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Chair

Mr. Gary Schellenberger

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● (1530)

[*English*]

The Chair (Mr. Gary Schellenberger (Perth—Wellington, CPC)): Welcome, everyone, to this the 39th meeting of the Standing Committee on Veterans Affairs, and, pursuant to Standing Order 108 (2), a study of combat stress and its consequences on the mental health of veterans and their families.

Today our witnesses are here until 4:30. We have, from the Veterans Review and Appeal Board, Dr. John D. Larlee, chair, and Dale Sharkey, director general.

Thank you for coming in this afternoon.

It's good to see you again, Mr. Larlee. Begin your presentation, if you could, please.

Mr. John D. Larlee (Chair, Veterans Review and Appeal Board): Thank you, Mr. Chair.

Good afternoon, honourable committee members.

As the chair indicated, my name is John Larlee, and I am the chair of the Veterans Review and Appeal Board. With me today is Ms. Dale Sharkey, the director general for the board.

[*Translation*]

I am happy to be here today, and take part in your study of combat stress and its consequences on the mental health of veterans and their families. I hope my comments will contribute to your study by providing you with information on the types of decisions that veterans appeal before the board and the way we assist all our applicants.

[*English*]

While I know you are familiar with the board's program, I should make it very clear from the outset that we are not involved in providing health care programs and services to veterans who are suffering from operational stress injuries. It is the role of the Department of Veterans Affairs to respond to the needs of these veterans and their families.

That said, the board is committed to serving veterans by fulfilling the mandate given to it by Parliament in 1995. Our mandate is to provide them with an independent avenue of appeal for disability benefits decisions made by the department.

Our objective is to ensure that they receive fair and appropriate benefits for their service-related disabilities—primarily disability pensions and disability awards. To achieve this, the board's program provides veterans with every opportunity to establish their entitlement to disability benefits or to obtain an increase in the amount of their benefits.

I will focus a few of my remarks on the key aspects of our appeal program and then relate these to your area of interest here today.

At the board, veterans have the right to two levels of independent redress for their disability decisions: review and appeal. At their review hearing, they have the right to appear in person, along with any witnesses they choose, and provide oral testimony in support of their application.

If they remain dissatisfied after receiving the board's review decision, they can request an appeal hearing. The appeal hearing is an entirely new proceeding heard by a different panel of board members.

At both levels, veterans have the right to bring forward new evidence and be represented at no cost. The board's process is non-adversarial, which means that no one is arguing against the veteran.

The role of our board members is to consider all the evidence in order to decide whether it meets the requirements of the laws governing disability benefits for veterans. In doing so, they resolve doubt in favour of the veteran.

● (1535)

[*Translation*]

At the moment, the board is made up of 24 Canadians who bring a wide range of skills to their work. These members fulfill their role with a great sense of responsibility. This is inherent to the board's mandate towards those who have served and continue to serve their country.

[*English*]

Last year our members rendered 4,100 review decisions and 1,400 appeal decisions at the request of applicants.

When you consider that the department issues upwards of 40,000 decisions each year with appeal rights to the board, it is a small caseload.

The reality is that many veterans are satisfied at the departmental level and never bring their decisions forward to the board.

That said, the cases that do come forward represent a challenging workload because they tend to be less than straightforward. These cases benefit from additional time and effort spent by veterans and their representatives to obtain new evidence in support of a better outcome at the board.

While the most common applications made to the board deal with medical conditions involving the neck, the back, the knees, and hearing loss, we also hear a small number of reviews and appeals relating to mental health conditions. Of these, post-traumatic stress disorder and major depressive disorders are the most common. Over the last five years, we have seen a slight increase in these applications.

For example, in 2004-05 the board finalized 268 review and appeal decisions for PTSD and major depressive disorders, followed by 215 decisions in the following year. Since 2006 the numbers have fluctuated between 400 and 500 decisions annually. Last year the board finalized 432 decisions for these two medical conditions, which represents about 8% of the total decisions rendered by the board.

It is difficult to hone in on one specific reason for this slight increase over the last five years. The fact is that veterans need only be dissatisfied to bring forward an appeal, and they have the right to do so at any time, even if their decisions are quite old. It could be that more veterans are pursuing their redress options because of increased public awareness and acceptance of mental health conditions, as well as the supports available through the network of operational stress injury clinics. Most certainly, veterans today have access to more information about these disabilities to assist them in establishing the link to their service.

As the board deals with a relatively small number of cases related to mental health conditions, these numbers do not provide us with the basis for meaningful analysis.

That said, I can offer you a little more detail in the interest of contributing to your current study. As I said before, the board finalized 432 decisions last year relating to PTSD and major depressive disorders. While some of these cases were related to combat stress, others dealt with different service-related factors. Of the 432 decisions, about 60% were related to entitlement. That is where the veterans were seeking new or increased entitlement or retroactivity. About 40% dealt with requests for increased assessment of their already entitled disabilities. The favourability rates for these cases were slightly higher than our overall rates, but again, it is difficult to associate a trend with such a small sample.

It is also important to understand that the board's overall favourability rates are directly related to the individual cases brought forward in any given year. For the last number of years, the board has taken steps to ensure that our hearings and our decision-making meet the needs of the veterans who are appealing decisions related to mental health conditions.

● (1540)

Our members understand that the opportunity for veterans to appear in person at the review hearing can be daunting or difficult for some veterans. After all, the issues at hand are often sensitive in nature and are tied emotionally to the veteran's personal experiences. For this reason, our members make every effort to put applicants at ease and conduct the hearings as informally as possible.

Most often, review hearings take place in a boardroom setting, with two board members sitting across the table from the veteran and his or her representative. The board encourages applicants to bring along family members or other supports to their hearing, including peer counsellors from the operational stress injury social support program. We also work with representatives to accommodate any special needs related to the timing or conduct of the hearing.

At the board we provide our members with targeted and ongoing training from medical experts to support them in making fair and well-reasoned decisions for veterans with mental health conditions. For example, our members have received training on operational stress injuries from the psychiatrists and psychologists at Ste. Anne's Hospital in Quebec. Our members also attend regular training and awareness sessions from members of the Canadian Forces and the RCMP about the working conditions and challenges they face in carrying out their duties. In fact, we will soon be attending a session led by the RCMP about mental health issues faced by their members.

[*Translation*]

To conclude, I must add that we are aware that veterans would rather obtain the desired result from the department than submit their claim to the board. That said, the goal of the system as a whole is to make sure that they receive fair and appropriate compensation for their service-related disabilities as soon as possible.

[*English*]

In fact, it is a good thing that veterans have many opportunities to appeal a decision if they are dissatisfied and to bring forward new evidence. At the board, we are committed to making the process as efficient and as effective as possible for those who choose to exercise their right to appeal.

Thank you, Mr. Chair.

The Chair: Thank you for that presentation.

Our first questioner is Ms. Sgro, please.

Hon. Judy Sgro (York West, Lib.): Thank you very much, Mr. Larlee.

It's nice to see both of you before the committee again.

I'd like to ask you about Bill C-55 and a few other things, but we're supposed to be sticking to mental health and PTSD, so I'm going to try to stay there. Somebody else may ask some of those questions.

Of the 432 people in 2010 that you referred to, were all 432 suffering with PTSD, or mental health stresses?

Mr. John D. Larlee: I believe I said 60% were PTSD, and 40% other...?

● (1545)

Ms. Dale Sharkey (Director General, Veterans Review and Appeal Board): I have those numbers right here.

At review, 183 of the claims were PTSD, and at appeal, 57 of the claims were PTSD. We can add those numbers up: it's 240, if my math is correct.

Hon. Judy Sgro: Of the 432?

Ms. Dale Sharkey: Yes; 240 claims were PTSD, and the rest were major depressive disorder.

Hon. Judy Sgro: Okay.

The board members who are listening to the appeal being done, do they have any first-hand experience? Are any of them former members who possibly have themselves suffered PTSD who are making the decisions?

Mr. John D. Larlee: We have members on the board who are former military. I think we have five military, and one of those military also has medical training. With respect to any knowledge of conditions of anyone, that would be a privacy matter and I wouldn't be able to obtain that information.

Hon. Judy Sgro: With regard to the training, though, of the various board members, how you deal with the issues of PTSD or mental health things in particular?

Mr. John D. Larlee: As I said in my statement, we have continuing professional development. During the year we have at least two conferences, and at each conference we have specialists address us with respect to different medical issues, as well as other issues related to administrative tribunals. As recently as a year ago, we were at Ste. Anne's Hospital in Montreal, where psychiatrists and psychologists from the hospital addressed us with respect to mental health conditions, including PTSD.

Hon. Judy Sgro: When you have a veteran who's already receiving, to one degree or another, a disability payment for a previous injury or so on—because we're hearing how PTSD can develop 20 years later—and who then applies for a change in their monthly disability, how is that looked upon if it's 20 years later? What kind of evidence does the individual need?

Mr. John D. Larlee: One of the nice advantages of the act is that there's no limitation, so at any time a veteran, or military forces member, or RCMP member can ask for a review and even an appeal of that review at any time. There's no time limit.

Keep in mind that their first application is always to the department, and ours is an appeal process, or a process of redress, so one of the advantages of the legislation is that there is no time limit.

Hon. Judy Sgro: What kind of evidence would the individual have to provide to be able to confirm the fact that he was suffering from PTSD? Would one medical doctor's opinion be sufficient, or would you be asking for a lot more information to back up the claim?

Mr. John D. Larlee: With respect to the information required, it would be whatever credible evidence could be brought forward by the individual. It could be medical evidence. The representative of the applicant could bring forward whatever material would support it. It could be oral testimony or witnesses, and the determination is made on review and on appeal of that evidence. Keep in mind that we're looking at a previous decision made by the department.

Hon. Judy Sgro: I met the wife of a veteran at one point, who had had something else, not PTSD. Her husband had died, and she was making a claim to the department. She had to have two witnesses. She had a witness to say that her husband was at this particular location when this other issue was being dealt with. But she needed two witnesses, and no one else was alive. It always struck me that you have to go out and get two witnesses. Just how much do you ask them to do? I realize you have to be satisfied that the person is totally legitimate, but I would hope that there would be some flexibility in dealing with these cases.

● (1550)

Mr. John D. Larlee: Inasmuch as I can't comment on specific cases, in general the evidence that can be brought forward is treated in the best light. As our legislation provides, we make inferences as much as possible, and we take the evidence in the best light in support of the veteran or the forces member's claim.

I think the board and its membership are committed and dedicated to making sure that veterans have every opportunity to put forward the evidence necessary in support of a favourable decision.

The Chair: Okay, thank you very much.

We move on now to Mr. Vincent.

[*Translation*]

Mr. Robert Vincent (Shefford, BQ): Thank you, Mr. Chair.

Good afternoon, Mr. Larlee.

You startled me earlier when you said that your members receive medical training. How can this medical training help the board members in deciding whether a person suffers from post traumatic stress?

Mr. John D. Larlee: First, the training of all board members is very intensive. Right at the outset, when they are appointed to the board, they get 12 weeks of training.

[*English*]

This includes training with respect to medical issues, as well as the legislation, as well as decision-writing. Therefore, the initial training permits the tribunal member to assess medical issues and adjudicate in a quasi-judicial tribunal.

In addition, as I've stated, we also have ongoing training with respect to such issues as mental health matters, as we did in our sessions and our week-long conference in Montreal with the experts from Ste. Anne's Hospital. In 2007, 2008, and 2009 we were addressed by doctors who are experts in psychiatry, Dr. Don Richardson and Dr. Greg Prodaniuk. Again, we were addressed by Dr. Richardson in 2009 and 2010 at Ste. Anne's Hospital.

So as a tribunal, in order to review previous decisions made with respect to medical issues, including those regarding PTSD and major depressive disorders, I believe our members are well equipped to make those rulings. We do our utmost to make them efficiently and provide decisions that are well reasoned. We do our utmost, based on the evidence, to assist the veterans and the members who come before us.

[*Translation*]

Mr. Robert Vincent: That's a great answer, but I can tell you that this is not what happens in practice. I don't buy the fact that a person with some medical training can be a doctor all of a sudden, and can be handed a case to determine whether or not a patient has post-traumatic stress based on the medical data available to them. Even if these people completed their medical training, they wouldn't be doctors. They cannot give a diagnosis, because they are not doctors. The only person who can make a diagnosis is a doctor.

Once a diagnosis of post-traumatic stress is established by a doctor, either by the attending physician or by the Canadian Forces doctor, I assume that the board members are bound by that diagnosis. If they are not bound by the attending physician's diagnosis, I suppose they go by the decision of the Canadian Forces doctor. If there is a difference between the two diagnoses, if the doctors don't agree, and, for example, the attending physician gives a post-traumatic stress diagnosis whereas the Canadian Forces doctor doesn't, the case has to go to another board. The kind of board that we should have should be made up of doctors, not members with just some medical training, because they don't have the proper training for giving a diagnosis or making a decision.

If that's how your board members reach a decision on a post-traumatic stress diagnosis, I have a real problem with it. They cannot make decisions like that. I speak from experience, since I have worked for 20 years on the CSST board, where they deal with pretty much the same things. We can in fact compare post-traumatic stress cases to accidents that occur in factories. It could be someone whose hand got caught in a machine and was cut off, and other workers were there when it happened. We've experienced cases like that, we've heard of them. The only people able to give a diagnosis and make a decision are doctors, the ones who have the paper to prove it.

You are telling me about cases where, though there is no medical documentation, family members testify to what the people went through. Your legislation should stipulate that medical proof is needed to establish the cause and effect relationship between the diagnosis and the person's condition. It is unthinkable that the testimony of family members would be enough to change the board's decision. At the time of the administrative review decision, meaning the first review after the request, what does your board do to establish the medical relationship if there is no medical paperwork?

● (1555)

Mr. John D. Larlee: First, I had no intention of convincing you that the training of our members...

Mr. Robert Vincent: No, but this is about making sure that the people who appear before the board get a real decision at least, a fair decision. The decision has to be made by people who are capable of making it, not some people with training, but people who are able to make those decisions. And based on what you are telling me about how your board works, I seriously doubt that they are able to do so, unless I missed something in your presentation.

[*English*]

The Chair: You have about one minute to respond. I know it was a very long question.

Mr. John D. Larlee: First of all, the disability must be established by credible medical evidence, and that comes from physicians, whether it's independent physicians, whether it's.... It would be in the file. The representative of the applicant would present that evidence.

As far as the members are concerned, we receive our directions from the Federal Court on how to assess a credible medical opinion. We have cases that have given the tribunal directions on how to determine a credible medical opinion, and that would be that's it from a qualified medical physician; that it's based on as full and complete a medical history of the individual as possible; and that there is a conclusion based on that medical information where the physician provides an opinion.

Perhaps there are multiple medical opinions in the file. It is the obligation of the tribunal to review all that material. With this evidence, together with any witnesses and the applicant's own testimony, we make a finding of whether to vary the decision that was previously made by the department.

The Chair: Mr. Stoffer.

Mr. Peter Stoffer (Sackville—Eastern Shore, NDP): Thank you, Mr. Chairman.

Folks, thank you for coming out today.

Again, how many members are on the Veterans Review and Appeal Board?

Mr. John D. Larlee: Currently we are a complement of 24 members.

Mr. Peter Stoffer: And how many have a military, medical, or policing background?

Mr. John D. Larlee: We have six members who have military and medical...and that would be made up of five military, one of whom has medical. In addition, we have one individual who has a medical background, in nursing.

● (1600)

Mr. Peter Stoffer: So 18 out of 24 have no medical, military, or policing background. Am I correct? Okay.

You also said....

Is that right?

Mr. John D. Larlee: Well, yes, but I mean, policing....

Mr. Peter Stoffer: What about an RCMP background?

Mr. John D. Larlee: No, we don't have anyone with RCMP background at the moment, although we have the spouse of a serving RCMP member on the board.

Mr. Peter Stoffer: You also said there were 4,100 review cases and 1,400 appeal cases that you do.

Mr. John D. Larlee: That's correct.

Mr. Peter Stoffer: If my math is right, that's over 15 a day—15 a day that 24 people deal with, and 18 of them have no medical, military, or policing history.

I ask because one of the biggest things that VRAB does is adjudicate in terms of the “benefit of the doubt” clause. In over 600 cases that I've seen since 1997, right across this country, from World War II, Korean, etc., I have yet to see a case where the benefit of the doubt actually applied. If there is, I'd sure love to see it.

You talked about the medical evidence, and you're absolutely correct. We have seen time and time again World War II veterans suffering from post-traumatic stress disorder 60 years after the fact being denied their case because there's no medical evidence stating that in their file. They were denied. The benefit of the doubt would only assume that this would apply.

As you know, there are 750,000 World War II, Korean, RCMP, spouses of these folks, but DVA looks after only 220,000 of them.

Of the 432 cases of PTSD that you reviewed, how many did you review in favour of the client?

Mr. John D. Larlee: With PTSD cases, our favourability rate is greater than our average rate with respect to our cases.

Mr. Peter Stoffer: Which means what?

Ms. Dale Sharkey: It's about 68% at review, and 42% at appeal.

Mr. Peter Stoffer: So 68% at the review process are in favour of the client. Am I correct?

Ms. Dale Sharkey: That's for PTSD and major depressive.

Mr. Peter Stoffer: In the management world or private world, if 68% were in favour of the review, then why were they denied earlier?

You see, my problem is—

Mr. John D. Larlee: But on the way the system works, at each level you have an opportunity to bring forward more evidence. At review, before our board, it's the first time the veteran, the member of the military, or the member of the RCMP has an opportunity to appear and give oral evidence. We are provided with all the additional information that was not necessarily available at their application to the department.

In other words, we have the benefit of that extra information to provide an opportunity to grant when it hadn't been granted before.

Mr. Peter Stoffer: Right. I say this with great respect, but an awful lot of veterans who apply and are denied don't even bother trying again. Many of them just say, “Well, I tried, and they wouldn't do it.”

Many of them have supplied the medical evidence at the first stage. I've spoken to many of the lawyers who are advocating on behalf of these veterans, because DVA supplies them. The evidence they have in many cases I've seen is no different from what they've already been given. There's no additional information. They have two doctors who say they have this particular condition, and everything else, and there's nothing new to say.

I guess my problem is that if two medical doctors—and this is consistent now, because I advise all the veterans to do this—state and agree that a particular individual has this problem, and then VRAB denies them, how can VRAB not apply the benefit of the doubt when medical evidence already says that the individual has these concerns?

Can you walk me through that process? If you're an officer, and you see the medical evidence from the doctors, and yet you still deny them, how does that happen?

Mr. John D. Larlee: Keep in mind that when they come before the Veterans Review and Appeal Board they've already been to the department, and the department has given them a negative decision or a decision that's not as favourable as they would like it to be. Sometimes it's because they're not happy with the result and they want a greater entitlement or greater assessment. Because there are no time limits and representatives are provided for them at no cost, they bring cases before us.

To answer your question, when the case comes to the board the tribunal looks at everything—the oral testimony, the documentary medical evidence, and any witnesses. From that it determines whether there is sufficient evidence to establish the link between military service and the disability the person is claiming. Therefore, in every case, section 39 says they have to apply benefit of the doubt. If there is a doubt from all the material in there, they have to rule in favour of the veteran.

But in some cases there isn't sufficient evidence in the total of everything that's been received, unfortunately. We all consider and know the dedication and determination that all our Second World War veterans and Korean veterans committed for this country, as well as our serving military now. You won't find people who are more committed to the veterans than those on the Veterans Review and Appeal Board. It's a matter of having to operate within the legislation provided by Parliament, and we do what we can. We understand that there are cases where we are unable to rule favourably.

● (1605)

The Chair: Thank you.

Mr. Kerr, please.

Mr. Greg Kerr (West Nova, CPC): Thank you very much.

It's nice to see you again.

There are a couple of things. I know evidence has come up, and this is one of the issues. Certainly the department has gone through a rather trying year, with a lot of questions and good suggestions coming forward on how business can be done better. You remind us that the appeal percentage is quite a small part of what the overall look is by the department. The majority go through without any difficulty.

There are two things here. One is what we call the traditional older vets. Have you found much of a difference in the availability of evidence from the older traditional vets compared to the modern vets—the ones who were in recent combat, and so on? Is it becoming a better process for availability of information, evidence, records, and that type of thing?

Mr. John D. Larlee: In general terms, I think the availability of service records are more detailed in the present day than they were for the Second World War vets.

Ms. Dale Sharkey: They were pretty good at keeping records for the Second World War veterans too. It's surprising; I think they had a lot more administrative resources throughout the years, but I think we have more paper today.

Mr. John D. Larlee: That's what I was referring to.

Ms. Dale Sharkey: Yes, exactly.

They're more accessible.

Mr. Greg Kerr: The reason I ask is that I think we've all run into the situation where veterans, in a level of frustration, come for appeal and so on. But by that time it's been a fairly long road for some of them.

One of the things I think we've run into consistently is the transition from active military, from DND care, to Veterans care. One of the repeated comments was the availability of records or the access to records, that type of thing.

That's why I'm asking you, because the modern vets are far more aware of and interested in having the records with them. I wondered if you see any difference in that. They seem to be far more aware of what's...and they're probably a bit more aggressive in going after the information they're looking for as well.

Have you noticed that at all? Is there a difference in approach in recent years?

Mr. John D. Larlee: In one sense, the modern vets are much more cognizant about maintaining records. Perhaps a lot of it has to do with modern technology, as well, as we try to do on the board in trying to work towards being more efficient, making our material more readily available to our members. It assists us in being able to schedule cases more rapidly and improve our process.

One of the things we're doing on a continual basis is attempting to improve the process for the benefit of our applicants in order that they get their decisions sooner. We understand the frustration of the length of time it takes to go through the different processes, but I believe we're always working on and listening to the ways in which we can improve how we deliver our services to veterans.

● (1610)

Mr. Greg Kerr: You kind of gave me a segue there on something I wanted to ask. One of the things the department and the minister and the government try to respond to is that one of the overwhelming complaints was the amount of time it took to get through departmental requests and process. There's a real effort at speeding that up.

Have you noticed that's been a frustration with your board as well? Has that come up more often about how long it takes? Is that an issue you're trying to deal with?

Ms. Dale Sharkey: I can answer that.

Yes, it's the same challenge for us, because we're seeking the same medical service records. Oftentimes they do exist in the department, so we're able to access them if the appeal is made close enough to the time that they're still retained within the department. But if we need to obtain them from DND, then we have some of the same access issues, depending on the location.

We're always interested in any improvements that can be made in speeding up that process.

Mr. Greg Kerr: Okay.

Is there still some time? Yes.

That again is one of the issues that we raise, seeing a more seamless transition from DND to Veterans. I know that Veterans Affairs is moving back further into the initial process so the information is shared at a quicker stage, but still there is a frustration with the length of time, and that's why I raised it.

It's been raised before, and I'm just wondering.... Certainly the department's being encouraged to hire more veterans to be part of the process, and it's come up today. Do you see a time when veterans would be more visible or a bigger part of the review process, or do you think that really would make much difference?

Ms. Dale Sharkey: I can speak on behalf of the public service side in terms of the staff. It's one of the things that we've looked at in our own human resources planning, to include the Canadian Forces members as part of our area selection whenever we do internal staffing so that we're opening it wide enough that we can invite Canadian Forces members to participate in our selection processes. Hopefully we can hire more Canadian Forces members within our own staffing complement.

Of course, in terms of any priority referrals that come to us through the special priorities from Canadian Forces, we always consider them. That's part of our own human resources planning.

We're actually just running a process that is open to the Canadian Forces members throughout the—

Mr. Greg Kerr: So you do see the advantage, then, of adding more.

Ms. Dale Sharkey: Definitely. For us, in that particular area we're doing now, to have someone who is familiar with the documentation that relates to the Canadian Forces would be a great advantage for us in preparing our statements of cases and things. It would be a big advantage.

Mr. Greg Kerr: Do I have time for one more question?

The Chair: Keep it very short.

Mr. Greg Kerr: Okay.

I think I understood you to say that the numbers went up in the last year or two. Is there evidence—you might not be able to answer this accurately—that more and more of these are young veterans who have gone through the stress levels? Is that part of why the numbers would be up?

Mr. John D. Larlee: It's difficult to determine because of the fact that there's no time limit on when an individual can come before the board to have a decision either reviewed or appealed. It's not necessarily that they had a previous ruling within the last year that they want to have processed through appeal. It could have been many years ago. That type of information is difficult to obtain.

Dale, do you have more information?

Ms. Dale Sharkey: I don't have any information at all on the ages and the combinations.

The Chair: Thank you.

Ms. Duncan, you have five minutes, please.

Ms. Kirsty Duncan (Etobicoke North, Lib.): Thank you, Mr. Chair.

Thank you for coming. We appreciate it.

I'm going to pick up on the stats. I'm wondering if you can table with the committee statistics from the last five years, such as the initial decisions by Veterans Affairs Canada, review decisions by the review board, appeal decisions by the review board, reconsideration decisions, decisions by the Federal Court, and reconsideration decisions ordered by the Federal Court.

I believe you said that the number of cases VAC looks at each year is about 40,000. You make about 4,100 decisions, and 1,400 of those are appealed. That seems awfully high to me. That's 34%. I'm wondering if you can give us that data for the last five years, as well.

I also wonder if you could table with the committee your framework. I understand section 39. That's a legal framework you have to work within. It doesn't provide a lot of guidance for decision-making, so I'm wondering if you could provide your decision-making process—the steps followed—to the committee.

I'm going to pick up on what Mr. Stoffer was talking about. There are 24 members of the appeal board, and one of them has medical expertise, a nursing background. Is that correct?

● (1615)

Mr. John D. Larlee: Actually, two do. One of them, a former military who served in Afghanistan as a nurse, also has a nursing background. So we actually have two.

Ms. Kirsty Duncan: It is two. Okay.

I guess my point is that you are being asked to look at very complex cases. Some of these cases go back eight or ten or more years. For example, you may have dementia and PTSD. You may have someone who has multiple sclerosis: is there a link between PTSD and the start of MS or an exacerbation of MS, or between cancer and environmental health risks? Or you may be looking at someone who's developed PTSD twenty years after the fact. As Mr. Stoffer rightly says, you're provided with tremendous amounts of medical information from doctors, in many cases your own military doctors.

I'm just wondering how you can make that decision when the doctors are saying that their conditions are linked.

The Chair: Just before you answer, I must say that you've been asked a very lengthy question. You have two minutes to answer.

I would hope that maybe what we can do is.... It's great to make a statement, but we have our witnesses here to get answers today, so please.

Now I've taken up 13 seconds.

Please, we'll have a two-minute answer for that very lengthy question.

Ms. Kirsty Duncan: I believe it's my choice how I choose to use my time, Mr. Chair.

The Chair: The witness then does not have to reply any longer than the one minute.

Hon. Judy Sgro: Mr. Chair, just on a point, Ms. Duncan did ask for the witnesses to submit to the committee the answers to her initial questions. She was not asking them to respond to all of those questions.

Ms. Kirsty Duncan: That's right; there was just one question.

Hon. Judy Sgro: She asked if they would submit the answers to the committee.

The Chair: I think we're getting into another debate here.

Please give me your response.

Mr. John D. Larlee: With respect to your requests for information, I believe that's information we can obtain and we can provide you with as much as is available to us.

On your question, again, we tend to receive at the board those cases that are more difficult, and they are not...because of the small number that come from the number that the department deals with in a year. But at the tribunal or at the board, our members have the opportunity to have all the material before them, keeping in mind now that at review we have the applicant appearing, giving oral evidence, bringing whatever witnesses, whether they be family witnesses, whether they be.... It's their representative and their choice as to who they want to bring to the hearing. And they have compiled their case, which would include the evidence they want to present to us in order for us to have a complete—

● (1620)

Ms. Kirsty Duncan: Can I just interrupt for a second?

You've said this, and I appreciate that. I will ask that you table one more thing with the committee, then. It's only through my experience on Friday, when I spent two and a half hours working with the VAC minister and the review board, and someone said to me out of frustration that they can only work within the parameters of the law. What I'll ask that you table with the committee is anything you feel needs to be changed to make your jobs easier to help the veterans.

The Chair: Thank you.

That reply can be made....

I'm moving on right now to Mr. Storseth.

Mr. Brian Storseth (Westlock—St. Paul, CPC): Thank you, Mr. Chairman.

Thank you very much for coming forward today. It's been a very interesting conversation.

I do want to ask you a few questions that kind of go back to the beginning.

How far do your powers extend? Basically, your powers are to review the decisions of the Department of Veterans Affairs, correct?

Mr. John D. Larlee: That's correct, to review them.

Mr. Brian Storseth: Now, many veterans who have, say, PTSD and don't realize it for 10, 15, 20 years afterwards, which is becoming commonplace as there's more work done on PTSD and more people realize what it is and the stigma is taken off it, they're forced to deal with the insurance companies, are they not?

And the reason I ask this is that, before they can get a lot of their benefits, oftentimes they have to go to Sun Life, from my experience, and the decision is often made by Sun Life as to whether or not they have PTSD. In my experience, it's irrelevant whether or not they have a doctor's diagnosis that they have PTSD, the diagnosis of a qualified medical physician such as you were talking about before.

If I could just maybe have you look into that, or if we could talk about that after, that's something I would like to see done. We can't get through it all in a five-minute question and answer, but it's something I wanted to bring up.

We were talking about the 1,400 and the 432 decisions on PTSD last year. What are the timelines we're talking about here from when a veteran files to have the first review done—the 68% that are in favour? What are the timelines between point A and getting the decision on his initial review?

Mr. John D. Larlee: From the time an application is registered with the Veterans Review and Appeal Board, meaning that it's ready to be scheduled for a hearing, the average timeline is less than six months.

Mr. Brian Storseth: Less than six months? So four months, five months?

Mr. John D. Larlee: That's the timelines over which we have control—in other words, their representative has registered their application for review—

Ms. Dale Sharkey: That's right.

Mr. John D. Larlee: —and they're ready to be scheduled.

Ms. Dale Sharkey: Well, it's registered with the board, and once it's ready to be scheduled it would be in about three months that we would get it to a hearing. So it's registered with the board, and then, on average, there's some shared time in there with a representative, and then once they say they have their case fully ready to go to a hearing, we usually have it to a hearing within three months, typically two. We do our schedules on a two-month rotation.

Mr. Brian Storseth: So in three months?

Ms. Dale Sharkey: Yes. And then the decision is rendered within six weeks following the hearing.

Mr. Brian Storseth: So the decision is rendered within six weeks.

If that decision, if it's of that 32% that are still denied, goes to the appeal process, how long does that process take?

Ms. Dale Sharkey: It's usually within—

Mr. John D. Larlee: Two and a half months.

Ms. Dale Sharkey: —yes—two and a half from the date of registration to the hearing, on average, and then it's another six weeks from the hearing to the decision.

Mr. Brian Storseth: Okay. So we're talking nine or ten months here before many of these veterans work their way through the system?

Ms. Dale Sharkey: If it were contiguous, on average, yes.

Mr. Brian Storseth: It seems to be quite a process to undergo simply to get greater entitlements, as you were talking about earlier. How many of these are for greater entitlements, and what would be the average amount of an increased entitlement?

You may not have all that information. It's kind of detailed.

● (1625)

Mr. John D. Larlee: It would be for any reason that the individual was dissatisfied with the decision—whether an entitlement was denied at the department, or whether it was an increase in entitlement, or whether an assessment was not sufficient. There are any number of reasons.

That's the nice thing about this legislation; it allows people to keep coming back.

Mr. Brian Storseth: I don't mean to cut you off there, but it seems like a fairly frustrating process to go through simply to get an extra $200 or $100 a month for some of these guys. I'm wondering how many veterans don't even bother trying to go through the process because it takes 10 months to a year to get things done. It's frustrating to see that paperwork is the reason why they don't get the proper amount in the first place.

There's one last point I wanted to talk about.

The Chair: Very short.

Mr. Brian Storseth: It has to do with our modern vets' cognizance of the paperwork. They see the frustration of former vets who, say, jump off a truck, sprain their knee, and continue to soldier on; down the road, they are denied their claims because they don't have the proper paperwork.

I think that's something we really do need to work on. We've heard a lot of that in these hearings with our veterans. I hear a lot of that on the ground.

You know, the paperwork can be very burdensome, if you actually want these guys to continue to soldier on.

Thank you for your time.

The Chair: Thank you.

Mr. André, for the last question, please.

[*Translation*]

Mr. Guy André (Berthier—Maskinongé, BQ): Good afternoon. I will be quick, since we have to be quick on the draw around here.

What are the major reasons for rejecting disability claims related to operational stress? What are the most common reasons?

Mr. John D. Larlee: One of the most common reasons is that there is not enough evidence.

[*English*]

There's insufficient evidence on which the tribunal can establish that there should be a different result from what was obtained at review.

[*Translation*]

Mr. Guy André: Despite medical expertise? If I have the medical expertise, can I be rejected? If, for example, I can give an operational stress diagnosis based on my medical expertise, and my claim has been rejected once, can it be rejected a second time?

Mr. John D. Larlee: Yes, it is possible, because not all medical expertise is credible.

[*English*]

The tribunal, being a quasi-judicial tribunal, weighs all the evidence. If there are multiple medical reports...or even not multiple medical reports; the tribunal members evaluate all the evidence, including medical reports. They also, as I stated earlier, have received instructions from the Federal Court on how to determine whether the medical opinion is credible.

That's not to say that they're questioning the doctor's ability to provide an opinion, that they're questioning the doctor's ability; it's whether or not the opinion addresses the necessary criteria. There may be more than one in an individual file, and therefore, with that and the other evidence in the file....

When I talk about “evidence”, I'm talking about documentary evidence, I'm talking about oral evidence, I'm talking about expert evidence.

[*Translation*]

Mr. Guy André: I have met with a number of veterans, because we have received a few claims like that. They are becoming completely discouraged with the system.

First, there is the refusal rate of first-time claims. I'm relying on the percentages you provided today. I'm guessing they are true, but we have seen much higher refusal rates.

As my NDP colleague said, these people often just end up giving up. People with PTSD feel vulnerable. You must be familiar with the issue of low self-esteem. They are in a very vulnerable position and they feel like they have to fight a whole system, a huge organization. That's quite something! They need lawyers, they need to be able to defend themselves.

As a way of self-evaluation, an evaluation of your own practices, could you make any recommendations to improve the system so that it is less overwhelming for those who are trying to get disability benefits?

You talked about the training of the board members. Could we go beyond that and develop new tools, gain more expertise to be able to tell whether the person before us has a diagnosis, a history? Do you understand what I'm trying to say? The refusal rate should be lower.

What are your recommendations to improve the effectiveness of your work? I think we can question it. I am looking at the numbers and I think that we can question the degree of effectiveness. Couldn't we be more effective?

● (1630)

[*English*]

Mr. John D. Larlee: With respect to the way the tribunal deals with all applicants, and especially those with mental health issues, we are conscious of trying to make it more comfortable for them. We work with their representatives to be accommodating to their needs at the hearing. We also try to obtain as much information as possible about their individual situations, because each case is dealt with on its own merits. Therefore, we're always working at ways to become more efficient.

[*Translation*]

Mr. Guy André: Yes, but 40% of claims are rejected.

[*English*]

The Chair: Keep it short, Mr. André.

[*Translation*]

Mr. Guy André: I have always wondered whether it was a question of how competent the board members were or a question of political will in order to reduce disability, to cut access, as it was done in the case of social assistance and in other sectors, to make profit and save money.

[*English*]

Mr. John D. Larlee: It's not at all a question of competency of members.

[*Translation*]

Mr. Guy André: So it is a question of political will.

[*English*]

Mr. John D. Larlee: We interpret the legislation and do our best to review the decisions of the department to the benefit of the veterans. That's our role within that framework.

We understand the frustrations of veterans. We're committed to improving our own methods to provide them—

[*Translation*]

Mr. Guy André: So 30% or 40%...

[*English*]

The Chair: Hang on.

[*Translation*]

Mr. Guy André: Please let me finish.

[*English*]

The Chair: We've already gone over six minutes.

[*Translation*]

Mr. Guy André: There are 30% to 40% refusals. If we got down to 5% the first time and somewhat improved our... It seems to me that we could be more effective.

[*English*]

The Chair: The chair wants to get clarification on one thing.

VRAB does not decide if a client has PTSD or not, correct? You don't decide whether or not that client has PTSD. That's done by a medical expert beforehand, and that comes to you. When that person comes to you as a PTSD patient, you already know that.

Mr. John D. Larlee: Normally there would be a diagnosis in the file. It would have gone to the department. The department would have made a decision on whether or not to accept that the individual had the condition.

If they are not satisfied with the decision of the department, that could come to us. We're not bound by the department's decision. We would have a fresh look at it with whatever other evidence is out there, whether it's an additional medical opinion to confirm or whatever. And we could overturn it.

The Chair: Okay.

Thank you for your testimony today.

With that, the meeting is adjourned....

Yes.

Mr. Peter Stoffer: Mr. Chair, just before you hit the gavel, I have a point of order.

The individuals, the two folks in question, said something that I thought was quite incredible for this committee today—namely, whether or not the medical evidence was credible. We heard that there's only one, maybe two, on the board with any kind of medical experience. I didn't hear the word “doctor” there.

I'm wondering if it's at all possible for the director general to provide us with a list of the 24 names and their backgrounds. I find it rather incredible, and I'm sure your office has gone through this as well, that when you have two medical doctors, in a file for a veteran, sending it to the Veterans Review and Appeal Board, and their medical evidence.... They're being questioned by people who have no medical practice.

I just find it a little bit incredible that they...and they actually admitted that; they said they have to question the credibility of the medical evidence. The only people who can do that are other doctors, in my opinion; but I'm not a doctor, so I don't know. It would be very helpful for the committee if we could get the list of all the names and their backgrounds. For myself, I just find it rather incredible that people with no medical background can question doctors' medical evidence.

● (1635)

Mr. John D. Larlee: We can provide Federal Court decisions to that effect, Mr. Chairman.

Mr. Peter Stoffer: Thank you.

The Chair: Okay. So that will be done.

The meeting is adjourned.

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