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# Standing Committee on Citizenship and Immigration

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EVIDENCE

**Tuesday, October 3, 2017**

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**Chair**

**Mr. Robert Oliphant**



## Standing Committee on Citizenship and Immigration

Tuesday, October 3, 2017

• (0845)

[Translation]

**The Chair (Mr. Robert Oliphant (Don Valley West, Lib.)):** Good morning, everyone. It is my great pleasure to be here today for the 72nd meeting of the Standing Committee on Citizenship and Immigration.

[English]

We welcome our witnesses, some who are rejoining us from our last meeting and others who are new, to make opening statements.

[Translation]

We will begin with Mr. MacDonald.

**Mr. Michael MacDonald (Director General, Operations Sector, Department of Citizenship and Immigration):** Thank you, Mr. Chair, for the invitation to speak to the committee once again today on this important topic.

I'm joined by Paul MacKinnon, assistant deputy minister of strategic and program policy, as well as André Baril, director of asylum policy.

[English]

To address the recent influx of asylum seekers crossing into Canada from the United States outside of designated ports of entry, Immigration, Refugees and Citizenship Canada has taken a number of actions. Most important, we are working in partnership with other departments as a member of the ad hoc intergovernmental task force on irregular migration as well as with agencies, other levels of government, and of course our external partners.

This whole-of-government approach is working well, including through the government operations centre, and we will continue to work together on this important issue. We know that the situation is in part a result of misinformation on various social media and other channels suggesting that those in the United States will receive preferential treatment if they come to Canada. This is, of course, incorrect. All claimants are treated according to existing laws.

The current process for asylum claimants is well established and effective. Asylum claims are governed in part by international treaties to which Canada, of course, is a signatory.

[Translation]

As such, we have a legal responsibility to assess all asylum claims and anyone claiming asylum in Canada has the right to due process.

That being said, strict processes are in place for all those who seek protection, regardless of how they arrive in Canada.

[English]

Upon their entry into Canada, all asylum claimants crossing legally and illegally first undergo a rigorous screening and background screening to ensure that they have not committed serious crimes and do not pose health or safety risks to Canadians. A Canada Border Services Agency officer will then verify their identities using both biographic and biometric information. An interview is then conducted by a CBSA or IRCC official to determine an individual's eligibility for referral to the Immigration and Refugee Board.

Factors determining eligibility to claim asylum include whether the claimant has made a previous claim in Canada or if they have already received protection in another country. If someone is determined eligible, an asylum claim is then referred to the IRB for an independent assessment of the individual's claim based on the risks they face in their home country.

With the influx of asylum seekers through the summer in Saint-Bernard-de-Lacolle, wait times for initial eligibility interviews had increased to several months. However, Mr. Chair, I am happy to report today that due to our increased efforts over the months of August and September, the wait time for such interviews is now reduced to a number of days or weeks depending on the circumstances.

Once an asylum claim is deemed eligible and referred to the IRB, the federal government covers the cost of eligible health services under the interim federal health program. Due to these exceptional circumstances, IFH certificates are now being issued to individuals after they have undergone security and background screening and have been scheduled for their initial eligibility interview.

After a claim is made, individuals may also apply for social assistance, which is the responsibility of provinces and territories. To help ease pressure on the social assistance budgets of provincial governments, IRCC has been fast-tracking work permit applications for all asylum claimants across Canada with a 30-day service standard.

In recent weeks, the government has also taken a number of steps to inform people in Canada and the United States of the facts regarding the asylum process here in Canada and to dispel false information. We are spreading the word that temporary protected status in the United States does not automatically entitle anyone to any status in our country. Some asylum claimants have believed this.

• (0850)

[Translation]

We have also launched an extensive outreach campaign with our partners, and are working with Canadian consulates to bring this message directly to diaspora communities in the U.S. who might be thinking about making the journey to Canada.

[English]

Mr. Chair, we feel it's important to continue to emphasize that while Canada supports managed migration and is a welcoming society, entering Canada irregularly can be dangerous for personal safety, and does not guarantee that you can then stay in Canada.

[Translation]

The same rigorous assessment applies regardless of how a person enters Canada and where they claim asylum.

Thank you, Mr. Chair.

**The Chair:** Thank you very much.

Ms. Benzvy Miller, go ahead.

[English]

**Ms. Shereen Benzvy Miller (Deputy Chairperson, Refugee Protection Division, Immigration and Refugee Board of Canada):** Thank you so much, Mr. Chair.

Good morning. My name is Shereen Benzvy Miller. As of early May, I am the deputy chairperson of the refugee protection division at the Immigration and Refugee Board, or the IRB. I'm accompanied by Greg Kipling, director general of policy, planning, and corporate affairs at the IRB. Thank you for inviting us this morning to discuss this summer's influx of refugee claimants in Quebec.

Several agencies are involved in dealing with this, so where does the IRB fit in? What does this sudden influx mean for the IRB?

The IRB is Canada's largest independent administrative tribunal. It only becomes involved in the process, as my colleague Mr. MacDonald suggested, once we get a referral from the IRCC or from the CBSA. They are at the front lines.

[Translation]

Before specifically discussing the influx of refugee claimants in Quebec and the response of the Refugee Protection Division, I would like to give you an overview of our mandate and the environment in which we operate.

Our mandate guides all the decisions we make in the processing of refugee claims and rulings on those issues, including with respect to the recent increase of refugee claimants in Quebec.

Our work essentially consists in determining whether a person has standing to be a refugee or whether they are a person in need of

protection under the United Nations Convention Relating to the Status of Refugees and the Immigration and Refugee Protection Act.

The Supreme Court of Canada, in the 1985 Singh decision, ruled that legal rights under the Canadian Charter of Rights and Freedoms apply to everyone—in other words, every person in Canada, including refugee claimants. In addition, the court stated that refugee claimants have the right to a refugee hearing when a serious issue of credibility is raised. That is why the Immigration and Refugee Board of Canada was created in 1989.

[English]

Mr. Justice La Forest, in a 1995 Supreme Court of Canada decision, stated that the refugee status determination is “probably one of the most difficult judicial or quasi-judicial events existing in Canada”.

The adjudication of refugee claims is a complex matter for several reasons.

One, refugee protection division members are making profound decisions of life or death, often with incomplete or limited evidence.

Two, many of the claimants who appear before the board are vulnerable and suffer from mental health issues, such as post-traumatic stress disorder, as a result of the trauma suffered in their homeland. So far in 2017, 93% of claimants required the assistance of an interpreter. We have the capacity to provide this service in 240 languages and dialects.

Three, in addition, the RPD members must be up to date on the developments of the law and must be experts on the country conditions of 126 countries so far in 2017, most of which are constantly in flux.

Last, the courts have consistently held that the RPD must ensure a high level of procedural fairness, due in part to the importance of the decision being made.

• (0855)

[Translation]

It is in that context that the Refugee Protection Division developed its approach to respond to the influx of refugee claimants crossing the Quebec border. The fact that many of those refugee claimants are living in temporary tents and do not have work permits has created a number of problems, both for the refugee claimants and for the Refugee Protection Division's processing of refugee claims.

First, since a large number of those refugee claimants were in a very precarious situation in Canada, fairness required that the Refugee Protection Division use all means available to process the refugee claims quickly. That means we have to prioritize the processing of as many cases as possible, to the extent that our resources permit, while meeting our overall mandate. Therefore, on August 11, we immediately created a response team, which will be active from September until the end of November.

We have appointed 17 of our members to that team and immediately took measures to hire new members so as not to impede our capacity to deal with the number of cases we normally receive on an ongoing basis.

[English]

The response team has both operational and adjudicative thrusts. I'd like to underline that this response has not diminished in any way IRB's ongoing commitment to one of the key objectives of the Immigration and Refugee Protection Act, which is the security of Canadian society. For example, the IRB has a publicly accessible policy that requires that the RPD not accept a refugee claim until CBSA has had a reasonable opportunity to complete its security screening. This policy remains in place for all claims, including those heard through the response team. There are other processes related to security matters that I would be happy to discuss during the question period, if they are of interest.

Since July 1, more than 8,000 claims were referred to the RPD. Before this, we were projecting an intake of 40,000 cases for this fiscal year. The strain on the organization to handle this many people's hearings is enormous, as our capacity to hear cases this fiscal year, following a plan of action for efficiency and internal reallocation of funds, is roughly 2,000 per month, or 24,000 per year.

Naturally, claimants whose hearings are not brought before a decision-maker of the response team in the next two months will wait to be scheduled like other claimants. Wait times before the Lacolle arrivals were already at approximately 16 months per person. Intake in the eastern region, in the month of September alone, was equal to the eastern region's intake for all of 2016.

[Translation]

To date, the response team has processed nearly 300 claims, and it expects to process up to 1,500 of them during its three-month term. Those decisions represent only a small portion of refugee claims compared to the thousands of decisions rendered every year, and they account for only a fraction of refugee claims that have been submitted to us since July.

In general, we will ensure to take advantage of all the opportunities and leverage technology, as well as our employees' expertise, to deal with the current situation.

[English]

Greg and I look forward to your questions. Thank you for having us.

**The Chair:** Thank you very much, not only for this but for your ongoing work to help Canadians.

Mr. Anandasangaree.

• (0900)

**Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.):** Thank you, Mr. Chair.

Thank you, panel, for joining us. My first set of questions will relate to the initial screening.

Mr. MacDonald, can you advise us on the number of people who are detained as part of the screening process?

**Mr. Michael MacDonald:** Only the CBSA, and in fact the RCMP at the initial contact, would have the number of individuals who are detained and whether or not they move forward in the process. They will make the determination around their admissibility or inadmissibility into Canada.

That said, as Mr. Cloutier mentioned last week, the number of individuals being detained is very, very low.

**Mr. Gary Anandasangaree:** Can you advise us, maybe just for the record, on whether any children have been detained, either as part of it being in the best interest of the child or because there are no alternatives? Has anyone under the age of 18 been detained as part of that process?

**Mr. Michael MacDonald:** I am not aware of the number of children who have or have not been detained. Only the CBSA would have those stats.

**Mr. Gary Anandasangaree:** Okay. Thank you, Mr. MacDonald.

You mentioned that with respect to waiting times, 16 months is the current timeline for processing. We do have a number of cases that are in backlog, particularly the legacy cases. I understand that earlier this year, IRB outlined a process by which there would be processing of those claims dating back to 2012 and even before that.

Can you advise us on whether these claims will affect the program you have developed for the legacy files?

**Ms. Shereen Benzvy Miller:** For those who are not familiar with what we refer to as “legacy” cases, those are cases that are backlogged from before the time of the reform of the legislation, before 2012. There were originally close to 40,000 of those cases, but a little over 5,000 remain to be adjudicated. We refer to that as our legacy case backlog.

Those are being handled by a special team that was established in May and that started hearing cases just last month. They are expected to do the work to cover those 5,000 cases. They expect to be completed within two years. None of the activities that we are taking on now will affect that, because that is a stand-alone task force and initiative.

**Mr. Gary Anandasangaree:** Thank you.

With respect to the current 16-month timeline, that would pose a bit of a challenge with respect to the current legislation, would it not, in terms of the processing?

**Ms. Shereen Benzvy Miller:** You mean, in terms of legislation, are we still within the legislation?

**Mr. Gary Anandasangaree:** Yes.

**Ms. Shereen Benzvy Miller:** Yes, we are.

We are within the legislation because the legislation does have timelines—30 days, 45 days, and 60 days—but it also allows for a fourth category of exception, which is for operational need.

We currently have over 40,000 cases in backlog, and essentially, the average processing times relate to the way in which we can schedule cases, hear them, and factor in all of the various streams that we need to bring to the fore.

**Mr. Gary Anandasangaree:** With the current 16-month timeline, do you expect that number to remain the same or do you expect it to increase because of the new numbers we received over the summer?

**Ms. Shereen Benzvy Miller:** I think it's safe to say it will increase. It's a mathematical calculation: the number of cases, the number of members and hearing rooms available to hear those cases, and the length of time it takes.

We have put efficiencies in place to ensure that we are effective in doing triage of cases. When cases only have, for instance, one issue to adjudicate, then that can be done in a shorter amount of hearing time, let's say two hours or less, as opposed to three hours or more.

We are trying to be as effective as we can in scheduling the timing, but the math is clear. Unless you put more resources into this problem, it takes longer times to schedule, so there will be longer wait times.

**Mr. Gary Anandasangaree:** What types of resources are we talking about? Are they additional members, additional staff, an overall dollar issue, and if so, what is the expectation?

**Ms. Shereen Benzvy Miller:** It is a dollar issue, and it is a combination, obviously, of members, hearing rooms, and staff. You need to support hearings. There's a lot of process around scheduling and other things to support the member's decision.

We're in the process now of trying to figure out what the gap is. Part of the problem is that all of our scenario-building is based on projections, and the projections, obviously, did not originally anticipate the kind of influx we had this summer. We've already had 8,000 referrals since July 1, which was wholly unanticipated.

• (0905)

**Mr. Gary Anandasangaree:** Mr. MacDonald, just in closing, with respect to the numbers you're dealing with, are there requirements for additional resources on the IRCC side?

**Mr. Michael MacDonald:** No, at this stage we are able to manage with all the resources we have within the department.

As I mentioned last week, we are moving individuals around, reassigning people, and taking very much the approach that we have in the overseas context where we send people out on temporary duty for six-week assignments from around our various processing networks. We're divided into networks. We're therefore able to move people around. We have, in fact, sent temporary duty people to Montreal to work at both the Complexe Guy-Favreau as well as Peel Street.

**Mr. Gary Anandasangaree:** I have a very quick question on that.

Does that reassignment affect any other operations with respect to processing times? If so, what kind of effect does it have on specific programs?

**Mr. Michael MacDonald:** There's always an impact when you move resources around. However, because we have multiple processing networks, we're able to disperse, and, in effect, diffuse any of the impacts. I've pulled some of the processing numbers and in fact our processing numbers are maintaining steady for different lines of business.

What's also advantageous for us is the fact that our domestic network in Canada, which is handling the asylum issues and handles only asylum issues, has only a few lines of business that it deals with, whereas our overseas network, for example, deals with the bulk of visitors, workers, and so on. Those lines remain unaffected.

**The Chair:** Thank you, Mr. MacDonald.

Ms. Rempel.

**Hon. Michelle Rempel (Calgary Nose Hill, CPC):** Thank you, Mr. Chair.

I'm going to start with a context question.

Since January 2017, how many asylum claims have been made by people entering into Canada at unofficial points of entry?

**Mr. Michael MacDonald:** Thus far we have around 13,000 what you would call "irregular arrivals" at ports of entry.

**Hon. Michelle Rempel:** In total, there are 13,000 asylum claims from January 1 to today that were made by people entering at illegal or unofficial points of entry.

**Mr. Michael MacDonald:** It's roughly around 13,000, grand total.

**Hon. Michelle Rempel:** We know that over 32,000 people have entered Canada, so there is a bit of a difference there. What has happened to those people?

**Mr. Michael MacDonald:** Essentially, there are three different ways people come into Canada that add up to the grand total. If you take the grand total, around 34,000 right now—it changes every day, as you know—about 14,000 individuals have come through regular ports of entry, as well as airports, marine ports, and so on. We'll call that regular port of entry. Then you have the in-between port of entry arrivals, which is the 13,000—

**Hon. Michelle Rempel:** I understand how the different asylum claims work. I'm just wondering how.... You said that we have about 13,000 people who have come in through illegal points of entry and made asylum claims. What is the total number of people who have just come in through illegal points of entry and been intercepted by the RCMP this year?

**Mr. Michael MacDonald:** We would know only the individuals who come through and make an asylum claim, the 13,000. There will be a number of individuals who come through and are intercepted by local law enforcement or the RCMP and who never end up making an asylum claim.

**Hon. Michelle Rempel:** Do you know how many people are in that category?

**Mr. Michael MacDonald:** Go ahead.

**Mr. Paul MacKinnon (Assistant Deputy Minister, Strategic and Program Policy, Department of Citizenship and Immigration):** I can perhaps add to that. Just about 1,600 have actually been sent back to the U.S. through the STCA, the safe third country agreement. I am not exactly sure if all those 1,600 have come in between ports of entry. They would have come through at the land border, because the safe third applies.

**Hon. Michelle Rempel:** What I am looking for is the total number of people who have entered Canada through an illegal point of entry this year, that we know of, as compared with those who have made asylum claims.

**Mr. Michael MacDonald:** They are almost identical. Around 14,000 individuals have gone through regular ports of entry—

**Hon. Michelle Rempel:** How many deportation orders have been issued?

**Mr. Michael MacDonald:** IRCC would not know the number of deportation orders.

**Hon. Michelle Rempel:** Okay. Thank you.

Ms. Miller, a comment was made that your projections for processing have changed. A memorandum drafted by your department this past spring, which was obtained by the press, stated that by the end of 2021, the new system inventory would grow to approximately 192,700 claims, equivalent to 133 months' worth of output from the board, or a wait time of approximately 11 years.

You said that your projections have changed over the summer, given the Lacolle crossings—by how much and why?

• (0910)

**Ms. Shereen Benzvy Miller:** First of all, that 11 years was actually not put out by our department. That's not a calculus based on our numbers. It was based on IRCC departmental numbers. I am not sure how that 11 years was calculated, but it is a question of calculus, if you look at increases of... I think that one assumed a certain fixed rate of increase, and they just did the mathematical calculation with the number of members that we have.

What I can say is that our calculus is based on our actual numbers, on the number of finalizations we can do. With our normal funding, we can normally do about 20,000 claims per year. We have some additional funding as a result of the cancellation of visas for Mexico, which allows us to increase that to about 24,000 finalizations per year.

The math is not complex. It's really a question of factoring in what your expectation is. We had been expecting 40,000 claims this year, but we are already expecting more than that due to the 8,000 we got in the last month and a half.

**Hon. Michelle Rempel:** How many are you expecting? What's your projection right now?

**Ms. Shereen Benzvy Miller:** We don't actually have a fixed projection. It's just more than 40,000. We just got 8,000, so, I don't know, 48,000 maybe.

**Hon. Michelle Rempel:** If people were not able to make asylum claims after entering the country through an illegal point of entry at the U.S.-Canada land border—so, if the safe third country agreement was applied to people crossing through regular, legal means—would that have an impact on your projections? If so, by how much and why?

**Ms. Shereen Benzvy Miller:** That's actually something we have never contemplated. We make all of our projections based on the law as it is. We are a tribunal, so we make no policy assumptions. We just apply the law as it is, and that's how we make all of our projections.

**Hon. Michelle Rempel:** Sure. We have 13,000 cases of people who have entered Canada illegally this year. The argument could be made that if that weren't an avenue that could be used by these people, your backlog would decrease. Is that correct?

**Ms. Shereen Benzvy Miller:** It depends. There may be other factors that come into play. I can't speak to fictitious scenarios.

**Hon. Michelle Rempel:** How many vacancies currently exist within the IRB that must be filled by an order in council appointment?

**Ms. Shereen Benzvy Miller:** The order in council appointments are for our appellate members, so they don't really impact our first-level response, which is essentially the decisions that are made about whether somebody is a refugee or not.

**Hon. Michelle Rempel:** How many are vacant right now?

**Ms. Shereen Benzvy Miller:** Right now our vacancy I think is 23.

Do we have 23 vacancies right now?

**Mr. Greg Kipling (Director General, Policy, Planning and Corporate Affairs Branch, Immigration and Refugee Board of Canada):** It's more than 23 vacancies.

**Hon. Michelle Rempel:** In which category?

**Mr. Greg Kipling:** That is for the RAD specifically.

**Hon. Michelle Rempel:** Can you provide all of the vacancies, by appointment, to the committee? That's just because I'm running out of time.

**Ms. Shereen Benzvy Miller:** We could, absolutely.

**Hon. Michelle Rempel:** Since January 2017, of the asylum claims made by people entering into Canada at non-official points of entry, how many have been completely processed by the IRB?

**Ms. Shereen Benzvy Miller:** Your question is on how many the response team has dealt with to date.

**Hon. Michelle Rempel:** Yes, how many have been completely processed?

**Ms. Shereen Benzvy Miller:** We have about 300 finalizations.

**Hon. Michelle Rempel:** Okay, out of 13,000, there are 300—

**Ms. Shereen Benzvy Miller:** We expect to do 1,500 through the response team by the end of November.

**Hon. Michelle Rempel:** Of those 300, how many have been granted protected status?

**Ms. Shereen Benzvy Miller:** The acceptance rate is in the mid-to-high 50% range.

**Hon. Michelle Rempel:** Of the people who have been rejected, how many have been deported?

**Ms. Shereen Benzvy Miller:** I wouldn't have that information. Our responsibility is only for the decision and whether somebody meets the convention status.

**Hon. Michelle Rempel:** Does IRCC have that?

**Mr. Paul MacKinnon:** That would be CBSA, but we could follow up on that.

**Hon. Michelle Rempel:** Thank you.

**The Chair:** You have three seconds.

**Hon. Michelle Rempel:** I guess I will finish.

Thank you.

**The Chair:** Thank you.

Ms. Kwan.

**Ms. Jenny Kwan (Vancouver East, NDP):** Thank you very much, Mr. Chairman.

Thank you to all of our officials for their presentations.

My first question is for the IRB.

The last time that IRB came before us, there were huge issues of resources, or the lack of resources, shall we say, to the point where the IRB was seeing 1,000 cases per month added to the backlog.

Since that time, can you advise how much has been provided to the IRB to deal with the current situation?

**Ms. Shereen Benzvy Miller:** Can you just clarify for me, since what time? What is the date we're talking about?

I actually don't know a time when we were adding 8,000 per month—

• (0915)

**Ms. Jenny Kwan:** It was 1,000 per month.

**Ms. Shereen Benzvy Miller:** Oh, that was 1,000. Now we're at about 1,400 per month.

I'm not sure what date you're asking me about regarding new funding—

**Ms. Jenny Kwan:** That would be since the last time the IRB was before this committee, which would have been less than a year ago.

**Ms. Shereen Benzvy Miller:** There has been no new funding from a year ago.

**Ms. Jenny Kwan:** There is no new funding, so in terms of the processing, you are now adding 1,600 per month—

**Ms. Shereen Benzvy Miller:** It's 1,400.

**Ms. Jenny Kwan:** Sorry, it's 1,400 per month in the backlog, and no new funding has been provided.

In terms of “internal efficiencies”—that was the operative word from the minister, that this all can be handled with internal efficiencies—can you tell us if you can handle this situation with internal efficiencies?

**Ms. Shereen Benzvy Miller:** Internal efficiencies will actually help somewhat.

We are looking, as I said, at different triage methods for the way we can schedule better and more effectively. We are looking at digital tools for supporting our members. We are looking at various efficiencies. We don't know how much that will add.

There will still be a gap between what we can process and the number of cases that are put before us.

**Ms. Jenny Kwan:** What do you think that gap will be?

**Ms. Shereen Benzvy Miller:** I really can't project, but it is a significant gap.

We are, as I mentioned earlier, focusing on what kinds of resources we would need in order to close that gap, with various scenarios.

**Ms. Jenny Kwan:** Has the IRB communicated this to the minister, about the gap and the need for additional resources?

**Ms. Shereen Benzvy Miller:** We are in frequent communication with our partners in the department, and yes, we're all in this together.

**Ms. Jenny Kwan:** To date there have been no additional resources provided to the IRB, even though the minister knows there are an additional 13,000 cases being added per month in the backlog.

**Ms. Shereen Benzvy Miller:** Would you like to take that?

**Mr. Paul MacKinnon:** I might just add just a reference, and I'm sure you're aware of this, Mr. Chair and members.

There is an independent review of the IRB going on right now. Our minister was asked to do that review, so that comes in—

**Ms. Jenny Kwan:** Yes. Thank you.

**Mr. Paul MacKinnon:** —and is very much a key part of this process.

**Ms. Jenny Kwan:** Thank you for that.

I'm aware of that, but we have come from a place where an additional 1,000 cases are still being added to the backlog, and now it has moved to 13,000.

I get it that there is a review, but there needs to be action. That's what we want to see. If there is no action with respect to that, we are jeopardizing the integrity of our system. That is what I'm mostly worried about. That is not good for Canada. It's not good for anybody.

The minister, when he was at this table—he comes very rarely—that one time, I think he did acknowledge that additional resources needed to be available for the IRB, but we have not seen any.

With that, I want to turn to IRCC. With the existing resources that were reallocated, the 120 staff, within the IRCC to deal with the situation, can you provide the exact breakdown of how many staff were reallocated and from where?

**Mr. Michael MacDonald:** Thank you, Chair. I can, in fact.

At our Complexe Guy-Favreau—that's our mobile temporary processing facility—we have a total of 87 staff, and 49 of those are administrative people, 33 are decision-makers, and there are five supervisors. Clearly, we have extended hours there.

When we renovated our existing second floor office on Peel Street —

**Ms. Jenny Kwan:** I'm sorry, maybe I miscommunicated my question. What I'm asking about is the staff who were taken from existing departments. Where did they come from? What's the breakdown of that?

**Mr. Michael MacDonald:** We did not take staff from any other departments outside IRCC.

**Ms. Jenny Kwan:** No, within IRCC, different departments, they came from what streams? Last time when IRCC was before this committee it was mentioned that citizenship, for example, and other immigration streams.... Can you break down for me exactly where and how many?



**Mr. Michael MacDonald:** I can't break that down exactly, though I will say this. We took staff largely from our Montreal, Quebec, operations to surge up Guy-Favreau and Peel Street. But we also took certain decision-makers who had a lot of experience from our western and Ontario offices.

**Ms. Jenny Kwan:** Can you provide for the committee that breakdown please, where the staff came from within IRCC, and how many?

• (0920)

**Mr. Michael MacDonald:** Yes, we can.

**Ms. Jenny Kwan:** Thank you. Can you tell me at this moment if any of the staff came from the processing of live-in caregivers?

**Mr. Michael MacDonald:** No, that is done in a completely different processing network.

**Ms. Jenny Kwan:** All right. Thank you.

Back to the IRB, with respect to the legacy cases we're now at 5,000. Because that, too, was done through internal efficiencies, can you tell us what the implication has been as a result of the reallocation of resources within the IRB to deal with this legacy task force?

**The Chair:** You have 26 seconds.

**Ms. Shereen Benzvy Miller:** Thank you, Mr. Chair.

It is actually 5,300 cases. Sorry, I think I said over 5,000. But the reallocation was made. As I mentioned earlier, it turns out there are 26 vacancies. Essentially what we reallocated was the funding for salary dollars that would have been allocated had those positions all been filled, so it didn't actually impact our operations.

**The Chair:** Thank you very much.

Mr. Tabbara.

**Mr. Marwan Tabbara (Kitchener South—Hespeler, Lib.):** Thank you, Mr. Chair. Thank you to the witnesses for appearing before us today.

I want to talk about the work permits. You were here before to testify, Mr. MacDonald, and you discussed work permit applications as one of the measures that the government is taking to respond to the influx of asylum seekers in Quebec. I just want to read out something to you. The Canadian workers to retiree ratio today is 4:1, and by 2035 it will be 2:1.

Can you say that there's a correlation, knowing that we have an aging population, with our admitting a lot of work permits, because this is great for our economy and we need this to fuel our economy? We know the numbers of our aging population and we want to fill those gaps.

**Mr. Michael MacDonald:** I suspect there will be in a downstream effort if one were to draw that comparison. However, the most important point of the asylum seekers' experience at this stage, their journey towards possibly being accepted and then into settlement, is to get them as established as quickly as possible to help their settlement into Canadian society. That is the real goal of the work permit for today, in the present.

**Mr. Marwan Tabbara:** The recent surge in claims at the border and entry points from the United States has been a concern within

the media and within the Canadian public. Can you tell us how you are working with the United States' officials to ensure the border and the orderly processing of asylum seekers?

**Mr. Michael MacDonald:** I think I mentioned this last week and I'll just recap overall how we work with our American colleagues and how we are working with our American colleagues. We obviously enjoy a long-standing relationship with the Americans not just on immigration but on other parts of the immigration system, be it law enforcement, citizenship, even in the settlement world, and through non-government organizations. We have strong ties.

We obviously have information-sharing agreements with the United States. We check biographic and biometric information with the United States. We also have strong ties in terms of visa regimes. We have strong ties overseas because we are positioned similarly around the world, so our officers exchange information. These are the ways that we work with the Americans and these are the ways that we are already continuing to work with them in terms of the asylum seekers. The very fact that we share and manage a border together makes that partnership continue.

**Mr. Marwan Tabbara:** Can you give us current numbers? There have been about 50 people crossing daily, down from hundreds during the summer. There were almost 200 interviews scheduled daily, and that's up from just 30.

Can you tell us the additional resources that the departments have been using to process these numbers faster and to be more efficient?

**Mr. Michael MacDonald:** Certainly. We've been using only IRCC resources. I believe we have brought some people back out of retirement, people who would like to work on a casual basis, but at the end of the day we have....

I'll mention quickly that we have reassigned 87 officers of various nature to Complexe Guy-Favreau and 58 officers to our Peel Street location. We also had 21 individuals working in Cornwall at our mobile processing centre, which was open for three weeks to deal with the individuals there.

What's unique is that we're also using our existing offices across the country—63 individuals in fact—to work 24-7 in what we call the "back office". They get applications ready and into our electronic processing system the day before, essentially, so that when an asylum seeker is ready to be interviewed, they give us their documents and we can interview them, in fact, the next day or two days afterwards. That's how we've been able to work through the large number of decisions we've made around the eligibility portion of this.

• (0925)

**Mr. Marwan Tabbara:** You'd probably conclude, then, by saying that the situation at the borders since the influx in the summer has been handled very well and at a rapid pace. Is that correct?

**Mr. Michael MacDonald:** I would say so based on the fact that when you look at just the Lacolle movement, we have already processed through to eligibility 77% of all of the individuals who have passed through that Quebec corridor.

Of course nationally the volume of processing and our speed has not changed. When we have first contact with an asylum seeker at IRCC, we process them within one to two days, basically, in the vast majority of cases, if not in almost every case. I think that alone is testament to the machinery that we set up to handle the influx this summer.

**Mr. Marwan Tabbara:** In 2016 Canada admitted the highest number of refugees—46,700 refugees—from Syria, Eritrea, Iraq, Congo, Afghanistan, and elsewhere, and they were resettled here in Canada. In 1980 Canada accepted just over 40,000 people in a single year during the resettlement of Indochinese refugees. This year more than 32,000 asylum seekers have arrived in Canada so far.

The circumstances surrounding each of these surges are unique, but they show that Canada is equipped to process asylum seekers, because we have done it in the past, in the examples I've provided.

Can you share some of the best practices that officials have adopted from these past experiences?

**Mr. Michael MacDonald:** The response could be quite long, so I'll pick some of the most unique best practices that we've learned over the years.

It starts really with what we learned with our operation for Syrian refugees; that is, that our department now has a better-tuned ability to set up, very quickly, mobile processing centres. We have biometric kits, as we call them, that take biometrics and they are mobile. We can move those around. We have positioned in various places our secure forms, shredders, and secure printers. We have very much fashioned ourselves in the last few years to be mobile.

The other best practice is that because our global case management processing system is all electronic now, we're literally able to work around the globe, be it in Canada or elsewhere, 24-7. Because of the time zone changes and the different cultures we work in, work days are different. That's what we call the "back office". We've refined our back-office processes, making them much better.

The other best practice we've learned is that when you start to look at multiple forms and intake mechanisms, you need to thin down and not ask the same questions at different points of the continuum, which can be long at times. The more you do so, the more quickly people can move through.

Also, to be frank, we've invested in individuals. We've invested in people by sending them out on temporary duty. We take headquarters people and send them out to the field to do processing for up to six weeks at a time. We offer employees what are called "single assignments" to go overseas to get direct experience. We also do this in our domestic context. We are trying, then, to invest in our people to make them better and faster decision-makers.

There is also one—

**The Chair:** I need to have you wrap up.

**Mr. Michael MacDonald:** Sure. There's also one other best practice that we've learned and it's called the hackathon. That's when you allow people, generally younger than me, who actually know computer systems, to sit down and actually—it's very exciting—devise ways to electronically work smarter and faster. We encourage

that in the department and then we make it part of our processes: a very valuable lesson learned.

**The Chair:** Thank you very much.

Mr. Saroya, I'm going to give you a bit of extra time, because the Liberals had a little bit extra. You will have about seven and a half minutes.

**Mr. Bob Saroya (Markham—Unionville, CPC):** Thank you so much, Mr. Chair.

Thank you to all the witnesses coming forward.

● (0930)

**The Chair:** Sorry, it's a five-minute round, so you will have six minutes.

**Mr. Bob Saroya:** How many asylum seekers entered in September from the non-official entry places? Do you know the number?

**Mr. Michael MacDonald:** The number I have up to September 17 was just over 2,000.

**Mr. Bob Saroya:** Okay. Thank you.

**Mr. Michael MacDonald:** That is across Canada. Sorry.

**Mr. Bob Saroya:** Across Canada, yes.

According to the Toronto *Star*, the wait time for an asylum claim in Canada could go to 11 years and it could cost about \$3 billion. Does that make sense? The Toronto *Star* is saying the wait time is a staggering 11 years and it will cost about \$2.97 billion.

**Ms. Shereen Benzvy Miller:** As I previously stated, I actually don't know how that projection was arrived at. What I can say is that the way in which we project our future backlog or workload issues is around scenario building. We essentially project the number of claims and we divide it by, say, 24,000 claims that we can finalize per year, and that will give you the wait time for how long it will take—

**Mr. Bob Saroya:** Is the number this big, about \$3 billion or so? It's a huge number.

**Ms. Shereen Benzvy Miller:** I have no idea where that figure comes from in terms of dollars.

Do you know where that came from, because it must have been based on calculus that was done somewhere other than the IRB?

**Mr. André Baril (Director, Asylum Policy, Department of Citizenship and Immigration):** Maybe I can answer that question.

It's calculus, indeed, in terms of processing capacity versus intake and how long the backlog will stay in the state of not being processed.

When we look at cost, there's a federal processing cost but there are also provincial services costs—provinces provide social assistance, education, and housing—and we at the federal level provide the interim federal health program. The longer an asylum claimant stays in the system, the longer the federal and provincial costs last.

**Mr. Bob Saroya:** Are you satisfied with the government's plan to whittle down the current backlog? What is it doing? What else can we do to bring the backlog down?

**Mr. Michael MacDonald:** The IRB backlog or....?

**Mr. Bob Saroya:** Yes.

**Ms. Shereen Benzvy Miller:** For the IRB backlog, we're doing several things. One is that we have a plan of action in place, which is intended to really maximize our ability to deal with the backlog in the most efficient way possible, including—and Mike referred to advances in technology—the way in which we could leverage technology to support our members.

At the end of the day, though, there will remain a wait time, because it is a mathematical calculation.

**Mr. Michael MacDonald:** In terms of the backlog that IRCC has, we only have one backlog and that is the number of decisions to be made on eligibility in Lacolle. There is no backlog. It doesn't exist for the rest of Canada, and we are very happy with the way we're working through that, the thousands of decisions we've made since August 1.

**Mr. Bob Saroya:** This year is going to be the highest number since 2000. We were expecting about 40,000 refugees coming through. How much will the cost climb up per claimant, because if the volume is so big, how much more?

**Ms. Shereen Benzvy Miller:** The fact is that we have a finite number of claims we can handle a year. We can handle about 24,000 a year. The point is that there's only added cost if you add more resources to be able to handle more claims than that.

The cost for an RPD claim is about \$2,600 per claim, and that's without an appeal. When you add more claims, you either add more time or you add more money. As I said, it's a very mathematical calculus. The claims need to be dealt with. They need hearings. They need to have the attention of a member, so you either need more members or you need more time.

**Mr. Bob Saroya:** Thank you.

What are the demographics of the asylum seekers coming to Canada? Are there children, schoolkids? What is the timeline of these children to be able to access education, if at all? How many people are coming? How many are kids, schoolchildren, men, and women?

• (0935)

**Mr. Michael MacDonald:** Thank you, Chair.

Again, generally speaking, you see roughly around 60% of the demographic overall being males. You see a number of children, usually around 20% or so. It depends on nationality and where they're coming from.

We see, obviously, a lot of family units. In terms of the males, they're anywhere from around 20 to 40 years of age.

**Mr. Bob Saroya:** I'll leave it there.

Thank you.

**The Chair:** Mr. Dubourg.

[*Translation*]

**Mr. Emmanuel Dubourg (Bourassa, Lib.):** Thank you, Mr. Chair.

I want to say hello to all the witnesses who are here. I thank them for coming to discuss this issue.

Mr. MacDonald, my first question is for you and it follows up on the one that was just put to you. You said that many of the people who arrived this summer were children, for a family reunification. I know that there were also pregnant women. The health program for refugee claimants has been restored. Can you tell us what challenges you have faced in terms of those refugee claimants' health?

**Mr. Michael MacDonald:** I will answer in English to be more specific.

[*English*]

This is an important issue. In fact, overall the health of the asylum claimants very much drove how we responded operationally. We wanted to ensure that Canada's border, in being well managed and with such high numbers, did not have any health concerns.

The reality is we're dealing with people and people's lives. We had pregnant women showing up. We had actual births at the port of entry during this period of time in the high volumes. We had children who needed medical attention, and so on.

Not unlike other refugee flows, grosso modo the health of the overall Lacolle movement was relatively good, since the majority of the people had been in the United States for a while. Their health was actually quite good overall. That said, we were prepared for any health-type issues, as we are in the IRCC offices, because we have contact with people daily and things happen in life.

Again, importantly, the minister made a decision—I believe it was August 24—to issue the interim federal health certificate before eligibility decision for the Lacolle individuals, to ensure that anyone who had a health need could in fact reach and get that interim federal health coverage right away.

[*Translation*]

**Mr. Emmanuel Dubourg:** Still on the subject of borders, we heard in the media that people were calling for an official port of entry—for example, at Saint-Bernard-de-Lacolle. Given the length of the border, can you tell us what dangers refugee claimants would face if the decision was made to set up official ports of entry all along the border? Would that be in line with our Canadian values?

[*English*]

**Mr. Paul MacKinnon:** I'd like to say a few words. Mr. Cloutier spoke about this at our meeting last week. Certainly there are lots of conversations going on about different responses that are possible. I think what you're referring to is the concept of pop-up, where suddenly you make a new port of entry so that the STCA could apply.

It's fair to say, there are different views on that. Certainly, by applying the STCA, then potentially if folks did not meet an exception, you could send them back, thereby decreasing pressure on the system.

If the RCMP were here talking about this, they would have some concerns about displacement, that you just push people further down the border, and how do you manage that? There are pros and cons to that concept, and it's certainly one that's being discussed. I will leave it there.

[Translation]

**The Chair:** You have only one minute left.

• (0940)

**Mr. Emmanuel Dubourg:** Mr. MacKinnon, you said earlier that the IRB was under review.

Could you tell us what the purpose of that review is and when it began?

[English]

**Mr. Paul MacKinnon:** Absolutely.

In the context of the budget last year, our minister was asked to conduct an independent review. The minister has engaged with Mr. Neil Yeates, who perhaps some of you met. He was the former deputy minister of our department.

In what the review is looking at, really three things are within the scope. There's how the efficiency of the asylum system can be improved, so an interest of efficiencies. Then there's what elements of the IRB's current structure could change in order to optimize productivity and efficiency, and whether that review should look at some type of different governance and accountability framework.

Basically, it's looking at efficiencies within the IRB but also within that broader asylum system, so I think it is a really important part of what we're discussing.

**The Chair:** Thank you, Mr. MacKinnon.

Mr. Maguire, you have almost six minutes.

**Mr. Larry Maguire (Brandon—Souris, CPC):** Thank you, Mr. Chair, and thanks to the panel this morning as well.

I have just a couple of quick questions in regard to forms. Are all requirements and steps currently laid out for the proceeding of refugees' claims being completely followed?

**Ms. Shereen Benzvy Miller:** In the referral process or...?

**Mr. Larry Maguire:** Yes, just in the basic form that you fill out once you cross the border. Are they being completely followed?

**Mr. Michael MacDonald:** Yes, they are. In fact filling out the necessary forms is something that we've been reaching out to the Canadian Bar Association on, to send to all their members, which they have, as well as all the immigration consultants and the national organizations that send out to that membership. We're also informing, actually, the asylum seekers themselves, in particular in Lacolle, which forms they need to fill out and then encouraging them to come into our dedicated service desk that I talked about last week to help them fill out forms.

**Mr. Larry Maguire:** So each person, each refugee, who comes across has to fill that form out.

**Mr. Michael MacDonald:** Yes. The forms are required, sir.

**Mr. Larry Maguire:** It's my understanding that these basis of claim forms ask for such pertinent information as claiming refugee

status, their citizenship status, their family members, previous protection claims and visa applications. Is that correct as well?

**Ms. Shereen Benzvy Miller:** The basis of claim form is the narrative that describes the journey of each individual claimant so that it grabs not only the tombstone data of information, like family members, etc., but also, literally, the facts on which the claim is being based, so that when a member is looking at the case, that forms a part of the record.

**Mr. Larry Maguire:** I would certainly agree. I think that most of the other information is vitally important to the IRBC to determine if the claim is valid. Would you agree with that? All of that information is gathered for that reason, is it not?

**Ms. Shereen Benzvy Miller:** Yes. It's not the only thing that is looked at by a member, but it certainly is one of the very important pieces of evidence that is looked at because it is a combination of fact and law that will influence the adjudication.

**Mr. Larry Maguire:** It's come to my attention—I'm kind of concerned I've heard others—that the refugee claimants filing the claims in Quebec are no longer required to provide one bit of information on some specific questions as to why they are even claiming refugee status and in which country they hold citizenship.

According to the website, due to the challenges of making sure the basic basis of claim form is done in time as set out in the legislation, the IRB deleted the questions in order for the form to be completed, to be considered complete.

**Ms. Shereen Benzvy Miller:** No.

Please, Mr. Chair, if I may, I would just like to correct that impression for the record.

The practice notice you're referring to, which is on our website, is in direct response to the fact that the community of consultants and counsel in the eastern region came to us and explained that the time frames that are required for the submission of the basis of claim were completely impossible for them to meet because the demand for their services was so incredibly high.

As a result of that, in keeping with the legislation, we were able to require that claimants actually submit what is the skeleton of the basis of claim form as a holding place for the file. This is the "tombstone data" that somebody can fill out without access to counsel and without a profound understanding of the actual system. Then, before the hearing, we require a full basis of claim to be submitted with all of the elements filled out in order for the claim to proceed.

None of the substance of that basis of claim form is being given up at all. It is required. That practice notice basically allows for a two-step process to submit that claim. Remember that the IRB is focused on equal access to justice, and the principles of natural justice do include, primarily, the right to be heard and the right to make a full case.

In respect of that, as a tribunal we felt it was required in this time of high demand to allow the eastern region to do it slightly differently than other regions. This is, as the practice notice says, just a temporary measure, because the law is pretty clear that if you make a claim at a port of entry, you have 15 days to get the basis of claim form to the IRB. If you make an inland claim, you are expected to deliver the basis of claim form at the time of your claim being made.

● (0945)

**Mr. Larry Maguire:** Your own website was where I got the basis of these questions. In regard to the time constraints you're facing, it's strange that we would allow someone to come into Canada without their even saying why.

The IRB website shows that they don't have to fill out sections 2 to 7 in the application form. Section 2 is titled, "Why You Are Claiming Refugee Protection". I think that before you even get to the second stage, that would be something that should be addressed on this paper, and it doesn't seem to be necessary.

"Did you ask any authorities such as the police, or any other organization, in your country to protect or assist you?" You can go right through the whole thing. "Give any other details that you think are important for your claim for refugee protection." They also ask if you have children who are less than 18 years old. These are questions that aren't even being asked. "List each country of which you are or have been a citizen."

They're not asked to fill that out. I just wonder why.

**Ms. Shereen Benzvy Miller:** If I could just add a clarification, the basis of claim form is for the IRB, so it does have to be filled out long before we actually take it to hearing. There are a number of other forms that get filled out for eligibility determination, which is then done by CBSA and IRCC. Those questions determine whether or not you are eligible to even make an application to the IRB for consideration for a hearing.

I would like to emphasize that the basis of claim form is a substantial undertaking to fill out. It is very important that it be filled out properly and that people understand how to fill it out, which is why it does require the assistance of counsel. What we have done is only to make it a two-step submission. We are not sacrificing any of the information in there. You are absolutely right. It is essential to the determination of whether or not somebody meets the criteria for being considered a convention refugee by international law.

**The Chair:** Thank you.

Mr. Sarai.

**Mr. Randeep Sarai (Surrey Centre, Lib.):** Thank you.

This question is to IRCC.

How many work permits have been issued to foreign national claimants who arrived at irregular points of entry this year?

**Mr. Michael MacDonald:** The data I have is not quite broken down like that, but I will give you some data that is very helpful nonetheless. Prior to August 24, which was when the minister made the decision to issue work permits, we had issued 5,913 of those permits. Since August 24, we have issued 3,902. Further along, I think a very important point, which again references what I mentioned last week, is that we committed to process work permits,

post-August 24, in under 30 days. Our average processing time is 13 days.

**Mr. Randeep Sarai:** Can you describe how many or what percentage of refugee claimants are finding gainful employment? Are you tracking that? Are you able to track that with this particular cohort versus the other refugees who come through ports of entry?

**Mr. Michael MacDonald:** No, we don't track finding gainful employment. They're open work permits, so people can obviously find employment and then move to other employment. The natural course of people in their settlement process is finding employment and going forward.

**Mr. Randeep Sarai:** I can rephrase that. How many are you finding who are getting employment versus going on social assistance? That's probably what I'm trying to get at.

**Mr. Michael MacDonald:** Unfortunately, our department does not track that level of detail more or less at the municipal level, people finding employment in their home communities.

● (0950)

**Mr. Randeep Sarai:** Do you know how many are on social assistance? They would not be under the GAR rules where they are getting federal assistance. They would only get provincial assistance if they applied.

**Mr. Michael MacDonald:** There are two parts to my response.

First, you are correct in your statement that the government-assisted refugee overseas selection has nothing to do with this and the work permits that are processed. We do know for the Lacolle movement that the Government of Quebec is very quickly moving to help people get their social assistance cheques while many of them are still in the interim lodging sites. If you don't have a work permit, one would assume in the Lacolle movement you're on social assistance and vice versa.

**Mr. Randeep Sarai:** IRCC is responsible for the review of the safe third country agreement. I believe on September 28 of this year an IRCC official stated that IRCC had reviewed the safe country agreement after White House executive orders had restricted travel for individuals of certain nationalities at the start of 2017.

What were the findings of that review?

**Mr. Paul MacKinnon:** Yes, we review the situation in the U.S. vis-à-vis the safe third on a regular basis. We have done that just within the past few months, and when we look at their human rights record, whether or not they're still a signatory to the UN convention and the convention against torture, whether the U.S. has an agreement on safe third, as they do with us. We find that their refugee determination system is fair and credible and does not affect the safe third country agreement that we have with them.

**Mr. Randeep Sarai:** Have any particular considerations come to light since that review?

**Mr. Paul MacKinnon:** Outside formal reviews, we continue to monitor what happens in the U.S. We look at things like executive orders. Mr. MacDonald spoke about the fact that we regularly have discussions, have meetings with our colleagues in the U.S. We talk to NGOs, to the UNHCR. We take very seriously not just the formal review but the continuing monitoring. At its very foundation, safe third is about ensuring that asylum seekers have access to a refugee determination system in either country.

As we look at those formal reviews and monitoring, we still feel that if they claimed asylum in the U.S., they would have access to a fair system.

**Mr. Randeep Sarai:** That's good.

**The Vice-Chair (Hon. Michelle Rempel):** Ms. Kwan.

**Ms. Jenny Kwan:** Thank you very much, Madam Chair.

I want to carry on this safe third country agreement discussion.

As we now know with the current information that we have from the IRB, approximately 50% of the cases that have been processed were successful here in Canada. That is to say that 50% of those people in the United States were rejected, or at least felt that they needed to come to Canada to get to safety.

In light of that information, does the government or the department still think that safe third country is safe for the United States, because for at least 50% of them, it didn't work in the U.S.?

**Mr. Paul MacKinnon:** It's hard to know if the 50% were rejected in the U.S. It's not necessarily the case that the folks who arrive between the ports of entry have a failed asylum claim in the U.S. We'd have to dig into those details a little more.

The other piece that's interesting is that if you look at approval rates across different countries, you find that the approval or rejection rates in asylum seeking between Canada and the U.S. are fairly comparable across the board. That's another thing we look at. If we saw big discrepancies in approving asylum claims in either country, that could be of concern, but you see fairly common numbers across the board.

**Mr. Michael MacDonald:** Chair, if you permit, I can add a bit of statistical analysis to this that may be helpful to the member.

We did a snapshot. We looked at over 8,000 actual claims. Out of those, 194 were found ineligible. Of the ineligibilities, 176 were for a prior claim, probably largely in United States. The safe third agreement represented only 10 of those numbers, so the numbers are, in fact, quite low.

• (0955)

**Ms. Jenny Kwan:** I guess I'll point this out, because we don't actually know how many people were rejected. I know of one case, for sure, who was rejected, and that was Mr. Seidu Mohammed. He actually had to cross over in the dead of winter. He lost digits as a result of that. His claim was rejected in the United States, and then he was successful here in Canada, so we actually don't know.

What we do know, though, is that 50% of the people felt they had no choice but to make the irregular crossing, risking life and limb to get here, and then to have been successful in that process here in Canada. I would ask the department to reflect on that and what that

really means in terms of the safe third country agreement. I'm going to leave it at that.

I'll go back and ask a question to the IRB on legacy cases. As we now know, some 5,300 legacy cases are still outstanding. Before the task force was put in place, how many cases were there?

**Ms. Shereen Benzvy Miller:** Yes, 5,300 is what was left after the legacy initiative was finished in 2012.

**Ms. Jenny Kwan:** How much progress has been made with the special task force?

**Ms. Shereen Benzvy Miller:** Since they started...?

**Ms. Jenny Kwan:** Yes.

**Ms. Shereen Benzvy Miller:** There are 600 on the docket now to be heard.

**Mr. Greg Kipling:** Yes, but they've only finalized fewer than 50.

**Ms. Shereen Benzvy Miller:** Right. They've finalized 50. They have 600 scheduled. They started to do hearings on September 18. Between May and September they were ramping up to find former members who could....

One thing I would like to clarify is that it is a highly specialized field to be a member, a decision-maker in this, like being a judge or a quasi-judicial adjudicator. It takes about 10 months of training to actually be a member, and then to really ramp up to be able to do the number of cases and to be ready to hear cases on a regular docket with scheduling takes probably another 10 months. It's well over a year, so that's why simply finding people who already had the experience was essential to the success of that particular initiative.

**The Chair:** Thank you. We'll leave it there.

Monsieur Dubourg.

[Translation]

**Mr. Emmanuel Dubourg:** Thank you, Mr. Chair.

Mr. MacDonald, we have talked about several initiatives that have been undertaken, particularly outside the country. The term outreach has been used in that context. The Prime Minister had to meet with leaders of the Haitian community regarding this issue. In addition, the Minister of Immigration, Refugees and Citizenship went to the United States. The Library of Parliament gave us a document where we learned that, for the sake of immigration, you even translated some documents into Creole, so as to be able to reach community members and inform them of the immigration process.

Trips were taken to the United States, including to Los Angeles and Miami. I would like to know how much those trips cost and whether, in your opinion, it is effective to have so many outreach activities to raise awareness.

Should we continue with those activities if they are useful to the commission and to various partners involved in immigration-related law?

**Mr. Michael MacDonald:** In terms of the cost of activities, we are currently figuring it out, but a trip to the United States normally costs \$2,000 per person.

[English]

That's just a round figure. For the IRCC officer we sent down to Miami and/or to New York to assist with outreach efforts, the cost is extremely minimal. Granted, there is a cost.

The goal of the outreach overall, as has been said—and you are correct, sir, in describing the outreach—is really to inform people. It's about giving people information to help them make a life decision. People will make their life decision as they see fit at the end of the day, but as immigration officials, we want to make sure that people make the best informed decision.

Our outreach is extensive. It involves media platforms, social media platforms, print platforms. It involves face-to-face conversations with people. It involves members of Parliament and ministers meeting with individuals. It even involves individuals like us and our decision-makers talking with people. It also involves outreach with organizations—lawyers, consultants, non-governmental organizations, workers in the communities, and so on. It also involves our provincial colleagues.

Outreach is also about providing something to individuals in the language of their choice, in the language they are comfortable with.

• (1000)

[Translation]

Immigration is a very complex system. So it is of the utmost importance for the information to be clearly stated, so that everyone can understand it. We are talking about those people's mother tongue.

[English]

That's why we chose to translate a lot of the products into various languages, not just Creole. We have translated things into other languages.

[Translation]

**Mr. Emmanuel Dubourg:** Okay, thank you.

You have created teams to help accelerate the process, be it on Peel Street or at the Guy-Favreau Complex.

Have you found ways to really accelerate the eligibility process for refugee claimants?

[English]

**Mr. Michael MacDonald:** We have come up with systems that we feel are from our lessons learned, which were described before, and to be frank, from a lot of ingenuity on the part of some of our officers.

Mr. Dumas, who appeared last week, is an extremely seasoned foreign service officer with over 25 years overseas. He was one of the architects of the design establishing Complexe Guy-Favreau, including the current director who's there. I talked about grassroots innovation. It was the local Montreal staff that came up with the idea of the dedicated service counter, the express desk, and also what we

call the drop zone, which is where lawyers can come in and drop off hundreds of applications or tens of applications at a time.

We feel at this stage that the design of the Peel Street second floor and the design of Complexe Guy-Favreau are, in fact, very much successes.

[Translation]

**Mr. Emmanuel Dubourg:** Mr. Chair, will you give my colleague the floor?

Thank you.

[English]

**Mr. Gary Anandasangaree:** With respect to the outreach we're doing in the United States, can you tell us if there is a correlation between the numbers in the last couple of months and the actual outreach, and if so, what additional outreach you're intending to do, and whether the current levels of outreach will continue for the foreseeable future?

**Mr. Michael MacDonald:** There are about three parts to the question, so I'll be brief.

The measurement of the success of the outreach is largely qualitative, I would argue. We do feel the outreach has been very much a success, because we have reached populations we haven't reached before. When MP Rodriguez talked to the Latino community in Los Angeles and others have talked around the United States, we feel that has been effective. Our 13 consulates have also reached out across the United States. We have reached a large number of people.

We are planning additional outreach measures. We will continue down this track, I can guarantee that. We have planned another round of various types of media—social as well as print as well as radio types of outreach. We will take whatever trips we need to take to talk to any diaspora communities. Our consulates down in the United States are going through another round of outreach—in Dallas, Denver, Los Angeles, and so forth. We have just had conversations with our Global Affairs colleagues about what more can be done.

**The Chair:** Thank you, Mr. MacDonald.

Ms. Rempel.

**Hon. Michelle Rempel:** Thank you, Chair.

Just to clarify my colleague Bob Saroya's question, how many people entered the country through unofficial points of entry in September 2017?

• (1005)

**Mr. Michael MacDonald:** I have a number from September 1 to September 17, which is just over 2,000. September saw a decline compared with August, a significant decline overall, largely because of the Lacolle decline.

**Hon. Michelle Rempel:** In response to a question that my colleague Mr. Maguire asked, there were figures that were presented to the end of September, September 29. Can you clarify why you don't have the data for this period? You presented a response to committee that says “all asylum claims between January 1, 2017 to September 29, 2017”, so how come you can't give me the number to the end of September right now?

**Mr. Michael MacDonald:** I have the number here reported by the RCMP for September 1 to September 25 for C Division, which is Quebec, which is 1,400, then you have others across the country. That total number for the RCMP of interceptions across the country of people crossing in between is 1,525.

**Hon. Michelle Rempel:** Can you, just for committee, in short order clarify the September numbers in terms of the total number that entered across the country as well as the number of asylum claims that were made in September?

**Mr. Michael MacDonald:** I think what would be best, since the numbers are still being tabulated for the full month of September, is to respond to the committee in written form. That way we can provide the committee with both regular port of entry as well as between port of entry once the data is fully captured from September 1 to 30.

**Hon. Michelle Rempel:** I'm just going to make a quick comment. It's very difficult for us to do our jobs as legislators given that we get disparate information from disparate sources. It's fairly embarrassing, so I would just encourage you to perhaps present that in a way that's better for us to quantitatively evaluate the efficacy of some of these programs.

Going back to the question around processing time, you said that you've been happy with the way that processing is occurring. Just to clarify, there's a difference between processing the eligibility of asylum claims versus their being heard by the IRB. Is that correct?

**Mr. Michael MacDonald:** Yes, it is.

**Hon. Michelle Rempel:** Thank you.

In terms of my colleague Mr. Saroya's questions around social assistance payments for people in this cohort, you're not tracking the number of people who are drawing social assistance in any way at this point in time.

**Mr. Michael MacDonald:** Those numbers are under the authority of provincial officials.

**Hon. Michelle Rempel:** Is this a subject for the federal-provincial task force in terms of whether data monitoring has been raised in that forum at all for this type of data?

**Mr. Michael MacDonald:** The intergovernmental task force does talk about data.

**Hon. Michelle Rempel:** If they are talking about data, can you table to committee any numbers that they have with regard to people claiming social assistance?

**Mr. Michael MacDonald:** We could ask the provinces and see what their response is.

**Hon. Michelle Rempel:** Thank you.

I'm just going back to getting some further data. For the 2017 numbers of people who have entered into the country through illegal points of entry and made asylum claims, do you have a breakdown by country of origin?

**Mr. Michael MacDonald:** We do, yes. Would you like a particular mode of entry? That's how the data is broken down.

**Hon. Michelle Rempel:** Yes, for the people who have entered the country through illegal points of entry, where their countries of origin are, and by number.

**Mr. Michael MacDonald:** When we look at asylum claimants, first I'll start with the land border ports of entry, they are largely Haitians. Up to September 25, there are 1,198. United States is next at 642. Colombia—

**Hon. Michelle Rempel:** When you say United States, are they people who are citizens of the United States?

**Mr. Michael MacDonald:** Largely children who are U.S.... Yes, exactly.

Colombia is at 626. Burundi is at 493. I can keep going or I can go by another mode.

**Hon. Michelle Rempel:** No, that's fine. Could you provide by each mode of entry, by country of origin for the committee? That would be good.

**Mr. Michael MacDonald:** Yes, that would probably be easier because there's a lot of data. There are a lot of different modes.

**Hon. Michelle Rempel:** Do you also have that broken down by gender?

**Mr. Michael MacDonald:** No. I don't think it is broken down by gender by nationality. But I'd have to—

**Hon. Michelle Rempel:** Okay, by gender would be fine, even if it's not by nationality.

**Mr. Michael MacDonald:** Sure.

**Hon. Michelle Rempel:** I'm just curious as well. There's a bill in front of the House of Commons, Bill C-59. Has your department done any sort of analysis on that bill in terms of how it would impact the information that's shared from the RCMP should they find evidence of criminality or any sort of threat to the public with either the IRB or your department? Is there any change that the bill would present in terms of information sharing?

• (1010)

**Mr. Paul MacKinnon:** I must say, I'm not familiar with the bill. We're happy to look into that.

**Hon. Michelle Rempel:** It would be very useful if you could table that with the committee.

Right now let's say the RCMP flags somebody with either a peace bond or an investigation, is that information shared either with your department or with the IRB?

**Mr. André Baril:** What happens now is that there is a front-end security screening that's conducted by the CBSA. They do this in coordination with the RCMP and CSIS.

**Hon. Michelle Rempel:** Afterward, let's say somebody is in the system....

**Mr. André Baril:** When they find something that is of importance, they will advise and there will be an intervention that's done.

**Hon. Michelle Rempel:** Is there anything further done after the initial screening? Let's say that somebody has gone through that initial screening and everything is okay, and then something happens. Is that "and then something happens" shared with either your department or the IRB?

**Mr. André Baril:** Yes. We have the authority to ask for a suspension of the procedure while this—



**Hon. Michelle Rempel:** But how is that information shared? How does that information get to you?

**Mr. André Baril:** It is CBSA that is the point of contact for any security matters. They are the ones who would ask for the procedures to be suspended while those—

**Hon. Michelle Rempel:** If an investigation is triggered, the RCMP would tell CBSA?

**Mr. André Baril:** Yes.

**Hon. Michelle Rempel:** Does that happen in every instance?

**Mr. André Baril:** You'd have to ask CBSA.

**Hon. Michelle Rempel:** Okay. Are there cases where that information wouldn't be shared? Let's say somebody gets triggered for espousing extremist—

**The Chair:** I'm afraid we need to end there.

Ms. Kwan, you have seven minutes.

**Ms. Jenny Kwan:** Thank you very much, Mr. Chair.

On the backlog, there are 16,000 cases in terms of delays in the processing for IRB at the moment.

**Ms. Shereen Benzvy Miller:** It's 1,400 per month.

**Ms. Jenny Kwan:** It's 1,400. Given the amount of delays that you're experiencing, how many resources would you need to actually process these delays?

**Ms. Shereen Benzvy Miller:** There is no straight answer to that question.

Essentially, we are unlikely to ever be in a scenario where we have zero backlog.

**Ms. Jenny Kwan:** Let me back up then. The wait time is 16 months at the moment.

**Ms. Shereen Benzvy Miller:** Yes, currently the wait time is 16 months.

**Ms. Jenny Kwan:** How did that compare to last year? What were the wait times for the IRB in terms of processing cases?

**Ms. Shereen Benzvy Miller:** It depends which category of cases you were looking at. It's a little bit like—

**Ms. Jenny Kwan:** For asylum seekers.

**Ms. Shereen Benzvy Miller:** For asylum seekers, I understand. Generally it was considered to be, for 50% of the cases, 6.5 months. Those were the cases that were within the time frames.

**Ms. Jenny Kwan:** Is it a fair statement then to say that asylum cases are taking longer to finalize because of the lack of resources for the IRB on average?

**Ms. Shereen Benzvy Miller:** I think it is fair to say that the more cases we get without an increase in our capacity, the longer the wait time is going to be. It is a mathematical calculation. If you have more on your docket—

**Ms. Jenny Kwan:** If we wanted to reduce the wait times back to where they were last year, let's say, how many resources would you need?

**Ms. Shereen Benzvy Miller:** Essentially it is the math of the number of members with support that would allow us to complete. Under our current numbers of members we can complete 2,000 cases

a month. If you want to do 3,000 cases a month, you need a percentage more in order to increase by that number. It's a very mathematically based function. You need to figure out how many cases you want to be able to finalize per month and then extrapolate with the—

**Ms. Jenny Kwan:** Can you table for the committee a table to extrapolate exactly that? If you want to process 2,000, here's what it is. If you want to process 3,000, here's what it is, and 4,000, etc. Is that possible?

• (1015)

**Ms. Shereen Benzvy Miller:** Yes, it is. We have a formula, so we can do that based on the formula. The formula is our funding formula.

**Ms. Jenny Kwan:** Thank you.

I want to come back to the Canada-U.S. safe third country agreement. Has the department done a legal analysis with respect to the safe third country agreement?

**Mr. André Baril:** We are in the process of conducting legal analysis. I think we've contracted one to the Department of Justice. We are in the process of conducting another one with two different international experts, just to confirm that the conditions that existed continue to be met.

We've done a policy review, as Mr. MacKinnon indicated, and that indicated to us that the asylum system since January 2017 has not changed.

**Ms. Jenny Kwan:** When do you expect your legal analysis to be completed?

**Mr. André Baril:** One contract is completed, and another one I believe will be within the next month. Of course, that contains sensitive information involving review of the U.S. asylum system and the way it meets international obligations.

**Ms. Jenny Kwan:** You're saying, then, that this information cannot be made public.

**Mr. André Baril:** That's correct. We do not release the findings of our review of the United States, because it could be damaging to Canada-U.S. relations.

**Ms. Jenny Kwan:** Thank you.

The department has managed to reduce significantly the processing time at the border for the irregular crossings. Is that for the eastern region only? How does it look for the other parts of the country?

**Mr. Michael MacDonald:** That question goes back to the overall processing in the asylum system itself. When someone crosses at a port of entry and is processed through admissibility and eligibility by the CBSA, it takes approximately four to six hours. In IRCC across the rest of the country, right now we are processing people in a similar fashion. It's within a day.

**Ms. Jenny Kwan:** In British Columbia, then, processing occurs within a day.

**Mr. Michael MacDonald:** It's in a day or two; that's correct.

**Ms. Jenny Kwan:** When it is referred to the IRB, then, and they're just waiting for their claims to be processed....

I guess the individuals who are waiting for their claims to be processed can seek provincial resources for support by way of income assistance and potentially a work permit. The NGOs on the ground, however, who are supporting these individuals to find housing, and so on, before they get income assistance are on their own. IRCC provides zero dollars to those agencies to support those asylum seekers.

Is that correct?

**Mr. Paul MacKinnon:** Our support in terms of settlement starts when the person attains protected status. You're correct that we do not fund directly folks who are waiting for that status. The system has been such that it's the provinces who do that.

**Ms. Jenny Kwan:** Right.

CBSA, I know, has been referring people to these agencies that are not funded by the federal government, and these agencies have not been able to get additional resources from the provincial government. The federal government says it's not their problem, yet these cases are being referred by the federal government to them. Has there been any discussion in this ad hoc committee about how to deal with this situation and the challenges that those NGOs are faced with in these particular provinces?

**The Chair:** Answer in 10 seconds, please.

**Mr. Michael MacDonald:** I have not been privy to all of the conversations. I haven't attended all of the task force meetings, but these types of issues are discussed at the task force meetings.

**Ms. Jenny Kwan:** Can you provide, because we only have three seconds, information related to this to the committee?

**Mr. Michael MacDonald:** The Privy Council Office has that—

**The Chair:** Mr. Sarai.

**Mr. Randeep Sarai:** This question is for the IRB.

As you are aware, the IRB is receiving an independent review of its operations to determine the possibilities for efficiency and productivity improvement. This was announced by the Minister of Immigration, Refugees and Citizenship. This report is not due until June 2018, but has the IRB looked at any operational changes in anticipation of the report?

**Ms. Shereen Benzvy Miller:** That's a great question. It's not a question necessarily of whether we're doing something in anticipation of the report so much as that we are constantly looking for internal efficiencies to make sure that in the meantime it's business as usual. We need to improve our finalization rate so that we can keep up as best we can, given our current levels of funding.

We are also working to support the review by giving them all the data that they require and all the information that might be helpful to them in making recommendations to the minister.

•(1020)

**Mr. Randeep Sarai:** I'm also glad to see that the IRB has implemented a chairperson's guidelines on sexual orientation and gender identity and expression.

Could you update this committee on how these guidelines will help board members with the unique circumstances that vulnerable people from the LGBTQ community face?

**Mr. Greg Kipling:** I'll answer that question, Mr. Chair.

On May 1, 2017, our chairperson issued the guideline. We're very proud of that guideline. Essentially there are three objectives or goals of the guideline: first, to promote a greater understanding of the diversity and complexity of the situations of people with diverse sexual orientation and gender identity backgrounds; second, to establish guiding principles for our decision-makers in dealing with these cases; and last, to provide parties appearing before the IRB with an understanding of what to expect in terms of their treatment at the board when coming from these backgrounds.

**Mr. Randeep Sarai:** I come across this in my constituency cases every now and then, very rarely I will say. Some people who claim on the basis of LGBTQ and subsequently it appears that they may not be from that community and that they were using that as an asylum-seeking avenue. Does the IRB have methods or training to determine that, in a sensitive manner, without treating people in a very condescending or similar manner? Are they trained to decipher between those who are just using it as an excuse perhaps to gain entry into Canada versus those who are genuinely from those communities and are persecuted?

**Ms. Shereen Benzvy Miller:** That's a great question. One of the fundamental aspects of training for all members is credibility determination. As in any tribunal system, they are essentially looking for credibility of the claimant, and that is one of the primary focuses of our training. It applies to all aspects of the claim, not just sexual orientation or gender identity.

Do you want to add anything?

**Mr. Greg Kipling:** There was focus training delivered in the context of the rollout of this guideline, including addressing these sorts of issues that you were alluding to, questioning in a sensitive yet rigorous manner.

**Mr. Randeep Sarai:** This question is for IRCC. Do you know if those entering unofficial points of entry in Quebec are remaining in Quebec or moving elsewhere? Is there a method of tracking the initial movements of those people?

**Mr. Michael MacDonald:** Yes. We are starting now to track that. In fact that's one of the things we've been discussing with our provincial colleagues. I'm just looking for the actual table. We call it secondary migration. It has been extremely low.

That said, I do know that since we've been tracking we have fewer than 200 individuals from the Lacolle area—July, August, and September—going to Etobicoke or the greater Toronto area to our office to have their eligibility hearing taken care of. We have roughly 21 people overall heading into Alberta. Vancouver has around 30. Ottawa has 82, for example. It's not surprising with a francophone community and other diaspora communities. People are moving. They're free to move.

Largely the Lacolle movement has been primarily Haitian. Last week I talked a little about what we're hearing about the primary and secondary levels of education for children. Therefore, Montreal tends to be a natural place for parents to enrol their children in school. Quebec officials have informed me that they've already seen well over 1,000 kids enrolled in their school system alone this September, so it looks as if people are staying in Montreal.

**Mr. Randeep Sarai:** We had discussed here that there was an amnesty for Haitian and Zimbabwean claimants. That period has ended. Does the rationale behind that still affect those coming from Haiti, particularly with the destruction of Haiti, even if they're not genuine refugees or if we're not approving the claim, that they would not be able to be removed or sent back to Haiti? Is that still the case?

• (1025)

**Mr. Michael MacDonald:** The temporary suspension of removal was put in place by the Canadian government to respond to Haiti.... It was more or less the same event as the U.S. protection status. It was lifted with a series of amnesties—I'll use the word loosely—attached to it, where we encouraged people, we reached out to community organizations, and we thinned out and made our forms less complex for those individuals who had been here, had established themselves in communities like Montreal, Ottawa, or Toronto.

We allowed them to come into the humanitarian and compassionate application process. We very much worked with organizations to help people be aware, to show them how to fill out the forms, and to reduce the size of the forms. That was extended several times. I don't know the exact uptake of individuals who went through the humanitarian and compassionate stream, but that was certainly something we did to encourage people, largely because people were telling us that they were well established in Canada and they just wanted to make sure that they could get on a pathway to permanent residency and maybe citizenship. That was designed to help them get on that path.

**Mr. Randeep Sarai:** Thank you, Mr. Chair.

**The Chair:** Mr. Saroya.

**Mr. Bob Saroya:** Ms. Miller, with regard to the legacy cases, you said that 50 cases have been decided. What were the outcomes? How many were accepted or rejected out of those 50 cases?

**Ms. Shereen Benzvy Miller:** I'm sorry. I do not have the data on the acceptance rate for legacy cases, but we can send that in.

**Mr. Bob Saroya:** Super.

Mr. MacDonald, help me out. I got a call this morning. Let's say somebody travelled from one country to Europe, and he wasn't successful in the immigration process, so he went back home. Then he came back with a different passport and came to Canada. What happens in this case if it comes to IRCC's attention? If a person has been travelling with two different passports in two different names and with two different dates of birth, what happens if you find out two or three years later?

**Mr. Michael MacDonald:** I apologize, sir. I'm not totally sure that I understand the question. I can talk about, generally, travel continuum and individuals—whether they require a visa or an eTA—but I don't think that's your question.

**Ms. Shereen Benzvy Miller:** He's talking about fraud.

**Mr. Bob Saroya:** Yes, I'm talking about somebody travelling under two different passports to two different countries. What will happen in this case if IRCC finds out?

**Mr. Michael MacDonald:** Typically, when someone arrives at a port of entry, there may be a flag in the CBSA port of entry system. The CBSA officer would then take the person to secondary and investigate. CBSA officers are well trained to pick up on indicators when they interview people at the booths or in what people say. That's one way to have that happen.

All that said, if IRCC becomes aware of someone who has entered into a pathway in the immigration system and there are questions about that person's genuineness, whether that person may have committed fraud, we can launch what's called a level one investigation, or we pass it over to our enforcement arm, the CBSA, which enters into a criminal investigation or what we call a level two investigation.

It all depends on the circumstances and where that person is in the immigration system or continuum. Then we can take the various means to look at the situation, but we always investigate first—or other parts of the government investigate first—to determine what's happening.

**Mr. Bob Saroya:** I'll just follow up on that one. Let's say somebody does immigrate, and you find out and it was proven that that person travelled on two different documents. What would happen in this case?

**Mr. Michael MacDonald:** It depends on the specifics of the circumstance. The CBSA could seek for that individual to be removed from the country. CBSA could contact the individual and inform them that they need to leave the country. It could go after the individual in terms of some level of prosecution, whatever that is. Obviously, we would put flags in our records for if that person ever reapplied in the future.

We would also look at that person's immigration status or immigration documentation, of which there are many types, as you know. For some documentation, we have the ability to withdraw that documentation. For others, there are more legalistic processes to follow. It would all depend on the situation and the seriousness of the action, offence, or misrepresentation.

• (1030)

**The Chair:** I just want to remind the members to try to keep within the scope of what we've invited our witnesses here for, which is the irregular crossings.

**Mr. Bob Saroya:** With regard to the Haitian refugees, the program was stopped. This is what we talked about a couple of meetings back. Where do we stand with those people? Of the Haitian refugees who came, about 3,000 or 3,500 people were still outstanding. Either they weren't successful, or they didn't apply for the temporary.... Whatever the reason, how many Haitian refugees are still outstanding? Do you have any update on that?

**The Chair:** I'm afraid I'm not going to be able to let you answer. The long preamble got in the way.

Mr. Tabbara, you have five minutes.

**Mr. Marwan Tabbara:** Thank you, Mr. Chair. I'll be splitting my time with Ms. Khalid.

My question is for the IRB.

In 2012, legislation was passed that created the backlog of the legacy cases, and as you know, it's ballooned since then. Our government has put in place measures to reduce all those legacy cases caused previously in 2012. Can you update the committee on the progress of reducing those legacy cases and where we're at today

**The Chair:** I'm just going to interrupt for a moment. We'll allow this, but just to remind the members that the scope of our briefing today is on the irregular crossings. If you could tie that into the irregular crossings, it would be allowable. We'll give you a little leeway this time because I can tell they're very prepared; however, all members remember our purpose today is to give the witnesses a chance to be well prepared for what they're going to be asked.

**Ms. Shereen Benzvy Miller:** In very brief order, there were 32,000 legacy cases in 2013, when the cases were backlogged originally. The IRB was able to deal with a number of them, but there is the legacy task force in place now to deal with the last 5,500 cases. Six hundred have been put on the docket to date.

**Mr. Marwan Tabbara:** Okay.

I'll pass it over to Ms. Khalid.

**Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.):** Thank you.

Thank you, Mr. Chair. I am a guest to this committee today, so please excuse my ignorance as I ask this question.

When there are irregular border crossings, now there are two ministries or government departments that are involved; that is, the IRCC and the CBSA. Who takes the lead in establishing the process for finding out whether we're going to accept the asylum seekers or to send them back to where they're coming from? Is it the CBSA that takes the lead, or is it the IRCC that establishes the process and then the security checks are done by CBSA?

**Mr. Michael MacDonald:** That's actually a very good question because the asylum system is complex. I'll be very brief, and then I'll hand the floor over to my colleague Ms. Miller.

Overall, the asylum system is governed through legislation, IRPA, as well as various regulations. From those authorities we devise operating procedures for how we effect the law. When individuals go through a regular port of entry—air, land, or marine—and claim asylum, they're processed under the carriage of the CBSA. They'll first do an "admissibility to Canada" check and then they'll do an "are you eligible to move forward to apply to the IRB" check That's all it is.

When someone crosses in-between a port of entry, the local law enforcement—typically the RCMP, but you never know—would take that person back to a port of entry, where the CBSA will process him or her. Some individuals come into the country, legally or not, and then later on decide to claim asylum. They typically walk into an IRCC office. In fact, about 50% to 60% of the claims are inland, as we call it. They come into our office. We now have carriage of that individual. We'll go through the same steps—admissibility, eligibility—and then we will refer the person to the IRB.

●(1035)

**Ms. Shereen Benzvy Miller:** The IRB is actually the tribunal that makes the determination of whether or not somebody can be considered a refugee, whether they meet the criteria for the international convention, or whether or not they are a person in need of protection. That decision is the decision around status. The referral is made to the IRB, but it's actually the IRB that makes the decision ultimately.

**Ms. Iqra Khalid:** Thank you.

Let's say somebody comes into the country at a non-established port of entry and goes through the CBSA and then the IRB to make that application for asylum. Does the IRCC then at that point refer back to the CBSA to do the security checks, etc.? How long does that process take?

**Mr. Michael MacDonald:** That's a very good question. IRCC does not undertake the actual physical security checks. CBSA is our enforcement arm as well as our security-screening arm. When we capture information on an individual or take in information on an individual, we send that to the CBSA, which then takes that information, does security screening, works with the various security partners, as appropriate, and then feeds that information, or the results of that information, back to us in order for us to make a decision, on their advice, on the security or whatever they found out on that individual.

It's part of our regular processing, among other decisions we make.

**The Chair:** Thank you. They've just started, I know.

Mr. Maguire, you have five minutes. You will be our last questioner.

**Mr. Larry Maguire:** Thank you, Mr. Chair.

Last week it was determined that 53% of the failed refugee claimants are still in the country. Can you tell me how many of them have slipped through the cracks? The government has lost track of where they are.

**Mr. Michael MacDonald:** Only the Canada Border Services Agency would be able to answer that question, because those failed claimants fall into what's called their "removal inventory" and they manage the removal inventory.

**Mr. Larry Maguire:** You wouldn't have any idea through the immigration department or the board.

We've determined they go through a two-stage process to get the hearing in Quebec at least for those basic claim forms. With that in mind, how long is it because they're only having to answer half the questions? You're saying that they still have to fill out the whole form before they get their final interview. Is that correct?

**Ms. Shereen Benzvy Miller:** They will get a hearing date on that basis, but the claim form does have to be submitted before that, yes.

**Mr. Larry Maguire:** What is the lag time between crossing the border and doing the initial one?

**Ms. Shereen Benzvy Miller:** For the Lacolle cohort...?

We don't know what the lag time will be for all of them. Currently we have already put 300 cases on the schedule for the members. Let me double-check my numbers on that. We have 8,000 cases referred since July 1, and 240 cases have already been finalized since September 5. We have 373 cases scheduled as of October 2. Those are the statistics for our current response team. The response team will be up and running until November 30 at which time, all the remaining claims will go into our regular stream for scheduling.

**Mr. Larry Maguire:** About 7,300 or 7,400 will still go into the regular scheduling out of that 8,000.

**Ms. Shereen Benzvy Miller:** About 1,500 with the response team, then the remaining will go into the regular stream, yes.

**Mr. Larry Maguire:** What kind of lag time would we see in that?

**Ms. Shereen Benzvy Miller:** We have a 16-month wait time for our regular stream. But are you asking me about when the basis of claim form will be expected?

That practice notice is just a temporary practice notice. We're going to wait to see probably until the end of November before we reconsider whether or not we suspend that practice notice in which case it would go back to 15 days.

**Mr. Larry Maguire:** How do you keep track of those people in the meantime? Where are they?

**Ms. Shereen Benzvy Miller:** If you go to our website, it says that you need to submit all the information around tombstone data, like address, and you have to keep us apprised of your changes of address and contact information. If you have counsel or if you have a consultant who is working with you, we need their contact information as well.

We are in contact with them about the scheduling and their claim processing.

• (1040)

**Mr. Larry Maguire:** Are either of you aware of any process that CBSA or others would use to make sure they know where all the illegal immigrants that come across are in Canada at all times?

**Ms. Shereen Benzvy Miller:** Do you mean by that, people who have crossed the border irregularly?

**Mr. Larry Maguire:** Yes.

**Ms. Shereen Benzvy Miller:** You have to ask CBSA but we all keep track of the claimants relative to the information they've given us. They are responsible for keeping all of us up to date on their changes of address and where they are in the country, which is how my colleague was able to describe where the secondary migration to other cities has happened.

**Mr. Larry Maguire:** When you say "they", is that information that immigration or CBSA has given you, or is it the individuals themselves?

**Ms. Shereen Benzvy Miller:** The claimants are responsible for maintaining their files up to date. Like any court procedure, you would always be responsible to that tribunal for your information. These are very official processes with the claimants.

**Mr. Larry Maguire:** You were saying there were 8,000 crossings since September 1, or was it July 1?

**Ms. Shereen Benzvy Miller:** That's the number that had been referred to us since July 1, and we don't keep the statistics about the number of people crossing. We only become seized with the matter when the referral has been by CBSA or IRCC. Our data are always about our caseload, not about the number of people who have interfaced with IRCC or CBSA.

**The Chair:** Thank you, Ms. Miller.

We have just a few minutes left. I'm going to arbitrarily suggest that we split it between Ms. Kwan and Ms. Khalid: two minutes and two minutes.

**Ms. Jenny Kwan:** Thank you very much, Mr. Chair.

With the legal analysis that's been completed, can you confirm that the findings are consistent with what the officials' findings are, and that the United States is a safe country for asylum seekers?

**Mr. André Baril:** Yes. Correct.

**Ms. Jenny Kwan:** Okay.

With respect to the ad hoc committee, in terms of the work that's under way, clearly there are huge implications for provinces in a variety of ways. We are processing cases through the IRB with a wait time of 16 months at this moment.

In terms of the provinces trying to manage the situation, first off, the CBSA in my last meeting confirmed that they have provided resources to Montreal to deal with the temporary housing situation. Have additional resources been given to any other provinces—namely Manitoba and B.C.?

**Mr. Michael MacDonald:** No. Although when we see spikes like we did in Manitoba earlier in the year, we will reassign staff in order to handle those volumes to our regional offices and/or the port of entry.

**Ms. Jenny Kwan:** But the community on the ground did not have additional resources. I visited Manitoba, and the NGOs on the ground who had to deal with this situation did not get any additional resources from the federal government to deal with the housing situation.

**Mr. Paul MacKinnon:** There was one investment that I do recall. We can get the particulars for the committee. I know that Minister Goodale went to Manitoba back in the winter—

**Ms. Jenny Kwan:** Perhaps you can table this, because we have limited time.

**Mr. Paul MacKinnon:** —and there was an investment given to the local town, I think.

We can get that information for you.

**Ms. Jenny Kwan:** If we could get a breakdown of all the dollars given to all the different provinces, how much and for what stream, that would be appreciated. In British Columbia, for example, I know that the shelters are full, but they have had no resources, as far as I know. I would like to have that confirmed, if possible.

**The Chair:** Thank you, Ms. Kwan.

Ms. Khalid.

**Ms. Iqra Khalid:** Thank you.

I'm looking for some more points of clarification. When a person makes an entry into the country, CBSA is their first point of contact if they haven't applied for asylum yet. At that point, does the CBSA make the determination on whether they're admissible or inadmissible, and then they're moved on to the next step at which point they are able to apply for asylum? Is that correct?

Perhaps you can explain how it works. I'm trying to understand the relationship between CBSA and IRCC.

**Ms. Shereen Benzvy Miller:** CBSA and IRCC are both accountable for eligibility determination to know whether or not they're going to refer a case to the IRB to be considered for refugee determination or if the person is in need of protection. That process is done, under normal circumstances, either at a port of entry or at an inland office. If it's at a port of entry, CBSA officers will do it. If it's at an inland office, IRCC officers will do it.

The claim is made in order to trigger that eligibility interview. Then their determination is whether or not it is a matter that will have to be heard by a tribunal.

• (1045)

**Ms. Iqra Khalid:** Okay.

I know that in Canada we don't get the same volume of refugees as other countries in Europe, let's say, or other countries around the world. Are there lessons we can take from other countries in terms of how we deal with our refugees and how we integrate them into the country?

**Mr. Michael MacDonald:** The short answer is, yes, we have regular contacts. We belong to multinational, binational, and trilateral organizations. We engage regularly with the Americans, who have a lot of experience on their southern border. We talk with our European colleagues constantly about lessons learned.

Again, we are positioned overseas at IRCC around the world, so that communication is continual.

**The Chair:** Thank you very much. That brings our meeting to a close.

Thank you very much, witnesses. You've been very helpful and very thorough.

Thank you, committee, for the quality of your questions.

The meeting is adjourned.

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