

Press Clippings for the period of August 16th to 22th 2016 / Revue de presse pour la période du 16 au 22 août 2016

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Minister Foote to apologize for Phoenix, in writing

Kathryn May, The Ottawa citizen, August 20 2016

Public Services Minister Judy Foote says she will issue a written apology to Canada's public servants for bungled pay caused by the federal government's new payroll system, which has already cost \$25 million to fix.

Foote said she has apologized to public servants, especially to those facing financial hardship caused by a malfunctioning Phoenix pay system, but, at the request of union leaders, she will issue a written one.

"I have already said I would apologize to anybody who is suffering hardship as a result of Phoenix," Foote said. "I have no problem at all putting an apology in writing."

Robyn Benson, president of the Public Service Alliance of Canada, said she requested the apology as part of a communiqué sent to all public servants explaining the steps those who haven't been paid can take.

Benson was among the union leaders who met with Foote on Friday for the first time since the Phoenix fiasco erupted following its initial rollout in February.

Foote also confirmed the cost of the government's various fixes, hiring of extra staff and opening new satellite pay offices and hubs has already reached \$25 million.

Last month, the government put those costs between \$15 million and \$20 million. Many say those estimates don't include lost productivity.

Phoenix is part of the massive pay transformation project launched by the Conservatives that was supposed to save \$70 million a year beginning in 2016-17.

Foote said she is tapping into those savings to get Phoenix working.

"As you heard me say before, I am not focused on savings here," she said,

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“All I know is we have a system that we have to make sure works and we are doing everything we can.”

Union leaders came to their first meeting with Foote determined to get a firm commitment that public servants will be paid one way or another.

They also wanted to be included in the fix and for their members to be consulted.

Debi Daviau, president of the Professional Institute of the Public Service of Canada, said she told Foote the government should be prepared to return to manually writing cheques to ensure people are paid while fixing Phoenix.

Foote also stood by the government’s promise to clear up the 80,000 backlog by Oct. 31, a deadline unions expect will be missed.

Benson said she stressed that if the government was going to miss that deadline they should make “it known sooner.”

“There’s nothing worse than saying you’re going to hit a target, not hit it, and then have to back-pedal afterwards,” she said.

Another big issue was working conditions at the Miramichi, N.B., pay centre. Foote said Miramichi workers will get extra training and whatever resources they need to do their jobs.

“I don’t think there was sufficient training given to those expected to do their job and if it requires more training we will make sure we do that as well,” said Foote.

Compensation advisers have accused the government of understating the backlog by counting only the 80,000 people who have pay problems.

They argue people with pay problems could have multiple issues to be resolved and putting the backlog closer to 400,000 cases or more.

Benson said the union has anonymously gathered the concerns of the workers at Miramichi about the way they are managed, which she will be turning over the Marie Lemay, PSPC’s deputy minister.

Benson said PSAC is also pressing for Treasury Board Secretariat to create a committee of union and management representatives to examine how Phoenix unfolded and ensure people are getting paid properly.

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Benson said she asked Foote about the performance pay gives to executives who oversaw the design and implementation of Phoenix.

Foote said all performance pay is on hold and that the focus is on getting regular pay cheques to employees.

Cost to fix federal government's Phoenix pay system jumps to \$25M

Minister says department still on track to fix pay problems for 80,000 employees by Oct. 31
Katie Simpson, CBC News, August 19 2016

The price tag to fix the federal government's new payroll system has jumped by as much as \$10 million in the past month, with Public Works Minister Judy Foote saying the cost has now reached \$25 million.

"As you've heard me say before, I'm not focused on savings here ... I'm really interested in solving and fixing Phoenix, and we're going to do whatever we have to do to do that," Foote said.

The new information emerged after Foote met with union leaders on Friday to discuss the government's troubled computerized pay program called Phoenix.

- [Phoenix managers' performance pay tied to timely payroll system roll-out, other targets](#)
- [PSAC members protest Phoenix pay system, Judy Foote in St. John's](#)
- [Unions owed hundreds of thousands of dollars in Phoenix payroll fiasco](#)

Since the system was rolled out earlier this year, more than 80,000 public servants have experienced pay problems.

Foote used the meetings to assure union representatives that the government is still on track to clear the backlog of issues by the end of October.

"As far as I'm being told, at this point in time, it is a firm deadline," Foote said.

The Public Service Alliance of Canada, one of the largest unions representing public servants, has [openly doubted the government's ability to meet that deadline.](#)

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PSAC's national president asked the minister for a warning if there's a chance the deadline could be pushed ahead.

"I did stress to them that it would be appropriate, if they weren't going to make that target, to make it known sooner," Robyn Benson said.

"Because there's nothing worse than saying you're going to hit a target, not hit it, and then have to back-pedal afterwards."

Additional apology

Foote has also agreed to issue another apology for the Phoenix fiasco, this time in writing — something PSAC had asked for.

"I have already said I would apologize to anybody who is suffering hardship as a result of Phoenix," Foote said. "I have no problem at all putting an apology in writing," Foote said.

The memo will also contain specific information about how workers affected by the pay system can access financial help.

PSAC says Public Works has also agreed to create a new committee that will try to answer key questions, such as "What's happened in the rolling out of Phoenix? What still needs to happen? How can we assist our members and their employees to ensure they can get money to buy groceries?" Benson said.

Performance pay questions linger

PSAC also questioned Foote about bonuses for executives in charge of rolling out Phoenix.

CBC News has confirmed managers were promised performance pay if they hit key objectives, including keeping the project on schedule.

Public Services and Procurement Canada says no executive performance pay has been handed out for 2015-16.

The information has prompted questions from the NDP about whether performance pay was a motivation for managers to roll the system out even if it wasn't ready.

"That's not my understanding," Foote said. "Of course, I don't know because I wasn't there in terms of the actual time frame of when it was supposed to be rolled out."

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When Benson asked about bonuses, she said, "There was not a clear answer."

"She [Foote] didn't answer, her deputy minister avoided it, if you will," Benson added.

Foote told reporters the issue rests with the previous Conservative government.

Ottawa's deadline to fix Phoenix pay problems is 'unrealistic,' union says

Government Services Union national president says federal deadline to fix issues 'not reachable whatsoever'

Jordan Gill, CBC News, August 16 2016

A union representative for employees at the federal government's Miramichi Pay Centre said her members are not convinced that issues with the much-maligned Phoenix pay system will be fixed by the federal government's deadline of Oct. 31.

"That's actually not reachable whatsoever. When I discussed that last night with my members they just totally dismissed it as unrealistic. It will take a long time to fix these problems," said Donna Lackie, national president of the Government Services Union.

"For every problem they solve, another one crops up."

These views came out of a town hall event held Monday night in Miramichi to discuss the pay system that was implemented in 2009, and went live in February.

While the new centralized pay centre created 550 jobs for the region, the system had problems seemingly from the start.

More than 80,000 federal public servants have been affected by pay irregularities. The issues have run the gamut from being paid too much, too little or not at all.

The government has stated that any issues from employees who weren't paid properly that were backlogged before June 2016 would be processed by Oct. 31.

CBC News is attempting to reach the Department of Public Services and Procurement for comment.

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Public Services Minister Judy Foote visited the pay centre in July and announced that 50 additional people had been hired in Miramichi to help address the issues.

The federal minister also said other options were being explored to solve the problems.

While Lackie said she believes the problems plaguing the federal pay system aren't being caused by just one factor, members are telling her that lack of personnel is a big part of the problem in responding to the issues.

"I think they certainly need to hire more people. They could hire hundreds more people, that would be reasonable. Last night people told us we could double, triple our staff," said Lackie.

Lackie said that the sheer volume of irregularities that have to be sorted is the biggest issue now and that is putting a lot of stress on centre employees.

"[They're] working with a system that's just not supporting them to do their jobs," said Lackie.

The payroll system is the largest in the country, covering 300,000 employees.

Canada to increase anti-terror efforts with new office to curb radicalization

Public safety minister acknowledges limitations of peace bond in Aaron Driver case
Susana Mas, CBC News, August 17 2016

Public Safety Minister Ralph Goodale says the Canadian government will step up its anti-terror efforts, but won't be rushed into passing new laws in the wake of a foiled plot in Ontario last week.

"You don't develop good law in a panic," Goodale said Wednesday following a speech to the Canadian Association of Chiefs of Police in Ottawa.

His comments come after ISIS sympathizer Aaron Driver was [killed last week in Strathroy, Ont.](#) The RCMP was tipped off by the FBI about a "martyrdom video" and a planned attack within 72 hours in an urban centre during morning or afternoon rush hour. A subsequent inquest determined Driver died from RCMP gunfire.

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Goodale said the government is in the final stages of hiring a senior adviser that will spearhead an anti-terror program to counter radicalization, with a new national office opening sometime in the fall.

"That person will be directing a very important effort to up our game in Canada in terms of recognizing and understanding the process of radicalization, who's vulnerable to it, why they would be vulnerable, and what are the most effective tools and instruments ... to prevent the problem in the first place."

Driver, 24, was under a court-ordered peace bond intended to limit his activities after the RCMP became aware of his communications with what they said were well-known ISIS supporters in the U.K. and the U.S.

The incident raised [questions about the effectiveness of peace bonds](#) as a tool to deal with suspected terrorists and the need to review Canada's anti-terror laws.

In an interview on CBC News Network's *Power & Politics*, Goodale shrugged off criticism that his government was guilty of an intelligence failure — because it had been the FBI to identify Driver's video and not the RCMP — saying he was satisfied that the system worked the way it was intended to.

"There's a very robust relationship between Canada and the United States with respect to our security and intelligence activities, and it works both ways," Goodale said.

"There are some circumstances where information of value to the Americans is provided by us to them, and there are other circumstances where information that's of value to us is provided by them to us. It works in both directions," he said.

Peace bonds 'not a panacea'

On Wednesday, Goodale acknowledged the limitations of a peace bond and conceded it was "not effective" in this particular case.

"We have recognized, that for this incident and beyond it, that peace bonds have some usefulness, but they're not a panacea. They're a tool that has limitations," Goodale said on Wednesday.

Goodale said the government is studying the possibility of expanding the terms and conditions of peace bonds to include mandatory counter-radicalization counselling, which could be "helpful and effective."

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"There had been some ad hoc interventions, but nothing that was deliberate and organized," Goodale said of the [way Driver's peace bond case was handled](#).

In response to a legal challenge by Driver, a Manitoba judge ruled in earlier this year that requiring participation in a treatment program violated the charter's protections for thought and expression.

- [ANALYSIS | What Aaron Driver means for the debate on amending Bill C-51](#)
- [ANALYSIS | Justin Trudeau's turn to lead in a time of terror](#)

According to the Public Prosecution Service of Canada, there is currently one active terrorism peace bond, with nine others pending.

Kadir Abdul agreed to a peace bond in July, in Brampton, Ont., said Elizabeth Armitage, a spokeswoman for the prosecution service, in an email to CBC.

Canada's efforts lagging

Canada's anti-radicalization efforts appear to be lagging behind that of its allies, said University of Calgary political science professor Michael Zekulin in an [interview with CBC Radio's Chris Hall](#).

According to Zekulin, whose research focuses on terrorism and radicalization, successful deradicalization programs include components of security, prevention and disengagement.

"All of our allies have worked well into the preventative and are now looking into the disengagement component. Here, we're talking about the counter-radicalization strategy, the preventative part of it," Zekulin said on Wednesday.

"In that sense, we actually seem to be a full prong behind."

Liberals move to reassure Canadians on terrorism

The Canadian Press, August 15 2016

The governing Liberals are moving further to reassure Canadians that they have a grip on combating the threat of terrorism in the wake of last week's death of a man suspected of plotting an attack.

Public Safety Minister Ralph Goodale is to be in Montreal Monday where he is to talk about how the government is moving ahead with a program designed to reach out to those who are

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vulnerable to radicalization in order to nip in the bud suspected terrorist plots like the one in southern Ontario last week.

Goodale is to visit a Montreal centre devoted to preventing radicalization that leads to violence. He is expected to speak broadly about the program but details aren't expected until a later date.

Last week, he stressed the importance of identifying those who are open to radicalization and finding the right way to prevent situations such as the death of a man in Strathroy, Ont., who was suspected of planning a terrorist attack.

Goodale will announce the federal government will replace immigration detention facilities in Laval, Que., and Vancouver. He is to visit the existing detention facility in Laval on Monday. A Red Cross investigation in 2014 found numerous shortcomings at facilities for immigrant detainees including overcrowding and inadequate mental health care. Newcomers are often held in provincial jails or police facilities alongside suspected gang members and violent offenders.

It also appeared the Liberal government was mindful about questions asked last week about why it was the FBI who detected the alleged terrorist plot that led to the death of Aaron Driver. Ralph Goodale issued a statement Sunday explaining how Canadian authorities are constantly working with international allies to identify possible terrorist threats.

Last week, the RCMP fielded media questions about why it was the FBI and not the Mounties who discovered a video that led them to Driver, who police said had threatened to detonate an explosive in an urban centre.

Driver died Wednesday night after a confrontation with police that saw a bomb detonated in a taxi cab. It's not known whether he died from the blast or from a police bullet.

In his statement, Goodale suggested that a free flow of information between Canadian and U.S. intelligence and law enforcement agencies is the norm.

"Consistent with the robust security alliance that we have with the U.S., the Americans passed that material to the RCMP," said Goodale's statement, which prominently mentioned the context of the FBI contribution.

"It's important for Canadians to know that our agencies and their global partners are monitoring potential risks and threats all the time — 24-7, 365 days a year."

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Last week's incident, as well as the attack on Parliament Hill in 2014, have led to an appetite among Canadians to examine current national security measures and look at how they can be improved to better protect Canadians while safeguarding civil liberties, Goodale said.

Some of that work has already started and will intensify in the fall, he said.

Terrorisme: Ottawa reconnaît les limites des outils de prévention

Melanie Marquis, Le Devoir, le 18 août 2016

L'interception *in extremis* d'un sympathisant du groupe armé État islamique (EI) qui voulait commettre un attentat dans une grande ville canadienne a mis en lumière les « *limites* » des engagements de ne pas troubler la paix publique, a reconnu mercredi le ministre fédéral de la Sécurité publique.

Le jeune Aaron Driver a réussi à se procurer des explosifs, à planifier une attaque et à tourner une vidéo pour la revendiquer — tout cela alors qu'il était visé par une ordonnance de ne pas troubler l'ordre public.

La Gendarmerie royale du Canada (GRC) a reconnu que le jeune homme n'était pas surveillé constamment par les autorités et que seuls les renseignements transmis par la police fédérale américaine (FBI) l'ont aiguillée sur son plan macabre.

La police fédérale a finalement déjoué l'attaque en abattant celui qui l'avait imaginée, mercredi soir dernier. Mais dans la foulée de ces événements, une réflexion sur l'efficacité des engagements de ne pas troubler la paix publique s'impose, a convenu M. Goodale.

« *Ce que l'incident démontre, c'est que les engagements de ne pas troubler l'ordre public sont des outils qui ont des limites. Ce n'est pas une solution parfaite à toutes les situations* », a-t-il dit en marge d'un discours livré devant l'Association canadienne des chefs de police, à Ottawa.

« *Évidemment, nous en tirerons des leçons [...] pour voir quels autres outils et techniques pourraient être plus efficaces* », a-t-il poursuivi en mêlée de presse.



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Assujettir les personnes susceptibles de se radicaliser à des séances de rééducation avec des experts en cette matière a été évoqué comme l'une des pistes de solution par le ministre Goodale.

« Une idée [...] serait d'inclure dans les conditions des engagements de ne pas troubler la paix publique l'obligation, pour l'individu, de rencontrer des professionnels de la lutte contre la radicalisation », a-t-il exposé.

« Il existe actuellement certains centres au Canada qui possèdent cette expertise. Celui de Montréal, par exemple, est particulièrement avancé », a-t-il souligné.

Une douzaine d'individus

Le ministre a précisé qu'il y a actuellement « environ une douzaine » d'individus au Canada qui se sont engagés à ne pas troubler la paix publique après avoir été identifiés à risque de perpétrer un attentat terroriste.

Le gouvernement bougera rapidement pour apporter de nécessaires améliorations à la législation en matière de sécurité nationale. Mais il n'est pas question de céder à la panique et d'accoucher d'un projet de loi « gribouillé au dos d'une enveloppe », a insisté M. Goodale.

« Nous allons le faire de façon appropriée et intelligente. Les bonnes lois ne s'élaborent pas dans la panique », a-t-il martelé.

Consultation sur la sécurité nationale

C'est la raison pour laquelle le fédéral tient à boucler une consultation sur la sécurité nationale, qui « s'accéléra au cours de l'automne » et qui devrait se conclure d'ici la fin de l'année, avant de se mettre à la rédaction d'une mesure législative, a indiqué le ministre.

« Certains des problèmes que nous avons avec les lois adoptées dans le passé, c'est qu'elles avaient été élaborées de façon peu rigoureuse et qu'elles n'avaient pas bénéficié de l'examen approfondi qui s'imposait », a-t-il fait valoir.

En campagne électorale, les libéraux ont promis de créer un bureau de sensibilisation et de lutte contre la radicalisation. Le budget déposé en mars dernier prévoit l'octroi de 35 millions sur cinq ans dès 2016-2017, puis 10 millions annuellement, pour ce bureau.

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Stronger anti-terror measures needed after peace bond failed to stop Aaron Driver from making bombs: Goodale

Ian MacLeod, The Ottawa Citizen, August 17 2016

Stronger anti-terror measures are needed after a court-ordered peace bond failed to stop jihadist Aaron Driver from making bombs and plotting an attack, Public Safety Minister Ralph Goodale said Wednesday.

“What the incident shows is that peace bonds are tools and instruments with limited capacity, it’s not a perfect solution to every situation,” Goodale told reporters Wednesday after a speech to the Canadian Association of Chiefs of Police.

One option would be to amend the Criminal Code to require professional de-radicalization counselling for individuals suspected as terrorist sympathizers “to change (their) behaviour,” he said.

Peace bonds generally demand that a person “keep the peace and be of good behaviour” and are a useful tool for police when they do not have sufficient evidence to criminally prosecute an individual but believe that protection beyond surveillance is required. Judges typically attach additional conditions on the recommendation of police.

Driver’s initial June 2015 peace bond required him to “participate in religious counselling.” He launched a constitutional challenge in court and in January a judge ruled the condition violated his Section 2 Charter right to freedom of conscience and religion. A requirement he wear a GPS tracking bracelet was later lifted by another judge.

Driver’s killing by police outside his home in Strathroy, Ont., last week is the second time the peace bond regime has been unable to stop a suspected dangerous individual. Weeks before ISIL sympathizer Martin Couture-Rouleau struck and killed Warrant Officer Patrice Vincent with a car in St-Jean-sur-Richelieu, Que., on Oct. 20, 2014, police considered seeking a peace bond to restrict his movements after Couture-Rouleau’s father told police his son had become radicalized.

Authorities concluded they did not have sufficient grounds to secure a peace bond from a judge.

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The then-Conservative government quickly responded with Bill C-51, the controversial legislation giving security services and police sweeping powers to combat threats to national security. It included lowering the standard-of-proof threshold for obtaining peace bonds against individuals suspected of engaging in or helping with terrorist activities.

Now that Criminal Code provision, too, appears to be wanting.

“Based on the experience of Strathroy, we obviously need to examine those provisions in the code to see where corrections need to be made, where strengthening can be provided, where the whole impact of the use of this tool can be made more effective,” Goodale said.

Leading terrorism experts say the problem goes beyond court orders to keep the peace, especially when dealing with individuals willing to sacrifice their lives for the jihadist cause.

Peace bonds are based on threat assessments by the RCMP, possibly with input from the Canadian Security Intelligence Service (CSIS). With Driver and Couture-Rouleau, those assessments proved to be wrong, said Wesley Wark, a terrorism expert at the University of Ottawa.

“That threat assessment was basically that Aaron Driver was a person that liked to talk very openly about his support for the Islamic State (of Iraq and the Levant), jihad and all the rest of it, but was unlikely to take any action,” he said.

“Who at the end of the day has the final say on the threat assessment? How do they come up with judgments and were those judgments reviewed from time to time or were they set in stone?”

Breaching the conditions of a national security peace bond — not using a computer, for example — can result in up to four years in prison. Civil libertarians and others, however, say that can allow authorities to imprison a person without the state having to mount any criminal prosecution in court.

Goodale said possible changes to the peace bond regime will be considered as part of the government’s review of national security laws and practices, including long-promised reforms of the “problematic elements” of C-51, now known as the Anti-terrorism Act of 2015.

A government national security framework consultation paper, to have been released two weeks ago, is now expected out in the fall. Goodale said the Liberals will spend the rest of the year consulting and gathering feedback from experts and the public.

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That means the Liberal's promised repeal of parts of C-51 won't happen until next year at the earliest.

Goodale bristled when reporters suggested the government appears to be ragging the puck on C-51 reform.

"We are going to do this in a proper, intelligent way," he fired back. "You develop good law by taking people's views into consideration and thoughtfully proceeding ... so that the law will withstand the test of time and keep Canadians safe and safeguard the values of Canada. Those are too important things to deal with in a superficial or incoherent way."

Liberals still plan to repeal parts of counterterrorism powers brought in by Harper government

Jason Fekete, the Ottawa Citizen, August 11 2016

The Liberal government, following a thwarted terrorism plot, says it still plans to repeal parts of sweeping new counterterrorism powers adopted by the Conservatives and insists Canada must focus much more on counter-radicalization.

Prime Minister Justin Trudeau's government came under fire Thursday from the opposition Conservatives over its plans to revoke some of the national security measures contained in the contentious Bill C-51, as well as for the Liberals' overall approach to fighting terror.

Trudeau, who has been holidaying in British Columbia, didn't comment Thursday – leaving it to Public Safety Minister Ralph Goodale and the RCMP – prompting more criticism from interim Conservative Leader Rona Ambrose.

Goodale told reporters the "disturbing event" serves to remind Canadians that the country is not immune to terrorism, insisting "unwavering vigilance is always required."

"There is no greater responsibility for any government than to ensure public safety," Goodale said at a news conference in Regina.

Nevertheless, Goodale said the Liberals still plan to live up to their election promise to repeal "problematic elements" of C-51.

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The Liberals want to guarantee that all Canadian Security Intelligence Service warrants respect the Charter of Rights and Freedoms; require that government review all appeals by Canadians on the no-fly list; and narrow overly broad definitions such as defining “terrorist propaganda” more clearly, among other measures.

The government has also tabled legislation to create its promised all-party national security oversight committee.

The Anti-terrorism Act of 2015, formerly Bill C-51, passed by the former Conservative government included new counterterrorism powers to investigate, detain, arrest, silence or otherwise thwart individuals suspected as threats to the security of Canada.

Goodale said that, later this summer, the government will accelerate its consultations with Canadians about what they want to see in an updated national security framework.

Bill C-51 also made it easier for police to obtain peace bonds, allowing them to be issued when there is evidence someone “may” commit a terror offence. Although known ISIL sympathizer Aaron Driver, who was killed Wednesday in a confrontation with police in Strathroy, Ont., was under a peace bond, he wasn’t under constant surveillance.

Asked whether the government should make it easier to obtain peace bonds, Goodale said: “No tool, in dealing with these kinds of circumstances, will be perfect.”

Wednesday’s events underscore the need for Canada to become “a world leader in counter-radicalization,” the minister said.

He said the Liberal government’s promised new counter-radicalization office will open “in the very near future.” The goal of the office will be to develop expertise, identify those potentially vulnerable to radicalization and connect with them to prevent terrorist activities.

The RCMP says its was tipped off by the FBI early Wednesday about a video and “imminent threat” from an individual quickly identified as Driver.

The Mounties said information they received indicated Driver planned to detonate a homemade explosive device within 72 hours in an urban centre during morning or afternoon rush hour.

On the heels of the incident, Ambrose said she remains concerned that Trudeau and the Liberals are promising to remove some of the new counterterrorism powers that were included in C-51.

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The new powers provided to authorities are “some of the very tools that our law enforcement intelligence officers use to actually thwart terror plots here in Canada,” she said.

“I think it’s time, sooner than later, that Mr. Trudeau put to rest what it is his plans are with Bill C-51,” Ambrose said in an interview.

“It’s important that the Liberal government reassure all Canadians that in fact, we, our security and intelligence services, are going to be able to keep the tools that they need to do their job.”

Ambrose also took issue with Trudeau remaining silent on the matter, when Canadians are looking for some reassurance from their political leaders that they are safe.

“You’ve never really on vacation when you’re the prime minister,” she said. “The fact that this happened so close to home for so many people, of course it would be reassuring if the prime minister spoke on it. He’s the head of the government.”

NDP Leader Tom Mulcair said Thursday that New Democrats, who want C-51 repealed because of concerns it tramples personal freedoms, “don’t think that the Liberals have ever been able to prove their case that Bill C-51 strikes the right balance.”

Attentat terroriste déjoué : Trudeau compte sur le comité parlementaire annoncé

La Presse Canadienne, Le Devoir, le 16 août 2016

Le premier ministre Justin Trudeau estime que le comité parlementaire créé pour surveiller les activités des agences de renseignement aura à évaluer l’efficacité du travail de ces agences.

La semaine dernière, la Gendarmerie royale du Canada (GRC) a intercepté un jeune Canadien qui préparait une attaque terroriste. Aaron Driver a été abattu par la police, mercredi soir, dans une petite ville du sud-est de l’Ontario. Le jeune homme était connu des autorités canadiennes. Mais c’est le FBI qui a alerté la GRC alors que l’homme préparait un attentat imminent.

Mardi matin, M. Trudeau était en Nouvelle-Écosse pour annoncer du financement pour des projets d’infrastructure. Au cours du point de presse qui a suivi son annonce, les journalistes lui ont demandé de justifier la nécessité d’une intervention américaine alors que le jeune Driver était surveillé par les autorités canadiennes.

Le premier ministre a d’abord félicité les policiers canadiens pour leur travail.

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Puis, il a rappelé la nécessité d'un équilibre entre la sécurité des Canadiens et le respect de leurs droits, avant d'ajouter qu'un comité parlementaire, annoncé par son gouvernement le printemps dernier, jugera du travail des agences comme la GRC et le SCRS (Service canadien du renseignement de sécurité).

« La surveillance assurera que nos agences de renseignement et de sécurité sont bel et bien en train de faire tout ce qui est nécessaire pour garder les Canadiens en sécurité », a déclaré M. Trudeau.

« Cette situation de la semaine dernière et des situations semblables, c'est exactement le genre de choses sur lesquelles le comité de parlementaires aura à s'exprimer, aura à réfléchir », a-t-il ajouté. Le premier ministre s'attend à ce que ce comité offre « des conseils sur la manière dont on peut encore mieux assurer la sécurité des Canadiens, comme nous avons pu le faire la semaine dernière ».

Par ailleurs, c'est une contribution fédérale de 87 millions pour des projets de traitement des eaux usées et de 32 millions pour le transport en commun que M. Trudeau a annoncée à Bridgetown, aux côtés du premier ministre de la province, Stephen McNeil.

Manifestement heureux de se retrouver dans un terrain ami – les provinces maritimes n'ont envoyé que des députés libéraux à Ottawa – M. Trudeau a esquivé les questions sur son refus de s'engager à nommer un juge de cette région pour le poste vacant à la Cour suprême du Canada.

Il a préféré insister sur l'annonce du jour.

« Nous avons un alignement historique avec des premiers ministres qui partagent les mêmes valeurs que le gouvernement fédéral, avec une approche qui se ressemble à travers les provinces de l'Atlantique. Et nous travaillons ensemble pour prendre avantage de ce moment », a-t-il dit.

Trudeau says rights must be balanced with security in battling terrorism

'Getting that balance right isn't always easy in the challenging situation we now live in,' PM says

Micheal Tutton, CBC News, August 16 2016

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An alleged terrorist plot in Ontario that created anxieties over police monitoring of suspects hasn't shaken Prime Minister Justin Trudeau's emphasis on balancing civil liberties with public safety.

In his first reaction to an alleged plot that led to the death of Aaron Driver in Strathroy, Ont., Trudeau said Tuesday that balancing individual rights with keeping Canadians secure from bombing threats has to be handled with care.

"Canada is a country that values its freedom (and) its basic charter rights," he said during a stop in Bridgetown, N.S., for [an infrastructure announcement](#).

"All Canadians expect their government to do two things: to keep Canadians safe and to defend and uphold the values and rights that all Canadians hold dear."

"Getting that balance right isn't always easy in the challenging situation we now live in but it's extremely important."

Last week, the RCMP fielded media questions about why it was the FBI and not the Mounties who discovered a video that led them to Driver, who police said had threatened to detonate an explosive in an urban centre. Trudeau was asked the same question Tuesday but did not answer directly.

Driver died Wednesday night after a confrontation with police that saw a bomb detonated in a taxi cab. The Ontario Provincial Police said Tuesday an autopsy shows Driver [died from a gunshot wound](#).

Trudeau said to applause from about 300 people gathered along the tranquil Annapolis River that he congratulates the security services and police for "having managed to prevent any serious incidents related to this particular individual."

"It is something we continue to work very, very hard on to keep Canadians safe in their homes and communities right across this country."

The prime minister mentioned the continuing presence of Canada's special forces in northern Iraq, where they are assisting in the war against the Islamic State of Iraq and Syria, also known as ISIS or ISIL.

He said the wider response against domestic terrorism will be rolled out by Public Security Minister Ralph Goodale as the Liberals continue plans to reform former prime minister Stephen Harper's anti-terror law, Bill C-51.

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Parliamentary oversight

During the last federal election, the Liberals pledged to guarantee that all Canadian Security Intelligence Service warrants respect the charter, that the right to lawful protests and advocacy aren't violated, and they pledged to "narrow overly broad definitions (in Bill C-51), such as defining 'terrorist propaganda' more clearly."

They also said a Liberal government would limit the Communications Security Establishment's powers by requiring a warrant to engage in the surveillance of Canadians and emphasize community outreach to battle radicalization of youths.

Asked if the reforms are being revisited in light of cases like Driver's, Trudeau referred to the Liberals' plan to create an all-party committee of parliamentarians to oversee national security agencies.

He said the committee will ensure the agencies "don't go too far and violate our fundamental rights and freedoms when they work hard to keep us safe."

"But at the same time, oversight will ensure that our intelligence and security agencies do everything necessary to keep Canadians safe," said Trudeau.

"This situation of last week and situations like it will be exactly the kind of thing I expect this committee of parliamentarians to weigh in on and advise how we can do an even better job of keeping Canadians safe, like we were able to do last week."

Liberals looking to build wiggle room into mandatory minimums brought in by Conservatives

Jim Bronskill, The National Post, August 21 2016

The Liberal government is studying the idea of building some wiggle room into the controversial convention of mandatory minimum sentences to avoid unduly harsh penalties in cases that don't warrant them.

The examination is part of a federal review of changes to the criminal justice system and sentencing reforms ushered in by the previous Conservative government, a frequent champion of setting minimum penalties for crimes involving drugs, guns and sexual exploitation.

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A report prepared for the Justice Department says “a politically viable strategy” is to craft exemptions to mandatory minimums that kick in when certain criteria are met, as seen in several other countries.

For instance, relief from a mandatory minimum could be granted in the case of a juvenile offender, an early guilty plea or when an accused provides substantial help to the state, says the report by criminologist Yvon Dandurand of the University of the Fraser Valley in British Columbia.

“The main argument in favour of creating exceptions to the application of mandatory minimum penalties remains the need to avoid unjust and arbitrary punishment,” says the report, completed in March and recently disclosed under the Access to Information Act.

Justice Minister Jody Wilson-Raybould is looking at mandatory minimum penalties and other related issues “as a key priority” in support of her criminal justice review, said Whitney Morrison, a spokeswoman for the minister.

In finding mandatory minimum sentences for certain firearms offences unconstitutional, the Supreme Court of Canada said last year that minimums amount to “a blunt instrument” that can result in a disproportionate sentence.

Such laws prescribe minimum sentences of 90 days for a repeat offence of selling a large volume of contraband tobacco, six months for distributing child pornography and five years for trafficking someone under age 18.

Conservative justice critic Rob Nicholson, who served as justice minister in the Harper government, makes no apologies for mandatory minimums, saying they send a stern warning that some crimes carry stiff penalties.

“I believe that the steps that we took were reasonable in terms of protecting the public and standing up for victims and sending out a message that some of this criminal activity was completely unacceptable,” Nicholson said in an interview.

Dandurand’s report updates research he carried out four years ago for the Uniform Law Conference of Canada, which highlights inconsistencies in legislation across the country and makes recommendations for improvement.

It notes that mandatory sentences take many forms, but generally prescribe both the type of penalty and the minimum level of the sanction. Sometimes they apply only to repeat offenders.

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In the majority of countries where mandatory minimums exist — including England, the United States, Sweden and Australia — “some exceptions to their imposition have been provided by law,” Dandurand found.

In some cases, the mandatory scheme specifically spells out grounds under which a court can override the presumption of a minimum sentence and exercise judicial discretion.

Related

- [Peter MacKay slams Supreme Court for quashing mandatory minimum gun sentences](#)
- [Matt Gurney: Judges have brought mandatory minimums onto themselves](#)

However, such “safety valve” provisions are almost non-existent in Canadian sentencing law, the report says.

Several jurisdictions have shown that it is “possible and useful” to introduce exceptions to mandatory minimum penalties, based on criteria that set a high threshold for any departure from the legislated minimum, the report concludes.

The Conservatives would challenge any attempt by the Liberals to water down mandatory sentence provisions, Nicholson said.

“I’d say, why are you doing this? Did you consult with victims’ groups? What’s the problem? The bills that we brought in, I believe, were reasonable.”

Law forcing you to hand over passwords unlikely to pass, lawyers say

Emma McIntosh, Calgary Herald, August 17 2016

A new law being sought by police chiefs that would force civilians to hand over electronic passwords would likely violate civil rights.

As a result, experts say, it’s very unlikely to ever come to pass.

“We do have rulings in Canada and in other jurisdictions that say this type of mandated disclosure is not acceptable, specifically because it forces people to participate in their own

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incrimination,” said Tamir Israel, a lawyer for the Ottawa-based Canadian Internet Policy and Public Interest Clinic (CIPPIC).

Calgary police Chief Roger Chaffin was among those at the Canadian Association of Chiefs of Police who voted Tuesday [to ask for legal means to obtain passwords](#), saying it would help law enforcement keep pace with cybercrime.

The CACP is a lobbying organization, and the resolution passed has no effect on current law. Though details on prospective legislation weren’t released, RCMP assistant commissioner Joe Oliver said Tuesday that any searches would require a judge’s permission.

Israel said that depending on what the specifics of such a law would be, it’s very likely it would violate Canadians’ right to not self-incriminate, and not stand up to scrutiny from the Supreme Court of Canada.

“It’s hard to fully assess it without knowing the full parameters of what they have in mind,” he said.

Previous Supreme Court rulings have said it’s OK for law enforcement to go into devices in certain, limited contexts. Officers can do a cursory search of a phone unprotected by a password or passcode shortly after arresting someone, for example.

However, they can’t take an in-depth look or try to get into a password-protected device without a warrant, nor can they force anyone to give them a password.

The Calgary Police Service declined to speak to Postmedia for this story.

However, on Tuesday, Dep. Chief Sat Parhar, who voted in favour of the resolution, said a law granting police access to passwords would help with a range of cases, from everyday fraud to possible terrorism.

“We don’t want to abuse it — the idea here is that we’re actually going through a process that’s guided by law,” Parhar said.

“Police have to have a presence in that world.”

But Israel said police already have access to more information than ever before, and workarounds can often retrieve the information without accessing the whole device.

“The use of passwords and encryptions forces police to use more targeted tools,” he said.

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This isn't the first time the CACP has asked for powers beyond what the law currently allows. Last year, it passed a resolution to ask for access to real-time telecom subscriber information without a warrant, but the idea was never put into law.

Rocky Mountain Civil Liberties Association director Sharon Polsky said Canadians should be aware of the balance between revealing information for the common good and violating civilians' privacy.

"(More information is) not necessarily a bad thing, but we don't know what they're going to do with it," she said.

Why regional representation on the Supreme Court does (and doesn't) matter

Reflecting Canada's regions confers legitimacy on the top court, even if doesn't influence the judges' rulings.

Robert Schertzer, Policy Options, August 17 2016

Prime Minister Trudeau's letter outlining the new appointment process for Supreme Court justices has caused quite a stir.

The new process should be lauded for its transparency. At a minimum, we now know the basic process for how justices will be selected, which is a departure from the ad hoc and shifting approaches of previous governments (both Conservative and Liberal). The proposal also has admirable goals: an open application process, a nomination board with highly qualified professionals, a chance for members of Parliament to question the nominee and a requirement that the appointee be bilingual while also representing "the diversity of our great country."

The value of some of these elements can — and surely will — be debated for some time. There are a number of valid questions: will MPs politicize the process with their questions? Will the bilingualism requirement narrow the pool of applicants? How will the focus on greater diversity impact the concept of merit?

But the fact that applications to fill a vacancy can come in from across the country has been the most unexpected aspect of the new process. The issue here is the potential for the government to break from the practice of ensuring regional representation on the Supreme Court. When Justice Thomas Cromwell, from Nova Scotia, retires next month, convention dictates that his replacement should also be from Atlantic Canada. The Minister of Justice, responding to the

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criticism, has clarified that while Atlantic Canadians will be considered, “the next appointment...will not necessarily be a person from Atlantic Canada,” while also saying, “We recognize the importance of regional representation.”

This is far from a guarantee for Atlantic Canada.

Divvying up the seats on the Supreme Court by region can be traced back to the institution’s founding. The focus tends to be on Quebec’s three seats, guaranteed by law (and now by the Constitution, as the decision on the failed appointment of Justice Marc Nadon clarified). But the other regions also expect to be represented: over time this has meant that three justices come from Ontario, two from the West and one from the East. This formula has almost always been maintained, and any deviations from it have quickly been rectified. Indeed, the importance of regional affiliation was encapsulated in a 1983 speech that Justice Jean Beetz (from Quebec) gave on how one qualifies to become a member of the Supreme Court. After reflecting on the personal qualities of a judge, like prudence, wisdom and good judgment, he told the audience at York University that what really mattered was luck: you have to come from the region where there is a vacancy.

Now, finding the best judges in the country should not be left up to chance. So why maintain the practice of regional representation? The answer is legitimacy.

The Court is one of the most important political institutions in the country. Its decisions affect the lives of Canadians in countless ways, from defining our basic rights (like the right to assisted death) to settling federal-provincial conflicts over the design of our democratic institutions (like reforming the Senate). Some criticize the Court’s power, given that it is an unelected body. But this power is one of the reasons why maintaining a link to regions is important.

The Court is not just a legal body; it is one of our key federal institutions. It is the “guardian of the Constitution,” as it likes to say. In this role, it is supposed to bring the various perspectives from the different regions of the country to bear on the questions of the day. This view is what guided its decisions in the Nadon affair and the reference to the Court on Senate reform. The Court was clear in these cases that protecting provincial interests within our national institutions was a key part of the federal pact.

The Liberals seem to have decided that reflecting the diversity of Canada, writ large, is more important than ensuring regional representation. This is not necessarily a bad thing: it is a very Trudeauvian approach to federalism, focusing on individuals over provinces. Making choices when it comes to competing diversities is a hard thing to do.

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At the same time, does this regional representation really matter beyond the symbolic? Judges are people, and they do bring with them their own unique perspectives when carrying out their duties. So you would assume the answer is yes. But judges — particularly those who are elevated to the highest court in the land — are also outstanding lawyers who have been trained and indoctrinated to push aside their own beliefs in service to the law.

Political scientists have long studied the behaviour of judges to confirm whether their personal beliefs do actually affect their decisions. Studies of the US Supreme Court clearly show that the ideology of the judges (as liberal or conservative) plays a significant role in their decisions. This is less the case in Canada, but for a few judges their ideology does affect their track record on certain issues.

I found no real evidence that justices from Quebec actually tended to favour the province in federalism disputes.

When it comes to the regional affiliation of a judge, there is even less evidence that it affects their rulings. While some studies show Supreme Court justices from different regions voted differently in the past, since the Charter of Rights and Freedoms came into effect, these differences have all but disappeared.

In a recent study I looked at how Quebec justices have acted on the Supreme Court as representatives for their home province. This is an area where we could expect to see the strongest possible expression of regional representation. And yet I found no real evidence that justices from Quebec actually tended to favour the province in federalism disputes. In fact, Quebec justices tend to support the federal government (perhaps because they are appointed by the prime minister).

But the power and importance of symbolism should not be underestimated. The Supreme Court itself has been clear that regional representation on the bench is of the utmost importance. The Liberal government would be wise to account for this when it comes time to select a judge from the list of nominees. While it may not ultimately make a large difference in the Court's rulings in the future, it will certainly affect its (and the government's) perceived legitimacy in Atlantic Canada.

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Retards dans les nominations des juges: les provinces à blâmer

Pierre saint-Arnaud, Le Droit, le 19 août 2016

Le gouvernement Trudeau n'a reçu aucune nouvelle candidature pour les postes de juges des tribunaux supérieurs de six provinces, dont le Québec, depuis son arrivée au pouvoir, en novembre 2015, faute d'avoir pourvu les postes laissés vacants dans les comités chargés de lui faire des recommandations.

Les membres des comités consultatifs à la magistrature de ces provinces, dont les mandats sont échus depuis le 31 octobre 2015, n'ont toujours pas été remplacés, de sorte qu'aucune nouvelle candidature n'a pu être reçue depuis cette date, bien que le gouvernement ait toujours accès à la banque qui était constituée jusque-là.

«C'est un élément parmi d'autres qui contribue aux délais», a indiqué à *La Presse canadienne* la bâtonnière du Québec, Claudia P. Prémont, tout en précisant que ce n'est pas le seul facteur qui entraîne les délais judiciaires, ni même le plus important, loin de là.

«Est-ce que ça met plus de pression sur les gens qui sont déjà en place? Est-ce que ça contribue en quelque sorte à certains délais? Je vous dirais un peu des deux», a-t-elle néanmoins reconnu.

Me Prémont a d'ailleurs signalé ce problème - et quelques autres - dans une lettre envoyée lundi à la ministre fédérale de la Justice, Jody Wilson-Raybould.

Une porte-parole du bureau de la ministre Wilson-Raybould a indiqué à *La Presse canadienne* que l'ensemble du processus de nomination des juges de tribunaux supérieurs était en cours de révision.

M^{me} Wilson-Raybould, qui n'était pas disponible pour une entrevue, s'est dite «très sensible aux pressions que vivent les tribunaux à travers le pays en raison des postes vacants dans le système judiciaire», alors qu'elle s'adressait à l'Association du barreau canadien à Toronto, vendredi dernier.

«Nous prenons des mesures pour à la fois renforcer le système et pour combler les postes encore vacants et je m'attends à pouvoir faire connaître publiquement nos intentions à cet effet très bientôt» avait-elle ajouté.

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Chaque province compte un comité consultatif à la magistrature formé de huit membres - à l'exception du Québec et de l'Ontario, qui en comptent respectivement deux et trois en raison de leur population - dont la tâche est de recevoir des candidatures, de constituer une banque de candidats et de faire des recommandations au gouvernement.

Au Québec, les banques de candidats des comités de l'est et de l'ouest de la province desservent la Cour supérieure, qui compte trois postes vacants, et la Cour d'appel, qui doit pourvoir un poste. Un quatrième poste vacant à la Cour supérieure a été pourvu le 17 juin avec la nomination du juge Éric Downs à Montréal.

«C'est important que les postes soient comblés, c'est clair, le plus rapidement possible», a affirmé la bâtonnière du Québec.

Au Nouveau-Brunswick, le comité est responsable de la Cour d'appel et des divisions de première instance et de la famille de la Cour du Banc de la Reine, où il y a un poste ouvert.

L'Ontario représente un cas particulier, comptant trois comités consultatifs, un pour le nord-est, un pour le sud-ouest et un pour la grande région de Toronto. Les deux premiers sont sans représentants, alors que les mandats des membres du comité de Toronto arrivent à échéance à la fin d'octobre 2016.

Outre le Nouveau-Brunswick, les trois autres provinces atlantiques sont aussi sans comité consultatif à la magistrature depuis près d'un an, de même que les Territoires du Nord-Ouest et le Yukon. Les mandats des comités des provinces de l'Ouest et du Nunavut viendront à échéance cet automne.

Nominations à la Cour du Québec

À la Cour du Québec, pendant ce temps, la situation pourrait sembler catastrophique à première vue, alors qu'en date du 17 août (mercredi), 14 postes étaient vacants et que 10 autres le seront d'ici la fin de l'année, pour un total de 24.

C'est le gouvernement du Québec qui nomme les juges de la Cour du Québec, qui regroupe la Chambre criminelle et pénale, la Chambre civile et la Chambre de la jeunesse.

«Pour tous ces postes, tous les concours sont soit en cours, soit à la veille de se terminer ou en analyse», a indiqué Nathalie Roberge, directrice de cabinet de la ministre de la Justice Stéphanie Vallée, en entrevue téléphonique mardi.

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«Normalement, le traitement des concours se fait en plus ou moins six mois, a ajouté Mme Roberge. D'ici janvier 2017, ça va aller de l'avant.»

La célérité du gouvernement n'a pas tardé à se manifester: jeudi, la ministre Vallée a annoncé la nomination de sept juges à la Cour du Québec, réduisant le nombre de postes vacants à sept, auxquels il faut toujours ajouter les 10 qui le seront d'ici la fin de l'année, pour un total de 17.

Par ailleurs, certains des sept postes «vacants» sont toujours occupés par des juges qui ont accepté de demeurer en poste en attendant leur remplacement.

Selon la bâtonnière, la situation s'est beaucoup améliorée pour le remplacement des juges à la Cour du Québec après quelques années de retard, bien qu'il faille toujours vivre avec les délais normaux.

«Le processus doit être suivi et les entrevues, ça peut être long dans certains cas, particulièrement à Montréal, où le juge coordonnateur doit rencontrer tous les candidats», a expliqué Me Prémont.

À lui seul, le district judiciaire de Montréal - qui a vu trois postes à la Chambre de la jeunesse être comblés jeudi - compte toujours neuf postes vacants ou à pourvoir d'ici le 1er janvier 2017, mais Claudia Prémont semble optimiste. «Je pense que tout est en place pour nommer ces gens-là le plus rapidement possible», a-t-elle dit.