by the GIC. This is an extremely important element of our Westminster system of government. We very much appreciate the advice of the Auditor General in this area over a number of years, and the Auditor General has contributed to ensuring that the key players in the appointment process are made aware of areas for improvement and are continually looking at ways to enhance policies, practices, and processes.

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

Thank you, Mr. Chair.

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

We're now going to hear from Mr. Brian Goodman, the chair of the Immigration and Refugee Board of Canada.

Mr. Goodman.

Mr. Brian Goodman (Chairperson, Immigration and Refugee Board of Canada): Thank you, Mr. Chairperson.

Good afternoon, and thank you for inviting me here today. I'm pleased to have this opportunity to introduce myself to the committee and to provide you with information on the Immigration and Refugee Board of Canada—or IRB—Governor in Council selection process, our actions to implement the one recommendation that the Auditor General directed to the IRB and the government, and the current state of our member complement and workload.

I'm joined today by our senior general counsel, Sylvia Cox-Duquette.

I've been a member of the IRB for almost eight years now, and I've served on two of the board's three divisions, first as a member of the refugee protection division, hearing refugee claims, until 2006, and then as deputy chairperson of the immigration appeal division, before being appointed interim chairperson in March 2007 and chairperson in June of that year.

[Translation]

The current selection process for GIC members represents a significant change from the previous process. In addition to setting a pass/fail mark for the written exam, the Selection Advisory Board (SAB) merged the former Advisory Panel and the Chairpersons Selection Board.

All members of the SAB are required to affirm their impartiality in all aspects of the selection process.

Under the revised selection process, the IRB Chairperson is accountable to the Minister of Citizenship, Immigration and Multiculturalism for the selection of qualified candidates according to nine behavioural competencies.

The IRB established these competencies for GIC members to ensure they have the necessary skills, abilities and personal suitability to fulfil their responsibilities.

Candidates who meet the written test and interview competencies undergo a detailed reference check and, on occasion, a behavioural event validation.

In my capacity as chair of the SAB, I recommend to the minister only those candidates who are qualified, based on these competencies, to be considered for appointment to the IRB. The selection process is transparent and merit-based.

The minister recommends the re-appointment of members to the governor in council after taking note of the IRB chairperson's recommendations based on rigorous end-of-mandate performance evaluations.

Since April 1, 2008, two-thirds of those members seeking re-appointment have in fact been re-appointed.

• (1550)

[English]

The Auditor General's report recognized that the IRB consistently followed established procedures to solicit and assess new candidates. It also found that new candidates were regularly recommended to the minister and that recommendations for re-appointments were consistently made six months in advance of the expiry date of the incumbents' terms.

Among the recommendations, the report called on the government and the IRB to work together to determine an appropriate complement of members or other strategy to deal with the inventory of unprocessed refugee claims and unresolved immigration appeals on a timely basis, taking into account the current size and the projected number of new cases. The IRB welcomes the recommendation of the Auditor General that the IRB be staffed in a timely manner with the required number of decision-makers who have the knowledge, skills, and experience to carry out the board's mandate. The IRB is pleased that the Auditor General recognized that the processes for soliciting, assessing, and recommending qualified candidates to the minister are sound and that my recommendations to the minister for appointment were based on the members' performance and made in a timely manner.

In response to the recommendation, I have recently shared with the government proposed options to address the IRB's workload challenges. I look forward to continuing to work with the minister and the government to arrive at a strategy that allows the IRB to address its pending inventory and increased intake.

One of the challenges the board continues to face in the pursuit of its mandate is the vacancies in the GIC member complement, along with the rate and timing of appointments and re-appointments at the board. The board is funded for a GIC member complement of 164. As of today, the IRB has a total of 137 members—107 in the RPD and 30 in the immigration appeal division. We currently have a shortfall of 27 members—20 in the RPD and 7 in the IAD. We also have 17 members whose terms are due to end in 2009-10. Of course, that doesn't take into account the possibility of members resigning prior to the end of their term for various reasons, including taking another job, which happens regularly.

However, since October 2008, I'm pleased to report that 33 new members have been appointed and 10 members have been reappointed. Understandably, our efforts have recently focused on training and mentoring the new members. It takes up to a year for a new member to become fully productive. Currently, 71% of our members are in the first term of their mandate, which is usually three years. That is an unusually large number. As the Auditor General pointed out in her report, we'd like to see a balance between the number of new members and the number of experienced members.

I would also like to stress that one external factor over which the IRB has no control, and which has a huge impact on our inventory, is the dramatic increase in the intake of refugee claims. Our intake is volatile and we have no control over the number of claims that are referred to us. In this past fiscal year, 2008-09, a total of 36,262 claims were referred to the IRB, compared with 30,564 in 2007-08 and 23,460 in 2006-07.

As a result of this increased intake, coupled with our member shortage, the current pending inventory has grown to 59,007—which is better than the 65,000 we had projected. The average processing time is now 17.6 months in the RPD and 11.9 months in the IAD. This is obviously very high: people are looking for a finality with respect to their applications and appeals, and their lives are on hold in the meantime, as are the lives of their families. From fiscal year 2006-07 to 2008-09, the intake has increased by 55% in the RPD, 9% in appeals to the IAD, and 21% in ID detention reviews and admissibility hearings.

● (1555)

I'd like to conclude by highlighting the fact that over the last year, in my view, the performance of the board has been extremely praiseworthy. Notwithstanding the external pressures of a mounting intake and a shortfall in member complement, we finalized 20,218 refugee claims in fiscal year 2008-09. Thanks to the dedication and hard work of our members and our support personnel, along with the positive impact of some of the case management efficiency measures we've adopted in a number of areas, finalizations per member have increased to the extent that we were able to achieve this notwithstanding a member vacancy rate that averaged over 27% over the fiscal year.

Finally, I'd like to mention that 2009 marks the 20th anniversary of the Immigration and Refugee Board. Thank you for your good wishes. Over the 20-year history, the board has finalized almost one million cases.

Thank you. I'd now be happy to answer any questions you may have.

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

Just before we go to the first round, in my opening comment I neglected to mention that we're accompanied today by the parliamentary counsel, Mr. Rob Walsh.

Mr. Walsh, because there's a difference of opinion as to the mandate of the Office of the Auditor General, I asked for a legal opinion on this issue. That legal opinion was prepared by Mr. Walsh's office. It's been circulated to all members, and he's here today. If any members of the committee want to address any questions directly to him, he's here for that purpose.

We're going to start the first round of seven minutes.

Ms. Ratansi, you have seven minutes.

Ms. Yasmin Ratansi (Don Valley East, Lib.): Thank you, Mr. Chair, and thank you all for being here.

I have some questions for Mr. Lynch. In 2006 Prime Minister Harper promised to end patronage appointments. He said he wanted an independent commission to select appointees based on their experience, not their political ties, yet in the years since then we have seen nothing but the opposite to be true. The Prime Minister has continued to stack boards, commissions, the Senate, the courts, etc., with well-connected Conservatives. My question—

● (1600)

The Chair: Ms. Ratansi, there is a point of order.

Go ahead, Mr. Saxton.

Mr. Andrew Saxton (North Vancouver, CPC): Mr. Chair, the Auditor General made it very clear when she was before committee previously, and I quote. She says:

We did not look specifically at that. I would think that political affiliation should not be a criterion for appointment, but on the other hand, if someone has a known political affiliation, I don't believe that should disqualify them either.

I think it's very clear that her report did not delve into this. Today we're looking at the AG's report, so I think that question is out of order.

Ms. Yasmin Ratansi: Mr. Chair, Mr. Saxton is quite out of order, because that's the presentation that Mr. Lynch himself has made. I'm picking it up right from there, in "Accountable Government". I have a very valid question. If he would care to sit down and listen to the question first, before he makes points of order, he'll be fine. The question is very logical.

The Chair: Ms. Ratansi, I'm going to allow the question, but I'll ask you to restrict it to the.... You'll have to understand that the appointment of the person is part of the political process, but you're quite right that there is, passed by Parliament, a provision in the Federal Accountability Act dealing with the Public Appointments Commission. Mr. Lynch—and the Auditor General, I should point out—quite correctly made reference to this, and there is no problem with your pursuing your question in that area.

Ms. Yasmin Ratansi: That's where my question was going, so I would appreciate some patience from people.

My question is regarding the accountability and the establishment of an independent commission. We have seen appointments.... Governments have done it, but the Prime Minister made that statement and promised to end those types of appointments. Now we have seen the appointments of Justice Green or John Weissenberger, or whatever.

As a person who has been a public servant for quite some time and as someone who gives advice, you believe in the process, so after a prime minister says he will avoid patronage appointments based on politics, do you believe these kinds of appointments help or hinder the GIC process or the public perception of the GIC process?

Mr. Kevin Lynch: Mr. Chair, let me try to answer the question. As my comments indicated, the government has made a number of changes to improve the rigour and nature of the appointments process since 2006. In my comments I went through six of those, but there are more. They've all been geared toward being much more rigorous in terms of the qualifications and competencies required. They've been geared toward the public notification, including advertisements for the appointments, and the nature of the process to move forward. The government and the Prime Minister in his 2006 guide have moved to improve the accessibility and rigour of the GIC appointment process. It has launched the website. It advertises GIC appointments to all leadership, and quasi-judicial appointments are made based on advertised selection criteria. I think that's a very substantial change in the rigour of the appointments process for GICs over the last number of years.

Ms. Yasmin Ratansi: I thank you for that answer. It may be a change in the rigour, but everything in theory versus something in practice.

In 2006 the passage of the Federal Accountability Act stated that they would establish a Public Appointments Commission. You talk about the establishment of a PAC that will specify roles. Those codes go with the PAC, but up to 2009, there has been no active commission, apart from the \$3 million that has been wasted in keeping the office lights on.

Could you tell me exactly what this PAC is doing, because it does not exist. The House of Commons rejected the appointment and the government has not appointed anyone else. Those codes that you're talking about, the rigorous codes, are all in theory. Nothing has been put in practice, according to what the Auditor General has told us. Could you explain the difference to me, please?

• (1605)

Mr. Kevin Lynch: Certainly. The Federal Accountability Act, which came into effect, as I noted in my comments, on December 12, 2006, established the structure and mandate of the Public Appointments Commission. The government, since that time, has done considerable groundwork for the implementation of the Public Appointments Commission. Work has been done in examining best practices in other jurisdictions—what are the best practices in this role? As I indicated in my comments, in the public sector it's not exactly the same as in the private sector. It's prepared a draft code—

Ms. Yasmin Ratansi: Mr. Lynch, I don't want to interrupt you, but is there a PAC? Is there a Public Appointments Commission in place at the moment?

Mr. Kevin Lynch: You're asking a very specific question. I'll turn to my colleague, Mrs. Hassard, to answer that, if you don't mind.

Mrs. Patricia Hassard (Deputy Secretary to the Cabinet, Senior Personnel and Public Service Renewal, Privy Council Office): Thank you very much.

What exists is the Public Appointments Commission Secretariat, which is a very small unit made up of one executive and one

assistant that is meant to prepare the ground for the eventual implementation of the commission itself. The commission itself has not been set up, but there is a secretariat.

Ms. Yasmin Ratansi: What does the secretariat do? Is it preparing the groundwork for the implementation when the PAC is established?

Mrs. Patricia Hassard: That's right.

Ms. Yasmin Ratansi: In the presentation that Mr. Lynch gave us it says there has been legislative intent, and there has been a very rigorous process, and there have been changes. When are those changes coming? When would they be implemented? When can we see what is in reality going to happen?

Mrs. Patricia Hassard: I think I would answer that by saying that all of the changes Mr. Lynch described are actually in place now. They are meant to increase the rigour, the transparency, the accessibility of the appointments system in anticipation that we would be able to meet the standards set out in a code of practice set out by the Public Appointments Commission.

Ms. Yasmin Ratansi: During what stage were they put into place?

Mrs. Patricia Hassard: They've been put into place at various times since 2006.

Ms. Yasmin Ratansi: If they have been put into place since 2006, this is not reflected in the audit, when the audit was being conducted, so there is some inconsistency in the audit versus what you're saying. What are we supposed to believe? In the AG's report, you believe that the aspects of the audit will be on the Auditor General's mandate.

Do you feel that the GIC process should not face public scrutiny? If it has faced public scrutiny and what the Auditor General is saying is inconsistent with what you're saying, could you help me out? Then I'll go to the Auditor General.

Mr. Kevin Lynch: The first part of that question asks when we implemented these. When I went through my remarks, I said that the six aspects are all key parts of a best-practice, rigorous appointment process: what the guidelines for ministers are, what the publication is, what the selection and notification criteria are, how you manage vacancies, and those sorts of things. They've been implemented at different times over the last three years, because they've taken different amounts of work to take into effect.

The Office of the Auditor General responded, which I'll come back to in a minute. The audit was done over a period of time. It was done over a period of 33 months and reflects the whole period from January 2006 to September 2008. Through that period of time, and past it, we've been implementing the six changes I mentioned, and others.

A snapshot over an average of 33 months is not going to necessarily capture where we've ended up today. I'll come back to highlight those differences, Mr. Chair.

Ms. Yasmin Ratansi: Can the Assistant Auditor General answer the question, because he talked about the guidelines? Were you able to check those guidelines?

Mr. Richard Flageole: Some of the changes referred to in the clerk's opening statement are reflected in our report. We talk about the new transparent process. We talk about the improvements in the orientation or whatever. Again, our work was finished in September 2008, so I assume that some of those were either in the process of being implemented or have been implemented since then. I'm just referring, for example, to the third change on page 4. It says that "new guidelines setting out expectations for Ministers to provide notice to appointees".

To the best of my knowledge, that was not in place at the time of our audit, unless we would have reflected that. But again, it's a moving target.

• (1610)

The Chair: We're going to move on.

Madame Faïlle, sept minutes.

[Translation]

Ms. Meili Faïlle (Vaudreuil-Soulanges, BQ): Mr. Chairman, I will start with a few comments on the audit. What you seem to have found in this report is old news. It outlines the same problems that I have already raised at a meeting of the Committee on Immigration and Citizenship. I have been a member of Parliament for five years.

Mr. Richard Flageole: Mr. Chairman, the message in our chapter is quite clear. I have been working in the Office of the Auditor General for 32 years. I conducted the audit of the IRB in 1990, 1997, 2001 and 2008. We have produced a number of reports on crown corporations. There are two main points: the importance of timely appointments and the way in which individuals are treated. Those are the issues that have existed for a long time.

Ms. Meili Faïlle: These problems have major impacts. What are the impacts on the judicial system and other immigration processes? The backlog is also causing problems for the provinces in terms of social costs. Can you illustrate the problems associated with such a huge backlog?

Mr. Richard Flageole: Mr. Chairman, the impact varies depending on whether we are talking about crown corporations or the IRB. The IRB—the chair mentioned this earlier—deals with claims from people who have experienced difficult situations in their home country and are asking for our protection. They are very eager to know the outcome and begin a new life. So there is an impact on individuals.

As our report indicates, the IRB's rejection rate over the past three years has been 55%. Many people have their claim rejected and must leave the country as a result. If it takes two or three years to reach a decision, the refugee claimants have the right during that time, like other Canadians and permanent residents, to use the health care, education and social assistance systems. That creates enormous costs for the various levels of government.

Ms. Meili Faïlle: There is certainly an impact on family reunification when the members are at the Immigration Appeal Division.

Mr. Richard Flageole: In the case of the Immigration Appeal Division and family reunification cases, we once again have a situation where people are waiting for a decision on something that is very important to them.

Ms. Meili Faïlle: Perhaps the IRB representatives can answer that. Does the fact that hearings cannot be scheduled have an impact as well on cases before the Immigration Appeal Division, that is cases that are rejected or excluded or that contain criminal aspects?

[English]

Mr. Brian Goodman: Yes, there is an impact. Obviously that's something we're very concerned about, and that's why we give priority to removal order appeals, particularly of course where the person is at large. So while they're appealing, they've been released pursuant to conditions.

[Translation]

Ms. Meili Faïlle: Can you provide the committee with numbers so that we can get an idea of approximately how many files are waiting to be scheduled and what types of files they are, a bit like I have just mentioned? Obviously, I am not very pleased with the IRB results. I know very well that Mr. Goodman was familiar with the problems, which go back to before his appointment.

How do you explain the difficulty you have had in resolving the situation, Mr. Goodman?

[English]

Mr. Brian Goodman: I've already mentioned that it is a difficulty. People are waiting for what I consider to be an unreasonably long period of time, in the case you asked about, to have their appeals determined.

[Translation]

Ms. Meili Faïlle: Why are these people having to wait? Are there not enough decision-makers?

• (1615)

[English]

Mr. Brian Goodman: It's two reasons. One is increased intake and the second is an insufficient number of decision-makers. It's both.

[Translation]

Ms. Meili Faïlle: It is both, but if I understand correctly, the shortage of decision-makers is still a major factor, since there is such a steep curve in the wait times.

[English]

Mr. Brian Goodman: Yes, it is.

[Translation]

Ms. Meili Faïlle: Can you tell us the date on which the Selection Advisory Board first met and who is on the Board?

[English]

Mr. Brian Goodman: My recollection is that the first meeting was held in either August or September of 2007.

The membership on the board has changed over time. Originally there were two members appointed by the minister and by me. One was Matthew Garfield, who is the former chairperson of the Human Rights Tribunal of Ontario and who is an arbitrator and lawyer who practices employment law and a part-time member of the Canadian Human Rights Tribunal. I happen to know him from my time, actually, as chair of the Rent Review Hearings Board in Ontario.

The second member is Knox Henry. Knox, until recently, was a member of the Environmental Appeal Board of Ontario. His term has recently ended, and he's doing consulting work with a law firm on environmental law and other public policy issues. And once again, fortuitously, I happen to know him because he had been a deputy mining and lands commissioner when I was acting mining and lands commissioner.

[Translation]

Ms. Meili Faille: How many members does the board have?

[English]

Mr. Brian Goodman: There are currently nine members, including myself: four jointly appointed by me and the minister, four appointed by me, and then me as chairperson.

[Translation]

Ms. Meili Faille: Has the composition of the board been challenged, since the changes to the way board members are chosen have been brought in?

[English]

Mr. Brian Goodman: This is an entirely new board that meets the decision of the government to accept the report of the Public Appointments Commission Secretariat—the head of that secretariat, Peter Harrison—that the former chairperson's advisory panel and the former selection board be merged into a selection advisory board. So these are all new members who did not formerly serve on either the chairperson's advisory panel or the selection advisory board.

[Translation]

Ms. Meili Faille: All right.

[English]

Mr. Brian Goodman: The other two members, if you're interested, are Gisele Morgan, who is from Montreal and is a former assistant deputy chairperson of the refugee protection division in Montreal; and, jointly appointed by me and the minister, Monsieur Roméo LeBlanc from Dieppe, New Brunswick, a retired professor.

The Chair: *Merci beaucoup, Madame Faille.*

Mr. Christopherson, you have seven minutes.

Mr. David Christopherson (Hamilton Centre, NDP): Thank you, Chair.

Thank you all for your attendance today.

I must say it's rather disappointing to be back in this world again after things were so good on Tuesday. We had an excellent meeting with the passport agency, who had actually listened and acted on recommendations, who were able to show us what they'd done and acknowledged where they'd made mistakes. I mean it was really good, and now we're back to the bad old stuff again.

I'm really disappointed, Mr. Lynch, in your response in particular. I don't think we've ever had a response from a deputy so long and full of such bureaucratese, just filled with stuff that doesn't answer anything. It was very frustrating to read that letter. I have to tell you, I am not impressed at all, particularly—and people know this—when we have audits that go back where things have been found, and then they're not acted on, and then there's another audit and they're not acted on, and another audit. It just makes the blood boil.

There are aspects of this that go back 12 years. Twelve years! If you read your response today, you'd hardly know anything was wrong.

I want to start by dealing with this issue of the mandate. In your letter dated today, where you respond—although it's funny that you never did respond to the Auditor General—you say, and I'm quoting from Mr. Lynch's letter:

Further, commenting on the Immigration and Refugee Board's accumulated backlog and the number of vacancies on the Board, could be interpreted as moving from the mechanics of appointments to the decision to appoint, which is the prerogative of Ministers and the GIC.

Mr. Walsh is here. We have a letter from him. He's our law clerk, our law adviser, top lawyer in the whole organization, and he says, in part:

It seems to me fairly clear that GIC appointments, as a matter of process, fall within the AG's mandate to review from time to time and to report to Parliament, if necessary. The legal fact that the GIC appointment power is done at the exclusive discretion of the Governor in Council does not mean, in my view, that the exercise of this discretion cannot be reviewed, either by the House itself or by the AG on its behalf. It's all part of the House's constitutional function of holding the Government to account.

So we've heard your position and we've heard from the parliamentary law clerk. What do you say in response to the law clerk's position?

• (1620)

Mr. Kevin Lynch: Well, let me say two things.

One is that you've picked out a small portion of my letter back. As my remarks said, both we and the Auditor General, when she set out the scope for the mandate, indicated that the scope actually should be related to the process of the appointments, and we agree with that. Indeed, our interaction with the Office of the Auditor General was whether the audit, and elements of it, stayed within the four corners of that or whether there were some elements that may have gone outside that. We have raised, interactively with the office, observations with respect to insufficient appointments being made during the audit period, and the vacancy rates could be interpreted as dealing with the exercise of ministerial discretion that should be outside the scope of the audit, as we both said.

I also indicated in my letter, which you quoted from, that in any piece of legislation, the provisions set out in the Auditor General Act are subject to interpretation, and we may have differences of view on this. But I think it's really important that when it comes to mandate issues, which are so important, discussions take place and both the Auditor General and PCO engage in a constructive and transparent dialogue and make views known. And that's what we've done with the Auditor General and the committee.

Mr. David Christopherson: Okay. We've spent all that time and you didn't get me anywhere.

Mr. Walsh, did you hear anything there that causes you to change or amend the advice that you're getting, that what the AG was involved in is perfectly within her mandate?

Mr. Rob Walsh (Law Clerk and Parliamentary Counsel, House of Commons): No. But to be fair to the witness, this is an area in which reasonable persons may disagree. Where does the discretion or the power or the mandate of the Auditor General end and the discretion exercised by the government begin? Is there a fine line between the two? Arguably, there isn't.

My concern with the view expressed by the Clerk of the Privy Council, for whom of course I, like everyone else in this room, have enormous respect for his knowledge of government and the machinery of government.... My concern with the view expressed in this letter, particularly in the fourth paragraph at the end of the first page, is that if vacancies or the incidence of vacancies is beyond the mandate of the Auditor General to consider, one could have a situation where the vacancy rate is very high for whatever reason, either the political decision of the government of the day or just being unable to get on with the process competently. This argument would suggest that it's no interest of the Auditor General on behalf of the House to express concern to the House, or it's no place of the House, inferentially, to take an interest in such a matter.

It seems to me that sort of argument—that vacancies, per se, are beyond the process—invites the conclusion that a situation I described would be beyond the purview of the Auditor General or the House to comment upon. And it seems to me, in the sense that the Auditor General is an agent of the House and the House acts in the public interest, that a high vacancy rate might, as a matter of public policy, be something that would concern the House. It might be something under subsection 7(2) of the act on which the Auditor General wanted to comment.

Mr. David Christopherson: Okay, I'm a layperson caught between two lawyers.

All I want to know is whether or not the Auditor General—

Mr. Kevin Lynch: Mr. Chairman, just to clarify, that's between a lawyer and an economist, actually.

Mr. David Christopherson: Oh, God, that helps? Where is the used car salesman?

Voices: Oh, oh!

Mr. David Christopherson: By the way, Chair, this is why I sort of wanted to have two different parts to the meeting. One would have been to deal with this legal issue, because it's going to take a while and I'm going to lose all my time to get to the actual report. Anyway, I raise that concern.

As I understand it, we've still got two recommendations from the Auditor General's report that are outstanding, which you're not responding to. Is that correct, Assistant Auditor General?

• (1625)

Mr. Richard Flageole: Mr. Chair, those are the responses that have been published in our report.

Mr. David Christopherson: I'm going to stay within the regular world, if you will. This is what I know. There were two recommendations from the Auditor General in her report that the Privy Council—I believe it's the Privy Council—won't respond to and they're saying no. At some point we have to come to grips with this as a committee. Is that acceptable or not?

I'm so far hearing it's not acceptable, that there is no reason they can't be responding to this, and that it's within the domain of the Auditor General and within the domain of the House.

I'm going to move along, but I want to say to my colleagues that we have to come to grips with whether or not we're going to allow any entity to just say, "Sorry, we don't want to answer those." They then provide whatever legal answers they can find to do it. The bottom line is we're not getting a response from the government of the day on two recommendations from the Auditor General. As far as I'm concerned, that's unacceptable.

The Chair: I believe it's three recommendations, Mr. Christopherson.

Mr. Saxton, seven minutes.

Mr. Andrew Saxton: Thank you, Mr. Chair.

And thanks to all of you witnesses for coming in today.

My first point is that I think it's rather ironic that Ms. Ratansi talks about an increase in public scrutiny when she knows full well that it was this government that addressed that issue.

Now I have a question for the Assistant Auditor General. In 2006 this Conservative government, through an order in council, granted you access to more documents than you had before. Was this helpful, and do you know why this wasn't done under the previous government?

Mr. Richard Flageole: Mr. Chair, I can really assure you that throughout this audit we did not have any issues accessing information. I think we had the mandate, the difference of view on the mandate, which came out later.

As far as the second part of the question, honestly I couldn't answer that question.

Mr. Andrew Saxton: But you found it helpful that you had access to more documents than you had before?

Mr. Richard Flageole: Yes, as part of this audit we didn't have any issue at all with access to information. We got everything we wanted to get.

Mr. Andrew Saxton: Thank you.

Mr. Lynch, my next question is for you. In your opening statement you said,

...the Government has introduced a number of new processes and practices since 2006 to make the appointment system more rigorous. The management of vacancies has been improved and both the transparency of the process and the access to appointments have been increased.

Can you tell us about the improvements that have been made in the appointments system in recent years?

Mr. Kevin Lynch: Yes. Thank you very much.

There were at least six, which I enumerated at the start. The PCO has developed and distributed a document entitled: "A Guide to Managing the Governor in Council Appointments Process". That sets out the expected standards for rigour, for communication, for the guidance in terms of appointees and communication issues.

We've also, again responding to the very valid points made by the Auditor General, worked on vacancy management. PCO now provides ministers and their departments with a monthly report outlining all appointments that are set to expire within the next 12 months. So in a sense, there is full information coming up.

Thirdly, related again to observations by the Auditor General, we have tried to address the management of upcoming expiries in our guidance to ministers and to their departments. For full-time appointees, ministers should now determine whether a reappointment will be recommended at least six months before the end of the appointee's term. For part-time appointees, this should now be at least three months before a term expires. Again, we're responding to concerns of the Auditor General over a number of years.

The fourth change relates to increasing the transparency and access to the GIC appointments process, something the Auditor General has raised in previous audits going back over a decade. In April 2006, the government launched the Governor in Council appointments website, which actually makes it fully transparent. That is a substantial change. It allows interested candidates across the country to have access to selection processes for positions in over 200 government organizations.

Fifthly, we've broadened the scope of recruitment efforts for these positions. We have a rigorous selection process. We have the selection and publication of appropriate selection criteria, public advertisements, and assessment of candidates through interviews and reference checks. That's a substantial change from previous practice, and it's applied uniformly, again something the Auditor General had asked us to do.

The sixth change—and again, the Auditor General in this report I think notes the improvement here as well—is that we have responded to her previous concerns about the need for enhanced training and orientation for both stakeholders and appointees. We now have one-on-one orientation sessions for new chairs, for heads of agencies, for CEOs of crown corporations, and regular workshops on how to implement the appointments process.

As I said, there are over 1,000 GIC appointments per year. It's over 200 organizations and agencies across the government. That's a very diverse and distributed system. I think these sorts of changes actually make a substantial difference and again respond very much to the valid and helpful observations of the Office of the Auditor General over a number of years.

• (1630)

Mr. Andrew Saxton: Thank you very much.

Mr. Chair, how much time do I have?

The Chair: Two minutes.

Mr. Andrew Saxton: I think you've answered my questions.

Thank you very much.

The Chair: I just have a couple of questions to you, Mr. Lynch.

It seems to me, and I have considered this issue carefully, that both your office and the Office of the Auditor General start at the same premise, that the actual appointment is beyond the scope or mandate of the Office of the Auditor General. But when you talk about the

specific recommendations, it seems to me when I read the recommendations, they're dealing with the process. One is "clarify its expectation regarding the level of Crown corporation board involvement". That involves mainly the immigration board. There is a little bit of an issue there.

The second one is the insurance of "timely appointments".

Again, Mr. Lynch, if we have a situation like the immigration board, which has what I consider to be a high vacancy rate, there is a 17-month delay, it brings the whole process...and some could argue that the system is almost broke. But again, we're not going to get into the actual appointments.

The third one is the whole communication issue, and the Auditor General interviewed all these appointments and none of them were given sufficient notice. We had situations where people were showing up to meetings that had been discontinued. That is a process issue, and it is an issue that is of concern to this House. It's not an issue about which you can say there is no mandate for the Auditor General or that it is of no concern to Parliament. I think it is. These are very much process issues. They're not getting involved.... They're not dealing with the actual appointment of the individual; they're dealing with a process issue. The Auditor General has made certain recommendations, which quite frankly I agree with. I would have thought that the Office of the Privy Council could have given us some response or given the Office of the Auditor General some response to that, especially the communications issue.

Let's be frank here. If you were not reappointed and you get all dressed up, you fly to Toronto, you go to a board meeting and the chair comes over and taps you on the shoulder and says, your appointment wasn't renewed a month ago, don't you think that as the Clerk of the Privy Council that brings the whole system into disrepute? It shouldn't be tolerated by either your office, your political masters, or by Parliament. Am I wrong on that?

Mr. Kevin Lynch: Let me go to your points. I think we're all in agreement that the mandate of this audit was on process and was to understand how the appointments process for Governor in Council is working.

Let me give you an example, if I can, from my letter to you. It's at the bottom of the first page. The concern we raised was that the audit report included in its analysis of vacancies two organizations that were actually under mandate review by the governor and Government of Canada. Ministerial discretion was actually exercised to decide what they wanted to do with the mandates of those departments. That's not a process issue about whether the process is transparent and what have you. The government was deciding whether for those two or three, which are referenced in the report, they should change it and were holding in abeyance decisions on appointments during that period of time.

This is an example—as I both indicated in my letter and said in my remarks—of elements concerning which we thought the audit strayed from the process per se.

●(1635)

The Chair: I have just one more question, and we will have to move on, Mr. Lynch. This gets into the Public Appointments Commission.

This is very elaborate. It was done after much public consultation. It talks about a commission. It talks about the code of practice, policies, an audit, and public reporting. It's all good legislation, but there's one little problem in that the whole legislation is not being followed. No one could argue that this is being followed even remotely. You can make your statements that processes have been implemented. You can make your argument that the process has improved. I don't know for sure, but I can tell you one thing: this legislation has not been followed.

So what obligation is there upon your office, the Clerk of the Privy Council, to follow the law? Because we all come to this institution accepting the rule of law. I am under a legal mandate to file my income tax by a certain date. CRA is usually pretty strict on that. I can see it will take time to get this up and running, but it's been almost three years now. Do you see a violation of the rule of law in what's going on here?

Mr. Kevin Lynch: Mr. Chair, as you well know, the timing of the implementation of the Public Appointments Commission is really not in question. The public service can answer that it's the prerogative of the government. The framework legislation is there. It's the government's decision as to when it wants to implement it. You would really have to pose that to the government.

The Chair: Do you have any comment on whether or not you think the law is being broken?

Mr. Kevin Lynch: The law, the structure, and the legislative framework are there. It's the government's choice when it wants to implement that with the Public Appointments Commission.

The Chair: Okay, we're going to proceed now to the second round.

Mr. Kania, you have five minutes, and I'm going to be tight on the time.

Mr. Andrew Kania (Brampton West, Lib.): Okay. Thank you.

The Chair: What I'm telling you is not to load up the question with four questions.

Mr. Terence Young (Oakville, CPC): No, that's the next party.

Mr. Andrew Kania: I'm going to continue with the mandate issue. Under subsection 7(2) of the Auditor General's statute,

Each report of the Auditor General under subsection (1) shall call attention to anything that he considers to be of significance and of a nature that should be brought to the attention of the House of Commons, including any cases in which he has observed that...

Now that is very general. I'll ask Mr. Lynch, and I'm going to involve Mr. Walsh as well. Mr. Lynch, as far as I'm aware, there is no specific express legal provision within the Auditor General's statute preventing the Auditor General from making any form of policy recommendations or comments. Do you agree with that?

Mr. Kevin Lynch: I'm going to ask Mr. Roy. The issue we raised in our response dealt with the specific scope of this mandate and whether we thought it moved outside of this mandate. That's the area we were looking in. That's the area we commented on. It wasn't

general; it was actually quite specific in areas, and we had good interaction with the Office of the Auditor General in that regard.

But I'd like to turn to Mr. Roy regarding the legal and interpretive issue raised.

Mr. Yvan Roy (Deputy Secretary to the Cabinet and Counsel to the Clerk of the Privy Council, Legislation and House Planning and Machinery of Government, Privy Council Office): Mr. Chairman, you're raising the chapeau of subsection 7(2) of the Auditor General Act. The way we are looking at this is that the analysis has to start with section 5 of that same act, which provides the mandate of the Auditor General. I will quote from that section: "The Auditor General is the auditor of the accounts of Canada". When you go to section 7, it is presented in the context of the general mandate that is given to the Auditor General to audit the accounts of Canada.

From our perspective, we thought that an audit would have led the auditors to look at the process through which you get to bring forward candidates to these positions. If the auditors, as part of that process, say the government is missing a lot of things, that it doesn't have a process that provides for enough candidates, and that people don't know what's going on.... The chair was talking about people who are already incumbents in these positions and who do not know it has expired; it's stuff of that nature. We should welcome, and we do welcome, these comments, because we think they have to do with the process. But the process is leading to an appointment.

The appointment itself, whether or not it takes place, is not in the hands of the Privy Council Office or anyone in the bureaucracy, but is part of what the Governor in Council has as its prerogative. And when you get to that, it seems to us that you are crossing beyond the mandate of the Auditor General, which is to audit the mechanisms.

A case in point, if I may, is the IRB. You've heard Mr. Goodman describe, I think, in a very fair way, what the audit is providing, that the process is better and is bringing candidates to the table. What the audit does is it then goes beyond that and starts talking about the fact that there are vacancies and the things that follow from that.

We are saying—and maybe the point is technical, maybe the point is narrow, but I don't think it's insignificant—is that when you do that, you're going beyond what an audit is supposed to be. In that sense, we think the point should be made. Other people, perhaps, may disagree, but from our perspective, this is where the line should be drawn. That's the only reason we raise the issue at this point in time.

●(1640)

Mr. Andrew Kania: My assumption would be that before you declined to answer on the three areas, you would first have relied upon specific statutory provisions or case law in coming to that conclusion. So my request to you is to please advise us in writing, or provide us with the legal opinion you may have obtained, specifically of the statutory provisions and body of case law you relied upon to turn down the request of the Auditor General to form this conclusion.

The second part of this question is for Mr. Walsh to please comment upon this June 11, 2009, correspondence from you—and maybe you will have to do that in writing, because I'm running out of time—and provide us with your opinion on that.

So the first part is whether you can provide to us now—or maybe you can do it in writing—specifically what you did rely upon in coming to that conclusion by way of statutes and case law.

Mr. Yvan Roy: Point number one is that my client is the Government of Canada. There is that solicitor-client privilege, which I'm sure you're familiar with, preventing me from giving an opinion of that nature.

Point number two is basically that the argument is what I have tried to outline.

Mr. Andrew Kania: But can I just briefly—

The Chair: I'm sorry, but your five minutes are up. There will be another five minutes for the Liberal Party.

Mr. Kramp, five minutes.

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

My apologies if I don't spend a lot of time with you today. I'm going to in one way, but on a different topic.

I very seldom rant, but since Mr. Christopherson has had his little rant, I'd like to have mine today, too. It's with regard to the appointments commissioner and the whole discussion on when he should have been there, when he shouldn't have, how, and why.

I can tell you that I have served in this House for the better good of Canadian citizens. I've been honoured to have had some of the highest of highs and the lowest of lows, as we all have. I was privileged to sit on the vetting committee for Justice Marshall Rothstein. There was representation from all parties, and it was absolutely a wonderful education for all of us, quite frankly. I think it was a great method of demonstrating to the public quite clearly his compassion and capability. It was just a win-win all the way through. I don't think there was a member from any party who served on that who was not pleased with that process.

It was in total contrast to the vetting of the appointments commissioner. At that time, I was the only member here now who was sitting on the government operations committee when the most butchered case of character assassination, the most shameful exhibition I have ever witnessed in this House since I have been here, took place. It was vicious. It was disgusting. It was completely untruthful. We had a gentleman of unbelievably high character—and I could elaborate at great length—who came in here. And the most blatant partisan attack I've ever seen in this House took place. This gentleman was accused of being deliberately racist and un-Canadian. Words were taken right out of context completely and other people's words were put in his mouth. He was deemed to have completely insufficient qualifications and competence, and he was deemed a political supporter, because he had admittedly donated funds in his career to both the Liberal Party and the Conservative Party.

This gentleman obviously we all know. This is a person who was the president and CEO of EnCana. He chose the name EnCana to show his pride in his country. He has 40 years of classic business

experience. He was recognized by 250 CEOs in this country as the most respected chief executive officer in this country. He was willing to do the job for a buck. Obviously, his concern was for the country and the people. I quote from him in his one statement, and I was so privileged to hear what he said: "...I'm willing to put whatever I can and whatever abilities and effort and enthusiasm I have into this role."

I sat there and listened. I might not be the most perfect judge of character, but quite frankly, I was really impressed that there was the possibility of someone like this coming forward and serving our country. When I saw that process unfold, I asked myself who in their right mind would ever put their name forward to serve for the public good after having to put up with that kind of abuse. It was a shameful act, and I say that to all members here today opposite. I'm thankful that you were not involved. I'm thankful that we've never had that kind of display on this committee, and I hope we never see it again.

The question I can put, then, is to either Mr. Lynch or Ms. Hassard. There was the impression that all of sudden, if they appointed this person, he would automatically just go and make a lot of appointments, not even understanding that it was not his responsibility.

Mr. Lynch or Ms. Hassard, could you actually tell me what the responsibility of Mr. Morgan would have been had he been nominated to appoint? Would he have been able to make appointments all over? What exactly would his role have been?

• (1645)

Mr. Kevin Lynch: If I can, the Public Appointments Commission—the head of it and the commission—will not be responsible for proposing candidates for positions. Nor will it set out timeframes for appointments. Nor will it make the decisions on appointments. That rests with the Governor in Council and the discretion of government.

The mandate, as set out by legislation and passed by Parliament, is to focus on the appointments process, the code of practice, a competency-based selection process, and a number of other things, which I went through in my opening remarks.

Mr. Daryl Kramp: Thank you. If there has been a delay, then I suggest we look inward as well, and not just outward to other officials.

Thank you, Chair.

[Translation]

The Chair: Thank you.

Mr. Desnoyers, you have five minutes.

Mr. Luc Desnoyers (Rivière-des-Mille-Îles, BQ): When the Auditor General tabled her report, I was pleased because I felt it was important for the government and the House of Commons to be aware of the appointment process, timelines and delays. I am not a lawyer, but I think that the Auditor General legitimately wants to report on these things to Parliament because they can have a major economic impact.

Take the example of the Champlain Bridge board of directors. It is important to hear from the Auditor General that people are not being appointed any longer to that board or that major accidents are taking place, or that there are major costs associated with that.

We can also look at the additional training costs that occur because appointments are not made or are delayed or are based on skills, abilities and the personal suitability needed for these positions. Mr. Goodman's document talks about this. I am not certain that these are really the usual recruitment criteria. They are criteria to politicize the process and carry out a series of appointments.

That being the case, my question is for Mr. Goodman. The Minister of Immigration indicated in April that 90% of the positions had been filled. Is that correct?

[English]

Mr. Brian Goodman: Well, it may have been correct at that time. I'm not sure when he said it. But what I can say is that it's around 84% now, I think, because it changes constantly. Members' terms expire. New members are appointed.

• (1650)

[Translation]

Mr. Luc Desnoyers: Is it possible that it is now 73%?

[English]

Mr. Brian Goodman: No.

[Translation]

Mr. Luc Desnoyers: Do you really believe that the answer is no, given all the people who will soon be leaving? I will tell you why. Once again, the Auditor General has clearly indicated that the Immigration and Refugee Board of Canada is one of the most contentious places.

The number of cases—correct me if I am wrong—is growing. You have also said that. There will be even more cases. It has not been possible to fill the positions. There is a process that is not working. You could answer that question better than I could.

[English]

Mr. Brian Goodman: Certainly, the process is working a lot better than it did when I started as chairperson. There's no question about that.

I think it's also only fair to say that when there's transition from any government to another government, or even within the same government, there's a hiatus in appointments. Ministers are appointed. They engage staff. There's always a delay in appointments when there's a change in government, and that's very important to recognize.

Unfortunately, of course, this was happening at a time when we were receiving an increased intake of cases—of refugee cases and appeal cases—detention reviews, and admissibility hearings.

[Translation]

Mr. Luc Desnoyers: The additional cases are still there and there are even more.

[English]

Mr. Brian Goodman: Absolutely. Yes.

[Translation]

Mr. Luc Desnoyers: I have another question. A little earlier, I mentioned the appointment criteria, that is, skills, abilities and personal suitability.

Do you feel that those criteria are adequate to choose members who will play important roles? Is there not something that should be added? That is why I said that there seems to be a political side to your work.

[English]

Mr. Brian Goodman: Certainly those are general criteria, but we have nine competencies that we test for in both the written test and the interview. They're specific behavioural competencies that are tested by way of either a written test or questions; for example, self-control, organizational skills, and analytical abilities, all the things one would expect a good decision-maker to have. Every candidate has to receive a passing grade on every one of the competencies—not a majority of them, but every one of them. Then there are suitability criteria in addition to that.

[Translation]

Mr. Luc Desnoyers: My question can also be directed to Mr. Lynch.

Why are there such high rates of turnover and long delays in filling positions in the public service? It seems to me that some positions are even at the CEO level. Are these problems with the process not creating insecurity, gaps and major costs? Why is it not possible to get this process right?

[English]

Mr. Kevin Lynch: You raise two things. I appreciate the question about the public service per se. The biggest driver in retirement from the public service is demographics. I've focused for the last three and a half years on the issue of renewal, because we have an aging public service. We have to increase our recruitment, we have to increase our development, and we have to increase our training because large numbers are going to leave, not because they're unhappy but because they're actually reaching the end of a 30- to 35-year career in the public service of Canada. That's in a sense a consequence of not having hired people through parts of the 1990s, and it's something we're going to have to deal with, and we have undertaken on the part of the public service a number of measures to increase recruitment—more development and what have you.

So I very much share your concern about the issue of losing our people, but we're losing them largely because of demographics and the aging population in general and in the public service in particular.

I'll turn to Mr. Goodman more explicitly, but you raised two issues on the boards. We now have given guidance on terms of reappointment. We have introduced—and Mr. Goodman went through it—a very elaborate process for selection: establishing the criteria that are needed, the selection process, the written exams and testing. That's best practice in any kind of public sector organization.

My understanding is that, since 2006, 128 appointments and 65 reappointments have been made to the IRB, and the board now stands at 84% of its full complement. So again, I think the pace of appointing has picked up and I think that's the direction we all want it to go.

• (1655)

The Chair: *Merci beaucoup, M. Desnoyers.*

Mr. Shipley, you have five minutes.

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): Thank you.

Thank you so much, witnesses, for coming.

I'd like to follow up on that and ask a question of the Auditor General. In terms of the comments that were just made by Mr. Lynch and in terms of the appointments that have been made, do you see some of the changes that have been going on since the audit has finished as being progressive steps?

Mr. Richard Flageole: Mr. Chair, I would see this as progress for sure, but I think we're raising two key issues on the chapter: the timeliness of appointment and communication with people. Again, those are improvements, but I haven't seen anything there talking about communication with people getting appointments—that's a key one—and again the main thing would be to make sure those appointments are going to be done on a timely basis.

Mr. Bev Shipley: I think, as my colleague mentioned the other day, one of the organizations that was in actually had worked and accomplished communications. I can tell you that is always a challenge. I can say that, even as elected people, I think one of our largest challenges is communication. I think all of us encourage the improvement in that.

I'd like to just ask Mr. Goodman this. In your statement you said:

In my capacity as Chair of the SAB, I recommend to the Minister only those candidates who are qualified, based on these competencies, to be considered for appointment to the IRB. The selection process is transparent and merit-based.

How are you ensuring this is done?

Mr. Brian Goodman: I'm ensuring that this is done by chairing the selection advisory board, by being present at meetings of the selection advisory board where we do the initial screening of the candidates. For example, it may interest you to know that we're in the middle of a campaign now where we're considering a very large number of candidates. In the June 2008 recruitment campaign, we received 540 applications—540 applications. Of those, a number of candidates were found to be qualified and were recommended to the minister to be added to the list that already existed of qualified candidates.

In March 2009 another recruitment campaign was launched. These are public recruitment campaigns, notices in the major dailies of the major cities. More than 760 applications have been received—766. We've already started to screen the first batch for suitability and we're about to screen the rest of them. Those that pass the suitability screening will then go on to write the written test.

I also sit on a number of interview panels. I don't sit on every one because, as you can see with those numbers, I'd be doing nothing but that. I can tell you without a doubt that certainly, from my

perspective, the process has been entirely merit-based and non-partisan, because there has to be consensus in the interview panel. Every interview panel consists of me or one of my designates, so a deputy chairperson, either another senior GIC or a senior public servant, for example, our senior general counsel. It consists of one of the persons from outside the board, whose names I gave you, jointly appointed by me and the minister and by a human resources consultant who is an expert in behavioural event interviews. We have to reach a consensus on the mark to be assigned for each competency, so for each of the five competencies that are tested in the interview. Then the references are provided by the consultant to each member who was on the interview panel.

• (1700)

Mr. Bev Shipley: Is that a new process?

Mr. Brian Goodman: That's the new process that was implemented in July 2007.

Mr. Bev Shipley: I think maybe part of the issue is that it has become more complex. We've opened it up, quite honestly, so it isn't just partisan politics of appointments. I'm hearing that you're allowing the general public, actually, who feel they're qualified, to put in...so there's a huge screening process. I think some are quite honestly struggling to deal with that transparency in terms of the selection of people we have. That isn't how it always was in the past. Obviously, there are all kinds of examples of why it had to be changed.

Now we have a second complicating factor, the numbers. In the past year, 2008, there was a total of 36,000 claims, compared to 30,000 in 2007 and 23,000 in 2006. Why are these higher? Are there just more people wanting to get into Canada?

Mr. Brian Goodman: First of all, of course, we have no control over the number of claims. These claims are referred to us by either Citizenship and Immigration Canada or the Canada Border Services Agency, so they're "within Canada" claims. They either claim at the border or they claim at an airport, or they claim after coming in over the border and attending at an inland office.

Yes, there are more people who want to claim refugee status in Canada.

Mr. Bev Shipley: It's a great country.

Mr. Brian Goodman: It's a great country.

The Chair: We'll end it on that.

Thank you very much, Mr. Shipley.

Mr. Christopherson, five minutes.

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

To begin, I'll come back to Mr. Lynch. One of the reasons for my attitude today is contained not only in the findings of the report but also in the statement from the Assistant Auditor General. I'm quoting from today's statement:

The government's response to our recommendations in the report gives little assurance or definite undertakings as to how it intends to address the concerns that we raised.

Overall, there was unsatisfactory progress since our previous audits, with some issues having first been raised as long ago as 1997.

At some point in this hearing we're going to talk about the fact that this whole area of appointments has been problematic for a long time. The 1997 report spoke specifically, and it's on page 34 of the report—this is from 1997. Listen to it. It almost sounds like it could be word for word in this report, I say to colleagues:

The government should improve its practices for appointing Board members, in order to ensure that the Immigration and Refugee Board has a sufficient number of experienced decision makers available when they are needed.

That was 1997. It was repeated in audits of 2000 and 2005, and here we are again and it's still a problem. In fact it's such a problem that we have the Assistant Auditor General saying, talking about the IRB, "This is very serious." Those are the words, straight up, and auditors don't normally talk that bluntly, I'll tell you.

To the report itself, on page 31, 2.102:

The high number of Board member vacancies at the IRB had a significant impact on the Board's capacity to process cases on a timely basis. The inventory of unresolved cases has reached an exceptionally high level.

I'm sure that every member here can share experiences of people coming in front of us—most of whom are going to be Canadian citizens at some point—in tears. They're in tears because they don't know what to do. It's been years, they've laid down roots, started businesses, started families, and they know that every day the mail could bring a notice that they have to go. This backlog thing is not just an exercise in numbers. This is about people, people who are going to be Canadians.

When I look at the chart, exhibit 2.5 on page 31, Mr. Lynch, I can see—and I say this to my government because I don't very often—that right at the time the current government took power, because that's what the chart says, we began to have increasing unprocessed claims, to the point now where the number is practically off the chart.

How could you not have seen it? How could they not? They knew what the intake was. We've heard from Mr. Goodman that it's lack of decision-makers and it's increased cases. Your office would have the capacity to know that. Why did they not act on it?

• (1705)

Mr. Kevin Lynch: You raise two issues. I want to come back to the second one in a minute, which is that no progress has been made. I actually don't believe that to be the case. I'd like to return with some facts because it's an important point, and I think we should deal with it in facts, if I may.

On the IRB, I think Mr. Goodman talked about it. There have been difficulties in actually kind of filling those positions. There had been changes in the process proposed, I believe in 2004. In 2006, the current government came in and still saw some difficulties with the selection process—

Mr. David Christopherson: If I can, Mr. Lynch, up until then the numbers were going down, sir. You're talking to me about a history where things seem to be, and I'm talking about from 2006 on, where the numbers start going like this again.

Mr. Kevin Lynch: If I can, I'll just kind of finish. In 2006, again, the government had concerns with the pace of appointments, and there were recommendations made from the secretariat of the Public Appointments Commission to actually set up the selection board Mr. Goodman referred to, to make it much more rigorous, to hold

national competitions to invite people to apply. We're now up to 84% of the positions filled.

Again, the government decided to put in a new process that's much more rigorous. I think we've had time to kind of learn how to do that.

Mr. David Christopherson: When will the numbers start to go down, then?

Mr. Kevin Lynch: As Mr. Goodman pointed out, there are two elements to the processing. One is the number of claimants and the complexity of the cases as well that claimants bring forward. In a sense, that's something that is driven by other people's decisions. The other side of it is actually getting qualified candidates appointed and trained. That's what Mr. Goodman was talking about.

Mr. David Christopherson: Mr. Lynch, with great respect, you go on like everything is fine. You have the Assistant Auditor General sitting beside you who just said today that your response to the recommendations gave "little assurance or definite undertakings" as to how you intend to address this. Given the fact that we've been dealing with it since 1997, why should I as a member of Parliament walk away from here believing that you have any better sense of the urgency and that you're actually doing something other than wonderful words?

Hold that thought.

Mr. Goodman, I'm assuming that since 2006 you've been raising the alarm with the minister about this as you saw your inability to stop the increase in unresolved cases. Could I just get a sense from you what action you took to try to push the government to raise the alarm?

The Chair: Let's have a brief answer from Mr. Goodman, and then we're going to move on to Mr. Young.

Mr. Brian Goodman: I have made every minister—and there have been three since I was appointed interim chairperson in March 2007—and every minister's chief of staff and appointments person aware of the increasing intake and of the difficulty that was being posed by the shortage of members.

The Chair: Okay. Thank you, Mr. Christopherson. Thank you, Mr. Goodman.

Mr. Young, you have five minutes.

Mr. Terence Young: Thank you, Mr. Chair.

I would like to say something that perhaps our guests here today don't feel comfortable saying and that everybody knows. I suspect one of the key reasons for vacancies is that as soon as someone accepts an appointment or proposed appointment from a political party or government, the media Googles their name and does everything they can to find some connection: Did they ever join a political party? Did they ever donate to a political party? Did they ever have any business with the government? Did they work for a political party? Did they work for the government?

Then they drum up any connection, however loose, to the politicians or to a political party, as if there's any shame in belonging to a party, which there isn't. In fact, to me, it's a key part of citizenship. People are reluctant to put their names forward, and that has to be a key reason for vacancies.

Another reason is that there have been inappropriate appointments that were not monitored closely.

I arrived here last October. I wasn't here in 2004, but we saw a number of key appointments from the previous government of people who had to step down or were fired for outrageous office expenses. There was David Dingwall; there was Alfonso Gagliano, who was recalled in relation to the sponsorship scandal; there was Michel Vennat, fired from the Business Development Bank of Canada; Jean Pelletier, fired as chairman of VIA Rail. All of this had to do with matters of perhaps entitlement or matters related to the sponsorship scandal.

In 2006, we had a new government. We had a new process based on transparency and merit, which you have administered.

Back in the 1980s, I read a book by Jeffrey Simpson, from the *Globe and Mail*. At the time I thought it was the definitive work, and I think it probably still is, on public appointments. He said that parties can make appointments and that there's nothing wrong with them as long as they're merit-based. Merit is what the system is based on: are they qualified to do the job? A prime minister and a government need people on the agencies, boards, and commissions who want them to succeed. They have to answer to the voters for successful implementation of a platform and an agenda, and you need qualified people who want them to succeed.

So you have those things working for you; you have a guide for ministers now, a process in advance to let the ministers know when people need to be reappointed; you have consulted with other jurisdictions on best practices; you have a new public accounts commission; you have a code of practice. I know now that if a constituent calls me who is interested in a public appointment, I can send them to the website. I say, "Go to the website and read it. If you think it's a match for your jobs and skills, please apply for it." I think that's a great, open process. You've also been able to say that vacancies have been reduced and appointments have been increased. I think you deserve to be congratulated on administering a new system.

I have a question for Mr. Goodman, though. Is it possible that you have set the standards too high? I'll tell you why. I have a constituent who used to be on the board, for I think almost 10 years. He did a thousand cases and hearings. He had good written reviews. He said that he'd happily come back and help get rid of the backlog, but they asked him to write this test again.

My question to you is, why would you ask someone who has a good record on the board and who had been there for 10 years to rewrite a test?

• (1710)

Mr. Brian Goodman: First of all, I believe I know the case to which you're referring.

Mr. Terence Young: I don't want to get personal. I'm talking about the big picture.

Mr. Brian Goodman: No, I'm not going to get personal, but I think it's important to recognize that this person was appointed under a former process, not under the current process. It was the determination of Minister Finley that everyone should have to go through the new process and everyone—

Mr. Terence Young: You mean even former people?

Mr. Brian Goodman: Yes, even former people.

Mr. Terence Young: It sounds as though the standard is extremely high. Is that fair to say?

Mr. Brian Goodman: No, I wouldn't say that. I would say it's rigorous. The fact of the matter is that one of the criticisms of Mr. Harrison was that one could proceed to an interview without receiving a passing mark on the test.

Mr. Terence Young: Thank you.

I served on the Alcohol and Gaming Commission of Ontario; I was an appointee there. I noticed on that board—and it's fairly normal, in my understanding, in the province of Ontario—that board members find out at the last minute or sometimes after. They say to stay on, and the reappointments come after the fact. I don't know whether that gives you any comfort, but it seems to be a normal practice in other jurisdictions.

I'd like to ask Mr. Lynch what steps the Privy Council Office has taken to ensure that the GIC appointees are properly trained and oriented. That is absolutely key. You find good people to make sure they can get up to speed quickly.

Mr. Kevin Lynch: Let me give a little bit of context. There has been an issue raised about whether progress is being made versus whether we have an optimal situation. I would argue that progress is being made.

There are six areas that the Auditor General has raised over a period of time. Let me flag first the management of vacancies. I'll come back quickly to this. Second is communication about the process. Third is communication about decisions. Fourth is dealing with expiry of term. Fifth is the transparency of the appointment process, and the sixth is orientation and training.

As you'll see in the Auditor General's report, we have introduced fairly substantial changes to the orientation and training, which are acknowledged. For example, the Canadian School of Public Service has developed a new training program for all GIC appointees. Privy Council Office has implemented a one-on-one orientation session for chairs, CEOs, and heads of agencies, and almost all appointees of crown corporations and small entities surveyed by the OAG confirm that they received orientation and training upon appointment, including orientation concerning expected standards of conduct. That is a significant response to legitimate concerns raised by the Auditor General going back a decade concerning what best practice should be.

But Mr. Chair, I'd like to come to the vacancy issue, because it's been raised by a number of members here. It is important to look at both the numbers that are reported in the Auditor General's report and the interpretation of the numbers. The numbers come from a survey that was done over 33 months from January 2006 to September 2008, 33 months during which there were two elections and a change of government, which pose challenges. The measurements that are provided really look at the average tenure opening, but the report also provides, Mr. Chairman, a very interesting snapshot as of September 20, 2008, of where this changing process has come to.

Let me just flag five—

The Chair: Flag them just briefly, Mr. Lynch.

Mr. Kevin Lynch: Of director positions in crown corporations, by September 20, 2008, only 7% were vacant. All chair positions in crown corporations were filled by September 2008, which was a subject criticism in previous reports. Only three CEO positions in crown corporations were not staffed, and in two of the three cases there was no need to staff the positions because the two institutions were being phased out. As of September 20, 8% of positions in small entities were vacant, and all head of agency positions were filled, as well as 85% of the IRB.

That is a substantial improvement, relative to taking a snapshot of any period of time in the previous one. If you think of this as being a process in which the Auditor General is making very useful suggestions and the government and the public service are trying to implement them and it takes time, I think it is actually not a bad way to look at where we stand today.

• (1715)

The Chair: Thank you very much.

Mr. Young.

Mr. Terence Young: I believe I said that being a member of a political party is a key part of citizenship. I meant to say it can complement citizenship.

Thank you.

The Chair: Thank you, Mr. Young.

Ms. Ratansi, you have five minutes.

Ms. Yasmin Ratansi: Thank you, Mr. Chair.

I will be sharing my time with Mr. Kania.

I have a couple of questions. As I've been listening to what Mr. Kramp said and what has been said around the table, I looked at the quotation from the gentleman in question, and it's beside the point.

I have a question for you, Mr. Lynch. In the announcements—the accountability framework, guidelines, etc.—there are not many teeth. They are very weak on implementation. My question is this. The appointment of the public appointments commissioner has not taken place after the first one was rejected. If the Prime Minister is not appointing another suitable person to the committee, would it not make sense to save the \$1 million that it is costing, to shut down the public accounts committee—no, the public appointments—

Mr. Kevin Lynch: I don't think you want me to answer that.

Ms. Yasmin Ratansi: No, the public accounts committee is very good; it's PAC. They have the same acronym. I mean the public appointments commissioner, because I don't know where it's going to go. I know you have a secretariat at the moment. What is this body doing at the moment and what should it do if there is no one at the helm?

Mr. Kevin Lynch: Let me perhaps ask Ms. Hassard to respond.

Mrs. Patricia Hassard: What I can say is that the government has expressed its intention to establish the commission at a time of its choosing. Meanwhile, the secretariat is actually preparing for an eventual code of practice and a system that will be very rigorous, very—

Ms. Yasmin Ratansi: I don't want that answer, sorry. That's not the answer. I asked a very specific question. It is costing \$1 million a year. Should you shut it down and let the secretariat function, and then whenever the Prime Minister wants—whoever the Prime Minister is—when they wish to appoint somebody else, should they do it then? That's the question. I've heard about the rigorous process before.

Mrs. Patricia Hassard: Yes, I think the secretariat is serving a useful purpose. We don't know what the timing will be, and I think it's usually very wise to prepare.

Ms. Yasmin Ratansi: So the PAC is costing \$1 million. Are we talking about the same thing? The PAC is equivalent to the secretariat. Is that what you're trying to tell me?

Mrs. Patricia Hassard: No, the Public Appointments Commission is the actual body. There is a—

Ms. Yasmin Ratansi: So there is \$1 million. Okay. As a public accountant, that's what I want to know.

I have a second question, which is for immigration. We get a lot of people coming to us when they are in limbo about their immigration and refugee stuff, and you've said it is 17 months, but we find people going through five years not knowing what they're in. How are we going to reduce that timeframe? You have a 21% vacancy. What are you doing to prep up, to solve the problem, if they are going to be refugees, accepted refugees, or out?

• (1720)

Mr. Brian Goodman: First of all, I'm not aware of anyone who is waiting five years, not before the Immigration and Refugee Board. They may be waiting to have their status finally determined. I'm not sure. Are you referring to sponsorship applications?

Ms. Yasmin Ratansi: No, no, no.

Mr. Brian Goodman: Well, I'm not aware of any case before the Immigration and Refugee Board that has taken five years.

Ms. Yasmin Ratansi: Fair enough; your answer is acceptable.

I'll give my time to Mr. Kania.

Mr. Andrew Kania: Thank you, I have a minute-and-a-half.

Mr. Lynch, I have a yes or no question for you, but you have to give me a minute to get there.

We left off with my speaking with Mr. Roy. My question was this. What exact statutory provisions and body of case law do you rely upon to form the conclusion that the Auditor General is beyond the mandate, in aiding your decision not to respond to the three areas?

Mr. Roy invoked solicitor-client privilege, saying he could not waive that. As he knows as a lawyer, that is the privilege of the client. The client can choose to waive solicitor-client privilege. In this particular case, what I'm asking you is whether you, as a client, will waive solicitor-client privilege so as to answer the question and provide the committee with the information about the exact statutory provisions in the body of case law you relied upon prior to reaching your decision, or whether you will seek to be shielded by solicitor-client privilege so as to avoid the question. So will you waive it, and will you answer the question?

Mr. Kevin Lynch: Since you had a one-minute question, I'll take a minute to say yes or no. I think Mr. Roy set out that this is an issue of how you interpret a mandate, including, as Mr. Walsh indicated, that there are grey areas in the interpretation of mandates. This is a complex area. We looked at it from the point of view of the experience in other cases, and so did the Auditor General. We actually had a dialogue on it and we thought we should be transparent with the committee about that discussion between us. I think that's how we arrived at it, through the experience over a period of time.

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

Mr. Kamp, you have five minutes.

Mr. Randy Kamp (Pitt Meadows—Maple Ridge—Mission, CPC): Thank you, Mr. Chair.

Let me just begin by thanking you, Mr. Lynch. It's well known that you're heading toward a new chapter in your life, at least, and I do want to thank you for your service to Canada over many years. I wish you well. In fact, thank you all for your service to Canada in your various capacities.

My observation, based on the reports that I see here, is that notwithstanding the comments of my colleague across the way, there have been many positive changes. I think you're responsible for many of them.

With respect to the IRB, Mr. Goodman, the point has been made that these are peoples' lives at stake and so on. I agree with that. But that's also a good reason why we need a very good process for choosing and training those people who are making these decisions. I thank you for your part in making sure we have good people who are making good decisions. We know poor decisions lead into the courts and so on, and all of the extra costs that are involved there.

Your report, Mr. Goodman, says that you're in your 20th year and nearing the 20th anniversary, with almost a million cases. I guess that works out to about 50,000 cases a year. Has that been a normal caseload? How many people would you need, in your estimation, to meet that caseload, if 50,000 is an average?

Mr. Brian Goodman: First of all, it's important to understand—I think I mentioned the figures for the last three years—that intake is very volatile. It's dependent on world events, migration patterns, all kinds of things. For example, it's dependent on policies from our neighbour to the south, where people have come through the United

States. The clampdowns on people without status in the U.S. have an impact on our intake.

What's going on currently? The largest source of claims is in Mexico, and Haiti is second. They account for, I think, 27% in all of our claims, or perhaps even more. It's very difficult to make projections. Who would have known two years ago what is now going on in Sri Lanka and Pakistan?

We believe that we will get 40,000 to 45,000 claims this year. We make projections for the following years, and we believe it will be fairly stable. When you ask how many people we need, it's simply a question of how fast you want to eliminate the backlog. We've presented options to the government, and they're considering them very seriously within the context of different tracks. There's strategic review, legislative reform, other tracks. I'm satisfied that they're considering our proposals very seriously.

But we're talking about quite a dramatic increase unless there are targeted policy changes by the government that would limit intake. Right now there are no such changes, given our two largest source countries. Of course, we have no input—nor should we—on policy decisions of the government. It's for the government and Parliament to determine what the policies should be in relation to immigration and refugee matters. We simply are a specialized tribunal that adjudicates claims and appeals. We deal as best we can with what we have.

I want to say that I'm struck, honestly, when I go out to the regions, by how many times I hear from legal counsel how impressed they are with the quality of the recent appointments. I hear it all the time. Yes, it's a very demanding process. But it has produced excellent members. The quality of members from the time that I began at the board in 2001, I can tell you, has improved very dramatically.

• (1725)

Mr. Randy Kamp: Thank you very much.

The Chair: That, colleagues, concludes the first and final round of questioning.

I'm now going to ask Mr. Flageole, Mr. Lynch, and Mr. Goodman if they have any final comments, and then I just have a brief comment to make after.

Mr. Flageole, do you have any final closing remarks you want to make to the committee?

Mr. Richard Flageole: Yes, Mr. Chair.

I was quite pleased to see that the issue of the difference of views on the mandate has been discussed and further work will be done, because this is important for us. I think it is key to make sure we maintain our ability to serve parliamentarians on this one.

I mentioned before that we raised two very key issues in the report, which is the timeliness of appointments and how the people are treated. We used words in the report such that people should be treated in a more respectful manner. This is key. I'm pleased to see that the officials of the Privy Council Office outlined a number of initiatives that are on the way. Some have been already implemented to do that.

But those are not new problems. We were here twelve years ago with the same thing, and I really hope that somebody will make sure we won't be back here again five years from now with the same message.

Thank you.

The Chair: Thank you, Mr. Flageole.

Mr. Lynch, do you have any closing comments?

Mr. Kevin Lynch: Thank you, Mr. Chairman.

We appreciate the chance to have the discussion today. As a background to my comments, we have given again the response to recommendations 1 through 4. In terms of the six areas of recommendations by the Auditor General, I spoke to the vacancy issue, we spoke to the orientation and training issue, where we both agree substantial progress has been made. In the Auditor General's report, she, in effect, notes that progress has been made on the transparency and increased rigour in the processes, and we appreciate that.

The Auditor General has raised the issue of communication, both about process and about results. We agree with the need to act on that. And the guidance to ministers' offices is, as they set out, six months before expiry of a full-time appointment, three months before expiry of a part-time appointment, and also a process for communication in the event of appointments.

On those issues, I very much agree, and I hope we've put in place the kind of process that will lead to a remedy of the issues raised by the Auditor General.

• (1730)

The Chair: Mr. Goodman, do you have any closing remarks you want to make to the committee?

Mr. Brian Goodman: Thank you, Mr. Chairperson.

I guess the first thing I would say is that we were very pleased with both the process that was undertaken by the Auditor General and her officials and the outcome. It required a lot of work on our part. We're not a department, and there was an incredible amount of information requested. But I believe you'll agree with me on the findings in terms of the board having a sound process that's resulting in recommendations to the minister and in recommendations for reappointment in a timely manner, and that we have excellent training and so on. We were very pleased with that, as we were with the Auditor General's recommendation. It certainly helps to have an Auditor General's recommendation to deal with the backlog.

I must say that I do agree, from the perspective of the chair of the IRB, that there have been improvements since the audit began, improvements in the process for processing recommendations from me to the minister, and many of them have been implemented by PCO. So we're seeing much better communication between PCO and us and much better communication with the candidates who are being considered for appointment between PCO and the candidate. We're hearing that from the candidate. I find out as soon as the appointment is made that an appointment has been made, so I can call the candidate, the appointee, and welcome them.

I would say there has been quite a dramatic improvement from the time that I served as deputy chairperson and then as interim chairperson. So I'm very pleased to see that, and I'm very pleased that the government is seriously considering our problem, because it is not just about numbers, and all of you have recognized that; it's about people. Whether it's a sponsorship application, a removal appeal, or a refugee application, there are real people who are waiting for answers.

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

I want to thank, on behalf of the members of the committee, all of the witnesses for appearing today. The committee will be writing a report in due course.

Before we adjourn, I just want to make a brief statement. Mr. Kamp alluded to this in his question. As Mr. Kamp indicated, the Clerk of the Privy Council, after a very distinguished and successful career, is retiring at the end of June. I suspect, and I assume Mr. Lynch hopes, this is probably his last appearance—

Voices: Oh, oh!

The Chair: —or the last of his many appearances, before a parliamentary committee. I'd be remiss, colleagues, if I didn't take this opportunity to acknowledge and pay tribute and thank Mr. Lynch for his tremendous service to the public, the public service, and public policy.

Perhaps some of you aren't aware that he joined the public service in 1976. He's had successive roles. He spent five years as the Deputy Minister of Industry. He spent four years as the Deputy Minister of Finance. And when the present Prime Minister was elected, he chose Mr. Lynch to be the Clerk of the Privy Council. That's the position he has held over the last three years.

I've watched his career, and I've actually known Mr. Lynch from before I was even elected. He's been involved in transformative issues, such as the research and science agenda of the government, straightening out the country's finances, and the Canada Pension Plan. As Clerk of the Privy Council he's been involved with the Afghan conflict. As he's indicated, he's led the whole renewal of the public service over the past three and a half years. Again, it's a tremendous credit. He really exemplifies the role of a non-partisan, competent public servant, which, in my opinion, gives the country of Canada a comparative advantage. We're fortunate to have that.

So I suspect, Mr. Lynch, that your career is not over. You will resurface somewhere else, and we'll certainly be watching with interest.

But again, in closing, on behalf of every member of Parliament, I want to thank you for your tremendous contribution, and we wish you all the best in the future.

Voices: Hear, hear!

•(1735)

Mr. Daryl Kramp: I have just one small point, Mr. Chair, just before we break. There's no doubt that we all welcome our counsel, Mr. Walsh, here at each and every opportunity. Certainly, he's a tremendous asset to this committee. The only recommendation I would make is that it would be nice to know when Mr. Walsh is coming here, so we can all adequately utilize his talents and his expertise to the best of our ability.

I know that I—and I don't know who else—wasn't aware that Mr. Walsh was coming. It would be nice if we were notified.

The Chair: He's available to all parliamentarians at all times.

Mr. Daryl Kramp: That's good, but it's nice to know ahead of time.

The Chair: Okay. We're going to....

Very briefly.

Mr. David Christopherson: I want to just make sure Mr. Lynch understood that the comment reflected by the chair and my comments were specific to this—and they remain, but so does my admiration for your service. I wish you the very best in your retirement. You've earned it, and thank you for everything you've done for Canada.

The Chair: The meeting is adjourned.

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