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## **Alberta's Crown prosecutors seek injunction in Federal Court to relieve workload**

**Federal Crown prosecutors now responsible for appearing at all federal bail hearings, in 24-hour court**

**Alison Crawford, CBC News, May 19 2016**

The union representing federal Crown prosecutors is taking the unprecedented step of seeking an injunction in Federal Court to stop the Public Prosecution Service of Canada from requiring its members to staff bail hearings 24 hours a day, 7 days a week.

The Association of Justice Counsel (AJC) has also filed an unfair labour practice complaint against the prosecution service.

On April 29th, federal prosecutors in Alberta were asked to cover an extra 32 four-hour shifts per week, with no additional staff.

- [Review triggered by Mounties death finds Crown should handle bail hearings, not police](#)
- [Edmonton courts scrambling to try cases under shortage of judges](#)
- [Justice Minister promises 'quick process' for selecting judges in bid to end courts backlog](#)

The bump in workload comes after a report on Alberta's bail system. The review was ordered after the fatal shooting of a Mountie by a man with a history of violent and criminal behaviour who was free on bail following a hearing handled by a police officer.

Up until the report, police officers handled bail hearings. The report concluded Crown prosecutors should perform that task.

The thing is, Alberta is unique in that it holds bail hearings all day and night, every day of the week.

"What happened here is we were in the midst of putting together a grievance under the collective agreement about the workload in Alberta when they hit us with this 24/7 bail, so really it was really just the last straw in a situation that is completely unworkable for our folks," said Len MacKay, AJC president.



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MacKay said the union decided to file its application for an injunction yesterday, when it realized the unfair labour practice, filed last week, would not be heard for at least six months. He said the Public Prosecution Service of Canada (PPSC) has two options.

"One is to convince the court that they don't need to have bail hearings 24 hours a day (...), they'll have to perhaps try a little harder to get some funding to staff this new obligation," MacKay said.

A spokesperson for Canada's Attorney General Jody Wilson-Raybould says PPSC has, to date, not requested any additional funding. No one from the prosecution service would comment as the matter is before Federal Court.

### Overtired prosecutors won't fix problem

Alberta's Justice Minister Kathleen Ganley also held back, "As this litigation is between the Attorney General of Canada and the Public Prosecution Service of Canada, it would be inappropriate for me to comment. We will be watching this case closely."

So far, MacKay said the prosecution service has asked its 56 federal prosecutors in Alberta to volunteer to work four extra shifts covering off the hours from 4 p.m. to 8 a.m. Those lawyers then have to show up for their regular workday, sometimes on as little as two hours sleep.

"By moving crowns over to bail court, while you may have somebody a little better experience and better understands the law, if you're using people that don't have the personal, physical capacity to do these things, you're not fixing the risk," said MacKay.

"The messaging from management is please sign up for a shift so you can get one you like, or else you'll get one you don't like. So it is clear they will be assigned," MacKay said

## Public servants get advice on giving their careers a boost

**'Work for passion, not pension,' says retired assistant deputy minister  
Julie Ireton, CBC News, May 19 2016**

Richard Rochefort wears a pin on his lapel that reads "work for passion, not pension" and that's the retired assistant deputy minister and current career coach's key message these days.

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"When you look at a job with passion, you're always learning," said Rochefort. "As an assistant deputy minister I hired thousands of public servants and at the end, that's what you need. I think passion should be the driving force, not pension."

Rochefort was a panelist at a career forum for public sector workers in Ottawa on Wednesday. The Canadian Public Sector Excellence Network and Career Joy partnered to give a room full of bureaucrats some pointers on how to create or develop their careers.

He gained his own experience at jobs including: vice president of the Canada School of Public Service and director general roles at the Privy Council Office, Service Canada College and the Canadian Centre for Management Development.

He said public servants don't have too many opportunities to chat about career development because the federal government is a huge organization and is "siloes" into so many different departments and agencies.

"What they mostly can get out of this discussion is they're not alone. It's a very lonely journey trying to manage your career by yourself and you get really self absorbed in your work. So coming together like this and actually meeting others that are facing similar challenges, it really gives you a boost," said Rochefort.

## **'People need to get that wisdom'**

Other senior public servants on the panel shared their perspectives, their successes and failures.

Susan Seally, a human resources manager at the Office of the Auditor General of Canada, said her life's purpose has been attraction and retention of good workers to the public service.

"There's a lack of knowledge out there. There's a void. People need to get that wisdom," said Seally who added that's why these kinds of discussion are valuable. She had her own advice to share:

"Be really open and look at a career, as not just what you know, the technical competencies, but take a look at the transferrable skills you have and really know yourself and know what skills you bring to the table."



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Philip Grandy, a senior public servant and a volunteer member of the non-profit, Canadian Public Sector Excellence Network, helped organize the career forum that he also sees as an important networking tool.

Grandy noted the new, federal government is attempting to set a new tone for the bureaucracy, yet it also has a lot of new plans and programs to deliver.

## **A purpose behind push for 'excellence'**

"When you're trying to move very quickly stress levels can get very high and when you've got other people you can rely on, get answers to questions that you're dealing with, the network creates those connections and help you get those reassurances in some cases." said Grandy.

"I'm excited about the way the new government's going because it reinforces for us that there's a purpose behind us driving excellence."

Rodney Hester, a potential public servant attended the forum to get some insight on how to get a job in the federal bureaucracy.

"I enjoy working and helping people. I hope to be part of the solution," said Heister, who said he will look first to work in Natural Resources Canada or Indigenous Affairs.

"As an Indigenous person I'm looking to apply my experience to advance government policy with relations with Indigenous peoples."

## **Une loi symbolique que tous saluent**

**Helene Buzzetti, Le Devoir, 18 mai 2016**

La huitième fois sera-t-elle la bonne ? Le gouvernement libéral reprend à son compte un projet de loi longtemps défendu par le NPD qui établit noir sur blanc l'identité de genre comme un motif illicite de discrimination au Canada. Le milieu juridique y voit un geste symbolique, mais les premiers concernés estiment que le symbole changera la donne.

Le projet de loi C-16 ne fait que deux petites pages. Il modifie la Loi canadienne sur les droits de la personne en ajoutant à la longue liste des motifs illicites de discrimination — entre orientation sexuelle et état matrimonial — « l'identité ou l'expression de genre ». C-16 modifie de la même manière le Code criminel en ajoutant « l'identité ou l'expression de genre » à la



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liste des préjugés ayant motivé un crime qu'un juge devra considérer comme facteur aggravant au moment de déterminer la peine.

« Le gouvernement propose ces changements parce que la loi doit être claire et explicite, a déclaré la ministre de la Justice, Jody Wilson-Raybould. Les transgenres et autres personnes trans ont le droit de vivre à l'abri de la discrimination, de la propagande haineuse et des crimes haineux. »

Dans les faits, le C-16 changera peu de choses. Il a toujours été compris que la liste des motifs illicites de discrimination n'est pas exhaustive. « Qu'il y ait de la jurisprudence ou non, une discrimination basée sur le transsexualisme aujourd'hui avant cette loi-là était déjà interdite, rappelle Benoît Moore, professeur de droit à l'Université de Montréal. Pour moi, il s'agit d'une intervention plus symbolique que réelle, mais le symbole est aussi du réel. »

Jean-Sébastien Sauvé, un chargé de cours à l'Université de Montréal qui prépare un doctorat sur le droit et les personnes trans, abonde. C-16 apporte plutôt une clarté. « Il n'y a jamais eu de cas où une personne trans s'est présentée [pour se plaindre d'une discrimination] et on lui a refusé en disant qu'elle n'était pas visée par la loi parce qu'elle est trans. Ça a été plaidé par des avocats, mais à ma connaissance, les juges n'ont jamais retenu cet argument. » Le criminaliste Jean-Claude Hébert estime à cet égard que le changement légal apporté par C-16 aura justement pour effet de tuer dans l'oeuf ce genre d'argumentaire et ainsi « éviter un débat stérile ».

Symbole ou pas, M. Sauvé estime que cette loi aura un effet pédagogique important. « Sur le terrain, les gens ne savaient pas vraiment ce que ça voulait dire cette interdiction de discrimination. Autant les personnes trans se croient pas du tout visées par la Loi canadienne sur les droits de la personne, autant les personnes qui interagissent avec ces personnes-là ne savent pas ce qu'implique cette interdiction de discrimination. »

Symbole puissant

L'annonce du projet de loi a été faite pour coïncider avec la Journée internationale contre l'homophobie et la transphobie. Des dizaines de personnes transsexuelles étaient présentes aux côtés de la ministre dans le foyer de la Chambre des communes, où flottait pour l'occasion le drapeau bleu, blanc et rose des personnes transgenres. Sophia D'Aoust, la présidente du groupe Mosaïque de genres, était du lot.

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« Une loi, quand elle passe, donne une force à la minorité qui a besoin de cette force-là. » Mme D'Aoust soutient que 40 % des transgenres font des tentatives de suicide. En Ontario, où une loi similaire a été adoptée, « le taux de suicide a baissé », soutient-elle.

La jeune Charlie Rickert, 13 ans, a aussi pris la parole pour remercier la ministre et le premier ministre Justin Trudeau. « Je me sens plus en sécurité », a-t-elle dit. Sa mère, Anne Lowthian, estime que ce projet de loi ne sera pas inutile. « C'est un incitatif pour s'informer à propos des personnes transgenres et essayer de comprendre », dit-elle au Devoir. Charlie leur a annoncé à l'âge de trois ans qu'elle était une fille et non un garçon. La famille a déménagé à Ottawa pour mettre un terme à l'intimidation dont faisait l'objet leur fille.

Adopté ?

Un tel changement aux lois canadiennes a été longtemps défendu par le député néodémocrate d'arrière-ban Bill Siksay, puis par son collègue Randall Garrison. Pas moins de sept projets de loi ont été déposés depuis 2005. La dernière tentative, le C-279, s'est cassé les dents au Sénat le printemps dernier. Le conservateur Don Plett avait réussi à amender le projet de loi afin d'autoriser les gestionnaires de salles de bain publiques, de vestiaires, de refuges pour personnes violentées ou de prisons à en refuser impunément l'accès aux transgenres au nom de la protection de personnes vulnérables. M. Plett a dit au réseau Global qu'il n'avait pas changé d'avis.

On ignore donc si le C-16 pourra être adopté au Sénat, où les conservateurs détiennent 42 des 86 sièges occupés. Les libéraux « indépendants » n'en ont que 21. Les 23 autres sénateurs ne sont pas affiliés. Il reste 19 postes vacants à pourvoir.

## **Transgender protection finally has government muscle: Tim Harper**

**Views have evolved and time has passed, but has this evolution included the Senate?**

**Tim Harper, Toronto Star, May 17 2016**

It was a day rightly celebrated by the transgender community in this country, but it was also a day to remember the human rights pioneers who went before and the ghosts who defeated them.

It was also a day for 10-year-old transgender girl Charlie Lowthian-Rickert to stand defiantly before the microphones in the House of Commons foyer and state simply, "I feel much safer."

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The introduction of a Liberal bill protecting transgender Canadians against denial of employment or workplace discrimination, and to extend hate laws under the Criminal Code to include gender identity and gender expression has been a long time coming.

There have been seven attempts to pass such legislation, and recently two private member's bills by NDP MPs actually did pass the Commons before dying slow deaths in the Senate, through a combination of neglect and active opposition.

This time this bill carries the full weight of a majority government.

Whether it is the passage of time or a natural evolution, some of those ghosts have been exorcised.

But not all, according to Bill Siksay, the former New Democrat from Burnaby-Douglas whose private member's bill on transgender rights, dubbed the "bathroom bill" by opponents, passed the Commons almost six years ago by a handful of votes, helped by the support of six Conservatives — including three cabinet ministers who overrode the opposition of then-prime minister Stephen Harper.

Siksay intuitively knew the bill's fate in the Senate and even as it passed the House, he told the transgender community in Canada, millions loved them and recognized their full humanity, no matter what happened in the other chamber.

His bill withered and died when the 2011 election was called.

Siksay, speaking from British Columbia Tuesday, told me he knows some views have moved, and it may — may — be viewed differently in the Senate this time.

"Other jurisdictions have done this and people will realize negative criticism is just dark fantasy of a very small minority of people," Siksay said. "I suspect there are people who still have concerns and have been influenced by tall tales told in certain sectors about what this bill actually means. I would rather hear (those opinions) than have them lie low. If we hear them we can confront them."

Randall Garrison, another B.C. New Democrat, whose private member's bill also died in the Senate, stood beside Liberal Justice Minister Jody Wilson-Raybould Tuesday and asked the government to guarantee passage in the Senate.

It is a guarantee the government cannot deliver and Garrison's bid Tuesday for quick unanimous support in the Commons was denied.



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Garrison actually won support of 18 Conservatives, and in another sign that times are changing, interim Conservative leader Rona Ambrose indicated she would support Wilson-Raybould's bill.

But will the ghosts reappear?

It was barely six years ago that Daniel Petit, then the parliamentary secretary to the Conservative minister of justice, rose in the Commons to denounce Siksay's bill as "useless and unclear," wrapping his opposition in the careful cloak of legal redundancy, claiming that protection already existed for the transgender community and warning additional protection for one minority group "can have unwanted social and legal consequences for another group."

A year ago, the Senate ghosts of intolerance rose again.

"As a husband and father, I am worried about the effects of this proposed legislation on my family and on other Canadians, especially on women and children," said Senator Don Meredith.

The legislation would allow "certain individuals" to prey on society's most vulnerable in bathrooms, Meredith proclaimed.

Then Meredith delivered this extraordinary assurance to fellow senators: "Certainly not all transgender people are sexual deviants."

Don Plett, a senator and former president of the Conservative party, proposed an amendment that would exclude federal "sex-specific" facilities like washrooms and change rooms from the bill.

"This act will no longer allow biological males to identify as female and gain access to vulnerable persons," he said.

Meredith and Plett remain in the Senate. Ghosts are still there.

This, of course, is no North Carolina-style bathroom debate, but a recognition of equality and dignity for a transgender community which has suffered disproportionate discrimination.

According to a 2010 Ontario survey, one in five said they had been physically or sexually assaulted.

Some will say this is largely symbolic, but even if it is, there are times such symbolism matters.

And as for the pioneers, there was a quiet sense of satisfaction but no special celebration.





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"I'll probably watch the news," Siksay said.

## **Parliament misses Supreme Court deadline for RCMP union bill**

**Top court had granted an extension, but Mounties remain in labour relations limbo**  
Alison Crawford, CBC News, May 17 2016

Sixteen months after the Supreme Court of Canada ruled that Mounties have the right to collective bargaining, Mounties now have even less of a voice when dealing with management.

In January 2015, Canada's top court gave the federal government one year to draft new legislation to permit RCMP officers to form a union or association and engage in meaningful negotiation with top brass. The previous government did little on the file before the federal election, so the Liberals asked for an extension.

The extension expired yesterday and has left Mounties in labour relations limbo, according to University of Ottawa law and business professor Gilles LeVasseur.

"What is their legal status, what are the rights and privileges that they do have and how clearly is it spelled out?" LeVasseur said to CBC News.

- [RCMP union bill moves forward without change to health benefits](#)
- [Supreme Court gives Ottawa 4-month extension on RCMP collective bargaining](#)
- [RCMP officers have right to collective bargaining, Supreme Court rules](#)

Bill C-7, the RCMP union legislation, passed third reading in the House of Commons last week after the government cut off debate.

Next stop is the Senate, but Conservative Senator Vern White said he and his colleagues have already started hearing from front-line officers unhappy with the bill. White said he is among those who will push for changes to the legislation.

### **Exclusions leave little to be negotiated**

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Bill C-7 would exclude a long list of issues from the bargaining table, such as staffing levels, harassment and equipment.

"I think there are pieces of that, that I think we in the Senate will look at closely and ask whether it's fair that they're excluded from bargaining," said White.

Critics say the bill in its present form would only permit RCMP members to negotiate pay and benefits. The RCMP remains, to date, the only non-unionized police service in Canada.

LeVasseur said it is "abnormal" to see so many limitations on collective bargaining.

"Work harassment, sexual harassment ... these are fundamental issues that need to be looked at and probably discussed. And there's a whole thing of disciplinary measures also that needs to be part of a collective agreement. It's like that in every other workforce," he said.

The concerns are among those MPs heard during parliamentary committee hearings over the last few weeks. They agreed to remove two contentious clauses that would have altered RCMP health benefits for members injured on the job, but they did not touch the exclusions.

White said RCMP management shouldn't fear negotiating with its members. He speaks from experience, having served as police chief in Ottawa and Durham Region in Ontario after retiring from the RCMP as an assistant commissioner.

White said working in a transparent unionized environment was "easy" and that leaving many issues open for negotiation is good strategy.

"When I was the chief in Ottawa, if all we could negotiate was pay and benefits. I can guarantee you that the pay and benefits costs would go to the top every time, because that's all they would have been chasing. You want them to have other things they can pursue, realistically," said White.

## **Time short before summer recess**

As it stands now, with so many exclusions to examine, White said he's not sure when Bill C-7 will become law.



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"I'm actually a little bit concerned about whether or not the bill will get through the Senate before the summer break," White said.

LeVasseur said that would be bad news for Mounties, because the RCMP brass has already disbanded the existing staff relations representative program, leaving officers without a single united voice to deal with management.

"Are [senators] entitled to go on recess, summer vacation and not have this problem solved? That will be a key issue. If they're saying no and continuing, that's good. But if they're going two, three months on vacation ... could that be considered bad faith?" asked LeVasseur.

RCMP Commissioner Bob Paulson has said he decided to disband the 41-year-old staff relations program because the Supreme Court ruled it unconstitutional. As of today, it is formally replaced by another management-created regime called the member workplace services program. Until Mounties choose whether to unionize, it will provide individual advice, support and guidance to officers with issues in the workplace.

## **M<sup>e</sup> Éric Dufour – Contentieux du ministère de la Justice**

**Éric Dufour, Barreau du Québec, le 18 mai 2016**

M<sup>e</sup> Éric Dufour est avocat pour la procureure générale du Québec. Il est quotidiennement confronté à diverses réalités avec lesquelles il doit composer. « Chaque fois qu'un ministère du gouvernement rencontre un problème judiciaire, ce sont les quelque 100 avocats au contentieux du ministère de la Justice qui plaident devant les tribunaux. Nous sommes en quelque sorte le vaisseau amiral des plaideurs du gouvernement. Si, par exemple, un professeur conteste le retrait de son brevet d'enseignement pour un acte dérogatoire à son emploi, nous allons représenter le ministre de l'Éducation. Mais c'est au nom du ministre de l'Environnement que nous agissons dans les causes environnementales. Nous représentons même notre propre



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ministère lorsque des lois sont contestées pour des motifs constitutionnels », explique le responsable du dossier du registre des armes à feu.

Fort de ses 25 années d'expérience au sein de la fonction publique, dont les 18 dernières au ministère de la Justice, M<sup>e</sup> Dufour se dit taillé pour le métier d'avocat. Pourtant, rien ne le destinait au droit, du moins pas avant qu'il soit refusé en théâtre. Déterminé, il revoit ses compétences et se réoriente. « J'ai opté pour le droit parce que j'aimais les études, notamment les lettres, et j'avais beaucoup de facilité à prendre la parole au nom des autres. » En cours de route, il développe une passion pour la plaidoirie qui, non seulement calme son dépit, mais devient une véritable drogue. « Encore aujourd'hui, je ne trouve rien de plus grisant que d'arriver à défendre, à partir de mots que j'ai choisis, une idée dont je suis convaincu être la meilleure orientation pour la population et d'en convaincre un tribunal de manière à ce que ça se retrouve dans un jugement. »

Le jeune Dufour ne manque pas d'audace. À la fin de ses études, lorsqu'il se présente pour une entrevue dans un grand cabinet de Québec, il lance à son employeur potentiel : « Ne m'engagez pas si vous ne m'envoyez pas plaider! » On tient parole et peu de temps après son embauche, il réalise son rêve. Alors rien d'étonnant à ce que M<sup>e</sup> Dufour se retrouve aujourd'hui chef d'une équipe de super plaideurs.

Son quotidien est rythmé par les dossiers qu'il doit plaider et le mentorat. « Je conseille et dirige une dizaine d'avocats. Je les laisse gérer leurs dossiers, mais j'en supervise tout de même la stratégie. » Ses nombreuses responsabilités exigent un travail acharné, certes, mais supposent par ailleurs un bon sens commun ainsi qu'une grande capacité à réfléchir et à prendre des décisions. À cela, il ajoute : « Comme plaideur, il faut savoir être réaliste quant à ses chances de succès et ses risques de perdre. Mais chose certaine, il faut passer la porte de la salle d'audience, convaincu d'avoir raison. »

Spécialisé dans les cas d'urgence — les ordonnances d'injonction ou de sauvegarde, par exemple — ses journées sont modulées par ce qui se passe sur la scène publique. « On parle ici



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de procédures rapides que l'on doit régler en quelques heures. Je me suis déjà rendu à la cour, un matin, pour plaider une injonction et en sortant de la salle d'audience, on m'en a signifié une autre, sur place, dans le corridor. Je suis donc retourné dans la salle pour plaider la deuxième injonction. De retour au bureau, mes patrons m'ont demandé un compte rendu. Je leur ai dit que j'avais gagné les deux. "Les deux?" ont-ils questionné, pas encore au courant de la deuxième! »

« Ce qui fait que je reste au PG, c'est la beauté et la très grande diversité des dossiers qui nous sont confiés, leur importance pour les Québécois, les Canadiens. Les plaideurs du contentieux sont au cœur de questions sociales majeures — l'aide médicale à mourir, l'instauration d'un registre des armes d'épaule, la constitutionnalité d'une nomination d'un juge à la Cour suprême du Canada, les réclamations contre les cigarettiers ou encore les revendications de peuples autochtones. » En évoquant aussi les nombreux dossiers d'enlèvement international d'enfants ou de subrogation en pension alimentaire, Me Dufour précise que les services rendus par le contentieux touchent la société dans toutes ses sphères. « Malheureusement, la population ignore très souvent notre implication puisque peu de nos causes font les manchettes. Mais ce qui me trouble davantage, c'est le dernier sondage qui révèle que 41 % des Québécois ne font pas confiance à notre système de justice. Mon cheval de bataille sera de chevaucher celui de la "vulgarisation" de la justice auprès de nos concitoyens. Un citoyen juridiquement informé en vaut deux! »