



Press Clippings for the period of January 24th to 30th 2017 / Revue de presse pour la période du
24 au 30 janvier 2017

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Les juristes de l'État reconduisent leur grève générale

Marco Bélair-Cirino, Le Devoir, le 27 janvier 2017

Les avocats et notaires de l'État québécois (LANEQ) refusent de se soumettre. Ils ont voté jeudi à 83 % pour la poursuite de leur grève générale, et ce, après avoir rejeté à 97 % l'ultime offre patronale. « *Ce sont des résultats fort impressionnants. Est-ce qu'on pensait avoir ça après 14 semaines de grève ? Non !* » a lancé le président de LANEQ, Jean Denis, en fin de journée. « *Les chiffres parlent.* » Il souhaite rencontrer le plus rapidement possible le ministre Pierre Moreau, mais seulement en l'absence des « *gens du Conseil du trésor* ». « *On ne veut pas qu'[ils] continuent à le polluer* », a-t-il indiqué à la presse.

Les juristes ont préféré reconduire leur grève générale dans une proportion de 83 % — comparativement à 90 % en décembre dernier — jusqu'à nouvel ordre plutôt que de « *déclencher une grève à temps partiel assortie d'une grève des heures supplémentaires* » (7 %).

M. Denis avait appelé les 940 juristes présents à l'assemblée générale extraordinaire à rejeter massivement l'« *offre de merde* » soumise par le Conseil du trésor mardi. Son appel a été entendu. « *On a exactement la même chose que la dernière fois, mais après 14 semaines de grève* », s'est-il réjoui.

Le gouvernement du Québec proposait d'augmenter de 5,256 % la rémunération des avocats et des notaires sur cinq ans, et non pas de 8,5 % comme il le prétend, a-t-il martelé après 100 jours de grève. « *L'offre est identique à celle du front commun, non pas à celle des procureurs aux poursuites criminelles et pénales comme le soutient M. Moreau. Est-il devenu un adepte des "alternative facts" ?* » a demandé une avocate aguerrie au *Devoir*. « *On nous traite comme des avocats de seconde classe. Le sentiment général ici est que le gouvernement ne nous respecte pas* », a-t-elle poursuivi.

Cent jours de grève

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Les avocats et les notaires de l'État croisés par *Le Devoir* à l'intérieur de l'Hôtel Plaza de Québec semblaient déterminés à gagner la guerre de tranchées dans laquelle ils sont enlisés depuis le 24 octobre dernier. Cent jours : du jamais vu dans l'histoire des relations de travail du secteur public au Canada.

D'ailleurs, les participants ont, en cours de séance, levé l'échéance du prochain vote de grève, qui était fixée au 10 février dans l'une des questions figurant sur leur bulletin de vote.

Retour partiel au travail ?

Sauf que le fonds de grève de LANEQ, qui a emprunté 8 millions de dollars, sera à sec avant ou après la reprise des travaux parlementaires à l'Assemblée nationale, soit le 7 février prochain. « *Ce que les gens nous ont dit, c'est que, même quand le fonds de grève va être terminé, on va continuer* », a signalé Me Jean Denis. « *Évidemment, on n'est pas des fous. On sait que nos gens souffrent actuellement. [...] Quand ils vont avoir les genoux en sang, on va peut-être leur demander : voulez-vous que l'on continue, cette fois-ci, en faisant une grève des heures supplémentaires ? [...] Pour l'instant, ils nous disent qu'il n'en est pas question.* »

C'est presque la totalité des juristes (940 sur 1060 grévistes) qui s'étaient déplacés jeudi à l'Hôtel Plaza, à Québec, ou encore à l'hôtel Intercontinental, à Montréal, pour prendre part à cette troisième assemblée générale extraordinaire depuis le coup d'envoi de la grève, le 24 octobre dernier.

En décembre dernier, pas moins de 90 % des juristes avaient décidé de poursuivre leur débrayage jusqu'à nouvel ordre. Devant ce vote décisif, le Conseil du trésor n'aura d'autre choix que de lâcher du lest, avait lancé LANEQ. Le gouvernement Couillard n'a toutefois pas bougé d'un iota depuis ce moment.

En effet, il refuse net de donner suite à la principale demande des avocats et notaires de la fonction publique et de Revenu Québec, c'est-à-dire l'instauration d'un régime de négociations prévoyant la mise sur pied d'un comité de rémunération semblable à celui recommandant les conditions de travail des procureurs aux poursuites criminelles et pénales à l'Assemblée nationale.

Lawyers, notaries protest in Quebec City in 14th week of strike

CTV News Montreal, January 25 2017

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Treasury Board President Pierre Moreau is asking the province's striking lawyers and notaries to return to the negotiating table - and return to work - after 14 weeks on strike.

As a cabinet meeting was underway inside, Quebec lawyers and notaries protested outside the National Assembly Wednesday, unhappy with the government's latest offer.

On strike since the end of October, it currently appears they are far from reaching an agreement with the government.

Lawyers and notaries are fighting for the same salary increases and working conditions as Crown prosecutors.

On Wednesday morning, Moreau said the government tabled an offer Tuesday that would give them the money they're demanding.

Jean Denis, LANEQ union president, claims that's untrue.

"This is really not the same. The offer for the Crown prosecutors is 10 per cent over four years, so 2.5 per cent per year. What he offered to us is not the same, because it's over five years," he said.

"The money offered is equivalent to what we agreed on with the Crown prosecutors," said Moreau. When pressed about the union's claims that that is false, he hardened, stating, "I'm sorry that they are saying that, but I will not fall into that kind of conversation."

Moreau is asking the workers to return to their jobs as they sort out the particulars of the contracts.

Denis said his union members are prepared to continue to strike even when their strike funds run out.

Ottawa victims fear more criminal cases could be thrown out over court delays

Charges stayed in two-high profile cases after Supreme Court ruling on justice delays
Ashley Burke, CBC News, January 30 2017

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Victims of attempted homicides and sexual assaults fear more criminal cases, including their own, could be thrown out because of trial delays, according to Ottawa Victim Services.

Charges have been stayed in several high-profile cases over the past few months due to a recent Supreme Court ruling on justice delays.

'They're worried sick.' - *Melissa Heimerl, executive director of Ottawa Victim Services*

[A man accused of murder walked out of an Ottawa courthouse in November](#) a free man because his case took too long to get to trial.

And a judge in Ottawa [stayed some charges involving a teenager who allegedly sexual assaulted a three-year-old](#) at his mother's daycare, also due to unreasonable delays.

"We have some clients who have been supporting for two years who haven't seen a court date yet," said Melissa Heimerl, the executive director of Ottawa Victim Services.

"They're worried sick."

However, the Supreme Court ruling can be flexible and is subject to a judge's interpretation.

As the justice system transfers over to the new timelines, there's also a transitional period, where only "really egregious" cases are tossed out, one criminal law expert said.

"In this transitional period, basically if it wouldn't have been stayed under the new rules, then you shouldn't stay it under these new rules either," said Steve Coughlan, a professor at Dalhousie University's Schulich School of Law.

[Jordan ruling set new guidelines](#)

In July, the Supreme Court of Canada set new rules for an accused's right to be tried within a reasonable time frame.

The landmark ruling known as the Jordan decision suddenly put dramatic pressure on the sluggish court system to speed up.

Delays beyond 30 months for Superior court cases, or 18 months at provincial courts, are now "presumptively unreasonable" and violate the accused's charter right to be tried within a reasonable time, the decision said.

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Cases that fall outside this timeframe could be thrown out.

But it's not as simple as just adding up the days on the calendar for a judge to figure out if a criminal trial is taking too long and violating an accused's rights.

If the Supreme Court's new time frames are missed, the onus is on the Crown to argue that the delays were caused by exceptional circumstances that were either reasonably unforeseen or beyond the Crown's control — such as a medical or family emergency.

[Many factors in calculating length of trial](#)

A look at a recent Jordan ruling explains how the decision is made.

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The Ontario Crown Attorneys Association estimates 6,000 criminal cases could see charges stayed or withdrawn. (Danny Globerman/CBC)

Ontario Court Justice David Paciocco considered several factors when deciding to stay three out of the four counts of sexual offences against a 15-year-old boy in Ottawa. The final charge was not stayed because it was laid at a later date.

The judge calculated that 21 months and 15 days had passed between the time the teen was initially charged and his trial was anticipated to end.

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Then Paciocco subtracted any defence delays or exceptional circumstances such as the Crown getting sick, or complications in the case that couldn't have been anticipated.

[Defence can't delay trial as a tactic](#)

Coughlan said the Charter of Rights and Freedoms protects against improper state action, not delays caused by the defence. This is a way to ensure the defence team does not use stalling as a tactic in court to have charges stayed or withdrawn.

"Clearly we can recognize there are some people that are just going to [game] the system," explained the law professor.

"They're going to fire their lawyer at the last minute, they're going to make unreasonable applications ... purely with the goal of making it take longer, so that they [can] say, 'Look, it took too long.'"

[In the sex assault case](#), Paciocco found a 28-day delay was caused by the defence's unavailability for offered court dates. That meant the trial lasted more than 20 months.

In the end, he ruled the delays were unreasonable and stayed the charges because a significant time was lost due to "technical failures" in court and the "state of readiness of the prosecutor's case."

"All sexual assaults are serious, and the allegations here are aggravated," wrote Paciocco. "Even under the pre-existing law, however, the seriousness of an allegation did not suspend the Charter right to trial within a reasonable time."

- ['No justice' for accused, victims when court cases tossed by delays, lawyer says](#)

The Ontario Crown Attorneys Association estimated 6,000 cases across Ontario could see charges be stayed or withdrawn.

Attorney General Yasir Naqvi [announced more judges and resources are coming to courthouses](#) to help speed up the system. He also said his officials are examining cases to make sure other serious charges aren't stayed or withdrawn because of delays in meeting the Supreme Court's deadline.

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At least 13,500 federal workers still have Phoenix paycheque problems

Thousands of federal workers either getting paid too little or too much, with no timeline for when the backlog will be cleared.

Alex Ballingall, The Toronto Star, January 26 2017

There are still at least 13,500 federal workers with pay problems as the public service continues to slog through its troubled transition to the new Phoenix payroll system, according to a government update Wednesday.

Of those 13,500 employees, 7,000 were from the original backlog identified last year, which has been chipped down from 82,000 over the past several months. The remaining 6,500 are workers who since last July have reported receiving the wrong pay after going on or returning from job leave, the bureaucrat in charge of the program told reporters.

“I really thank everybody for their patience. I wish there would be quicker and simpler ways to fix the pay issues. We are working very hard,” said Marie Lemay, a deputy minister at Public Services and Procurement Canada, during a press conference Wednesday.

Lemay said she couldn’t give an accurate timeline for when the backlog would be cleared.

“The one thing you have to know is that there is light at the end of the tunnel. This thing is getting better. I know it will get better,” she said.

The new payroll system was brought in by the former Conservative government and implemented in February 2016, four months after Justin Trudeau’s Liberal Party took power. Problems surfaced in the ensuing weeks, with tens of thousands of federal workers who were either getting paid too little or too much.

Chris Aylward, national executive vice-president with the Public Service Alliance of Canada, which represents thousands of federal workers, called the Phoenix problems a “national disgrace.”

He added that his union is working with the government to get the system fixed, especially as tax season approaches. “It continues to cause issues and problems for federal public workers, which is totally unacceptable,” he said.



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Speaking earlier, Lemay admitted that payroll officers — and managers throughout the public service — weren't given enough training on the Phoenix system. She also urged employees with errors on their paycheques to reach out so that their 2016 tax slips can be corrected.

The payroll woes have also come up during Prime Minister Justin Trudeau's public speaking tour this month. Speaking in Kingston, he fielded a heated question about Phoenix from a man who said he was a corrections officer.

"I'll admit it. This government, in everything we were doing in the first months, didn't pay enough attention to the challenges and the warning signs that were coming with the transition we were overseeing," Trudeau said.

Lemay has previously said that it could cost more than \$50 million to fix the Phoenix problems. Auditor General Michael Ferguson is also probing the problematic payment system and has called the situation "unacceptable."

The goal now is to shift resources from shrinking the backlog to dealing with pay change and overtime requests that are currently taking too long to process, said Lemay.

Lemay said that, of the 7,000 cases remaining from the original backlog, many of them are "so complex" that they can't be automatically processed through a computer program.

When asked about new cases that have come up since July 2016, Lemay said there were an additional 14,000 reported cases from federal workers getting the wrong paycheques. Roughly 2,800 of those weren't getting paid at all, though each has been remedied now, Lemay said.

But there are still 6,556 cases of pay errors from the second half of 2016 — bringing the total number of outstanding cases in the backlog to more than 13,500.

Federal workers can claim out-of-pocket expenses they've incurred because of payroll issues, and request financial support from the organizations they work for, according to the public services website. The department has also upped its call centre services to speed up the processing of pay changes.

Phénix: encore beaucoup de retard

Paul Gaboury, Le Droit, le 25 janvier 2017

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Le gouvernement fédéral est toujours incapable de dire quand il réussira à atteindre « l'état de stabilité » qu'il promet sans succès depuis déjà plusieurs mois avec son système de traitement de la paie Phénix.

Mercredi, le ministère des Services publics et de l'Approvisionnement (SPA) a confirmé qu'au cours des deux dernières semaines, le nombre de dossiers en retard est passé de 8000 à 7000.

À ce rythme, il pourrait s'écouler plusieurs mois avant que le ministère ne parvienne à résoudre la plupart des cas en suspens.

La sous-ministre de SPA, Marie Lemay, refuse de donner un échéancier, expliquant qu'il est difficile de savoir combien de temps il faudra pour arriver à ce que le ministère appelle « l'état de stabilité » en raison de la nature complexe de certains dossiers de fonctionnaires.

270 000 transactions

En plus des 7000 dossiers encore à traiter, le ministère parle toujours d'un retard de deux mois et demi de travail, ce qui représente plus de 270 000 transactions diverses qui se sont accumulées dans le système depuis l'été dernier et qui sont toujours en attente d'être traité, a expliqué la sous-ministre Lemay.

Le ministère indique que le système lui permet de régler le temps supplémentaire plus rapidement, si bien que depuis l'été dernier, 500 millions \$ ont été versés à 100 000 fonctionnaires grâce à l'automatisation permise par Phénix.

« Actuellement, nous arrivons à respecter la norme visant à régler une transaction dans les 20 jours dans seulement 20 à 30 % des cas. Nous travaillons fort pour améliorer la situation. D'ici la mi-février, le ministère mettra en ligne des informations qui permettront aux fonctionnaires de connaître le temps d'attente pour diverses transactions de paie », a mentionné M^{me} Lemay. Cette norme de 20 jours devrait être atteinte normalement dans 95 % des situations, a-t-elle expliqué en précisant que les efforts ont été concentrés sur les cas prioritaires, notamment les personnes en congé de maternité et d'invalidité, et pour préparer les feuillets d'impôts T-4 des employés.

Un représentant de l'Agence du revenu du Canada était présent à la rencontre de presse pour rappeler aux employés qu'il est possible d'avoir des informations en ligne ou de parler à un représentant pour discuter des problèmes d'impôt créés par Phénix. Les personnes qui ont un trop-perçu doivent en informer l'employeur pour éviter que le montant n'apparaisse sur leur

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T-4. Il est possible aussi de corriger ou de transmettre plus tard un T-4 corrigé, a-t-on
expliqué.

Government staff to turn from Phoenix backlog to prioritize new pay issue response time

**'There are too many employees that are waiting too long for their pay,' Public Services
Deputy Minister Marie Lemay told reporters Wednesday
Rachel Aiello, The Hill Times, January 25 2017**

While around 7,000 cases of considerably outdated pay issues still remain in the government's backlog of pay transactions, the department responsible announced today that the workers will begin prioritizing response times for more recent, daily cases.

"Eliminating the backlog will be very important but we need to shift our focus towards improving our service standards. There are too many employees that are waiting too long for their pay," Public Services and Procurement Canada Deputy Minister Marie Lemay told reporters on Jan. 25 at her bi-weekly update on the ongoing Phoenix pay system fiasco.

The new pay system was first rolled-out in February 2016 for 46 federal departments. By the summer, 82,000 cases of public servant pay problems had surfaced—many of which the department realized predated the new government-wide payroll software. Nearly a year later, and with 7,000 cases left to clear up, the department has decided it's time to start turning its attention to the ongoing service delays that pop up in the day-to-day use of the system that pays 300,000 federal employees.

Initially, the department had pledged to have the backlog resolved by Oct. 31, 2016.

"I wish there would be quicker and simpler ways to fix the pay issues, we are working very hard, there's still much to do, but we are making some progress. I understand the employees are not starting to really see results, and feel the result of the progress, but they will because we are now focused intensely on the wait-times," said Ms. Lemay, explaining why she thinks the new focus on the daily requests for pay issues to be resolved will help employees see the light at the end of the Phoenix tunnel.

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“Public servants deserve much better and that’s why we’re making prompt processing our key priority moving forward,” said Ms. Lemay.

Right now Phoenix staff are only meeting the average service standard—addressing and resolving new cases within 20 days—about 20 to 30 per cent of the time, with some employees waiting months for new pay issues to be addressed, something Ms. Lemay called “unacceptable.”

To prioritize these cases, the department is going to begin re-assigning pay advisers that had been tackling the backlog both at the pay centre, but also at the temporary pay centres the department has formed in Gatineau, Que., Montreal, Winnipeg, and Shawinigan, Que., to work on incoming requests in an effort to reduce processing times.

“It’s a combination of things that will make us decide how many, and when, but I can tell you that it’s soon... and it’s going to make a significant impact in the transaction that we have in the cue at Miramichi,” said Ms. Lemay.

The department says most of the remaining backlog involves acting pay cases, and are aiming to close them all over the next several pay periods, with the help of new technology to assist in the calculations involved in these “complex” transactions.

Ms. Lemay said she’s also reaching out to departments to see if there are more steps managers can shoulder before sending their pay through to the Miramichi, N.B.-based pay centre, in a effort to lessen the pay centre employees’ workload. However, she noted that workers are still receiving transactions that predate Phoenix, something she wouldn’t place blame for, but said she’s working to find out why that is still happening and how to make it stop, given all departments by now should have their managers trained on the new payroll program.

By the second week of February, the department will begin posting the progress being made on Phoenix service standards online.

Phoenix was projected to save the feds \$67.2-million a year. Now the government’s projected \$50-million cost to fix the system is expected to grow, as the temporary pay centres are

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remaining open indefinitely, and as the number of employee compensation requests continue to come in.

As of Feb. 20, the compensation desk received 361 claims for reimbursement, 94 of which were for more than \$500.

Phénix: des avances salariales pour des employés

Paul Gaboury, Le Droit, le 24 janvier 2017

Le gouvernement fédéral accepte d'élargir les pouvoirs discrétionnaires des administrateurs généraux de la fonction publique afin qu'ils puissent verser des avances salariales aux employés rencontrant divers problèmes liés au système de paie Phénix, tel que l'a réclamé à la mi-janvier la présidente de l'Institut professionnel de la fonction publique du Canada (IPFPC), Debi Daviau.

Jusqu'à maintenant, seuls les fonctionnaires qui ne recevaient pas de paie pouvaient obtenir une avance salariale de la part des ministères ou organismes fédéraux.

Le 12 janvier dernier, la présidente de l'IPFPC exigeait que le gouvernement accepte de mettre sur pied un système de paie parallèle pour aider les employés ayant des problèmes leur causant des difficultés financières.

« C'est une douce victoire même si les problèmes avec le nouveau système de paie Phénix persistent. Nous savions qu'élargir les critères d'avance de salaire d'urgence à tous les cas d'employés qui connaissent des difficultés financières suite aux ratés de Phénix était la façon la plus efficace de combler les sommes dues par leur employeur. Maintenant, nous devons nous assurer que le traitement est juste et équitable pour tous les employés ayant un manque à gagner salariale », a indiqué au *Droit* M^{me} Daviau.

Des avances de salaire d'urgence (ASU) sont utilisées pour fournir aux nouveaux employés et à ceux qui reviennent d'un congé non payé une avance salariale jusqu'à ce que leur dossier de paie dans Phénix puisse être mis à jour. Les paiements prioritaires sont utilisés pour les employés qui reçoivent déjà une paie mais qui, pour une raison quelconque, n'ont pas reçu le plein montant qui leur est dû.

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Phoenix fix shifts focus to new cases as backlog shrinks

Backlog now sits at 7,000, deputy minister announces during update
CBC News, January 25 2017

Government workers are still trying to clear a backlog of 7,000 cases of civil servants having problems getting paid under the Phoenix system, but the focus is beginning to shift to resolving more recent cases, the government says.

- [Phoenix Falling | Stories of public servants with pay problems](#)
- [100,000 workers contacted government about pay since July](#)
- [Have a story to tell? Send us an email](#)

Phoenix, a computerized pay system, rolled out last February, leading to complaints by tens of thousands of federal employees. Some were underpaid, others were overpaid and some were not paid at all.

At the last briefing on Jan. 11, Public Services and Procurement Canada deputy minister Marie Lemay said the backlog of civil servants experiencing problems with their pay under the troubled Phoenix system had dropped to 8,000, down from 10,000 in December.

But those numbers only represent the backlog of cases filed by the end of June 2016. Federal unions have said even more workers have come forward with pay problems since that time.

In December 2016 Public Services and Procurement Canada said more than 13,000 top priority cases have emerged since July 1, 2016, representing employees who say they're either not getting paid or are being paid incorrectly because they went on leave or left the public service.

The government has not provided the number of lower priority cases filed since July 2016, including discrepancies in acting pay or overtime, for example. Those types of cases represented the bulk of the initial backlog of 82,000.

Issues with acting pay dominate backlog

Lemay said Wednesday the remaining 7,000 cases in the backlog relate to acting pay problems. Of the 7,000 cases, 5,000 of them are partly resolved.

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As the backlog continues to shrink, Lemay said the focus is switching to more recent pay requests, which are taking months longer to deal with than government standards dictate.

Compensation advisers will be reassigned to deal with incoming requests and bring down wait times, she said. Parental and disability leave requests are being made priorities at the request of public service unions, Lemay added.

"Eliminating the backlog will be very important, but we need to shift our focus toward improving our service standards. There are too many employees that are waiting too long for their pay," she said.

Some positives: Lemay

Lemay said that while it's hard to see anything positive amid the problems, the government is beginning to see some benefits to pay system automation under Phoenix "for certain kinds of transactions."

On Wednesday, about 35,000 Canada Revenue Agency employees received a second retroactive payment related to collective bargaining.

Since July, more than 100,000 employees have received more than \$500,000,000 in overtime payments without the requests needing to be processed at the pay centre, a step that was required in the past.

"I wish there would be quicker and simpler ways to fix the pay issues. We are working very hard and there is still much to do, but we are making some progress. I understand that the employees are not starting to really see and feel the results of the progress, but they will, because we are now focused intensely on the wait times," Lemay said.

Ottawa getting more judges and crown attorneys

CTV Ottawa, January 25 2017

Ontario's Attorney General said the city of Ottawa will be getting new measures to speed up time to trial and to help overhaul the bail system.

Minister Yasir Naqvi said Ottawa will be getting two new judges, a crown attorney to be embedded with the Ottawa Police Services and a crown attorney dedicated to the bail court and bail system.

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These new changes are part of a larger, [\\$25 million dollar a year plan](#) to make the criminal justice system "faster and fairer." Naqvi said the changes, set to be implemented in the coming months, will help resolve criminal cases faster and make more support systems available to low-risk offenders in the province.

"There are too many low risk people in our correctional facilities who are awaiting trial who don't really need to be there but lack the right support and supervision to be out of custody and on bail in the community," Naqvi said.

The Minister made the announcement at a press conference at the Elgin Street Police Headquarters. He was joined by the executive director of the John Howard Society and the Ottawa Police Chief.

"My hope and expectation is that all of this will result in movement of cases in a speedy way so that we can meet the challenges that is laid out by the Supreme Court of Canada," Naqvi said.

These changes come several months after a [landmark Supreme Court of Canada decision](#) that found cases in provincial courts should only take 18 months to reach trial, with Supreme Court cases taking up to 30 months. Cases that meet that guideline are not automatically stayed, but the landmark Jordan decision, in which an accused offender had his charges stayed because it took too long to reach trial, has led to other cases being stayed across the country.

In November, the family of Fouad Nayel was devastated when the first degree murder charge against their son's accused killer was dropped. Adam Picard spent 4 years in prison, and was released after the judge said the lengthy delay had violated Picard's right to a trial within a reasonable time.

"We feel like we got left behind. We got stranded by something we put faith into and where is our justice? There's nothing," said Justin Nayel, Fouad's brother.

According to the Attorney General's office, there were about 11,636 total pending cases in the Ontario Court of Justice in the East Region as of December 31st, 2016. 8.1 per cent of those cases were sitting at the 18-month mark.

"This is going to happen to multiple, multiple, multiple families through all the different provinces across Canada and it won't stop until someone puts their foot down," Nayel said.

Other changes announced today include:

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- Beginning in February 2017, the province will embed a Crown attorney within the Ottawa Police Service to provide advice and support to police on bail matters and work with police and community-based health and social services agencies to find effective alternatives to criminal charges for low-risk, vulnerable accused, including those with mental health issues and addictions.
- To facilitate faster bail decisions and safe resolutions, the Ottawa courthouse will be assigned one new dedicated bail vector Crown attorney.
- To help expedite the bail process and ensure meaningful decisions are made, the Ottawa courthouse will also be assigned one new duty counsel bail coordinator.
- To provide safe, supportive and supervised housing for vulnerable accused individuals who require enhanced supervision in the community, up to 20 bail beds will be available in Ottawa by April 2017.
- The Bail Verification Supervision Programs will be expanded to Pembroke, Perth and L'Orignal to increase supervision and support to low-risk individuals before their trial.
- The Bail Verification Supervision Program in Ottawa will be expanded to include increased eligibility for services, support for Weekend and Statutory Holiday court, and expanded mental health programs.
- Beginning April 1, 2017, a dedicated duty counsel will be available at the Ottawa-Carleton Detention Centre to more immediately and effectively address bail matters by providing legal advice, facilitating quicker applications for legal aid certificates and preparing an accused person for their bail hearings.
- In addition, of the thirteen new judges announced in December, Chief Justice Lise Maisonneuve of the Ontario Court of Justice has indicated she will assign two judges to Ottawa.

Government urges employees with pay problems to come forward before T4s issued

The Canadian Press, January 25 2017

With tax season just around the corner, the federal government is still trying to clear a backlog of paycheque problems for thousands of its employees.

And it's urging employees who have been overpaid or underpaid by the troubled Phoenix pay system to reach out quickly, before T4 slips are issued next month.

At the same time, officials say their focus will soon shift toward trying to reduce the time it is now taking to deal with thousands of new pay change requests.



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While basic payments are currently being made to federal civil servants, the government says it's taking far too long — sometimes months — for overtime, parental leave and other pay changes to be processed.

Marie Lemay, a deputy minister at Public Service and Procurement Canada, says the backlog of cases created shortly after the Phoenix system was launched nearly a year ago has been reduced to about 7,000, down from a peak of roughly 82,000 cases.

Lemay says of that 7,000, about 5,000 have received at least partial payments of what they're owed.

She says one critical concern is ensuring that employees who were overpaid or short-changed in 2016 don't face further problems with the taxman when they file their tax returns.

La grève des juristes ralentit le travail des élus L'étude de deux projets de loi reportée

Robert Dutrisac, Le Devoir, le 24 janvier 2017

L'étude du projet de loi 62 sur la neutralité religieuse de l'État, qui devait reprendre cette semaine, a été annulée en raison de la grève des juristes du gouvernement.

C'est le deuxième projet de loi dont l'étude est reportée après le projet de loi 102 modifiant la Loi sur la qualité de l'environnement. Jeudi dernier, le ministre du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques, David Heurtel, avait reconnu être incapable, à cause de cette grève, de poursuivre l'étude détaillée du projet de loi qu'il pilote.

On s'attendait à ce que la ministre de la Justice, Stéphanie Vallée, présente des amendements au projet de loi 62. Mais l'absence de juristes spécialisés en matière constitutionnelle en a empêché la rédaction. L'étude du projet de loi 62 devait se poursuivre mercredi et jeudi de cette semaine, selon l'horaire de l'Assemblée nationale, qui indique désormais que les séances en commission parlementaire sont annulées.

« La ministre a retiré son projet de loi, c'est sûr », a souligné le président du syndicat Les avocats et notaires de l'État québécois (LANEQ), Me Jean Denis. « Elle n'a plus ses constitutionnalistes qui travaillent avec elle. Il y a beaucoup de matière constitutionnelle là-dedans [le projet de loi 62] », quant au respect des chartes des droits et libertés.

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Jeudi, les représentants de LANEQ ont rencontré pour la première fois le nouveau président du Conseil du trésor, Pierre Moreau. La rencontre a été cordiale, selon les deux parties. Dimanche, LANEQ a rendu publique une nouvelle proposition, qu'elle a déposée formellement à la table des négociations et qu'elle a qualifiée d'« imparable ». Les 1100 juristes de l'État, qui entament leur 14e semaine de grève, réclament les mêmes conditions que les procureurs de l'État, soit une augmentation de salaire de 10 % répartie sur quatre ans, une semaine de travail haussée de 35 à 37,5 heures, l'abandon du droit de grève pour obtenir l'arbitrage « non liant » et la reconnaissance de leur indépendance de fonction.

Au cabinet du président du Conseil du trésor, on a indiqué que Pierre Moreau contactera LANEQ « au cours des prochains jours » pour réagir à la proposition du syndicat. On peut s'attendre à ce que la grève des juristes soit à l'ordre du jour de la prochaine réunion du Conseil des ministres, mercredi.

Selon une compilation faite en décembre par LANEQ, plus de 5000 causes de Revenu Québec ont été reportées, des contrats publics d'une valeur de 200 millions ont été signés sans s'appuyer sur des conseils juridiques appropriés et quelque 300 règlements d'emprunts municipaux n'ont pu être adoptés. En outre, de nombreuses causes au Tribunal administratif du Québec (TAQ) et au Tribunal administratif du travail (TAT) ont été remises.

Depuis le début du conflit, le gouvernement, de crainte d'affaiblir sa position de négociation, refuse de fournir une évaluation des répercussions de cette grève sur le fonctionnement de l'État et sur les travaux législatifs.

Mandatory Phoenix pay training for DND employees falls short

David Pugliese, The Ottawa Citizen, January 24 2017

The Defence department's plan to require all civilian employees to complete mandatory training on the controversial Phoenix pay system is limping along but has so far fallen short of expectations.

All Department of National Defence employees were told they had until Oct. 7 to complete the training that is seen as critical to minimize errors affecting the problem-plagued federal government pay system, according to a message sent to employees and obtained by the Ottawa Citizen.

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DND estimated that in October around 70 per cent of the 24,900 civilian workers had already finished the training course. After the mandatory training was brought in, that figure increased to 75 per cent by early November, according to DND figures. Since then, the numbers have increased to 79 per cent for the period ending Dec. 12. That is the latest available figure, DND spokeswoman Suzanne Parker said Tuesday.

“Even with the size and constant movement of employees within the department, we have seen an increase in uptake of the course and expect that upward trend to be sustained,” she added.

Parker said although the Phoenix training is mandatory, given the size of the department and constant movement, “DND’s goal is to reach as many employees as possible and ensure they are properly equipped to understand the system and be able to manage within it.”

Phoenix pay system foul-ups left thousands of Canada’s public servants unpaid. But senior federal officials countered that many of the issues with the system were not technical, but linked to employees failing to properly fill out work-related information.

Employees, however, pushed back against the claim they are to blame for the foul-ups. Some, for instance, have pointed out that one of the Phoenix glitches involved retired federal public servants continuing to get their weekly salary. Other employees have seen their pay doubled while some haven’t received any money at all.

Prime Minister Justin Trudeau was asked Jan. 17 by a seasonal contract worker from Canadian Forces Base Gagetown, N.B., about whether he will scrap the Phoenix system. Trudeau responded that those at the public service pay centre in Miramichi, N.B., are working hard to fix the problems. “Everyone deserves to get paid what they are owed,” he said.

Trudeau indicated the government would continue using the Phoenix system despite suggestions it revert back to the older pay system which worked.

Phoenix was rolled out in February 2016.

During the latest update in early January, federal officials acknowledged there is still a backlog of around 8,000 pay files that need to be dealt with.

It is estimated that it will cost taxpayers more than \$50 million to fix the computerized pay system. When it launched the system, the previous Conservative government estimated that Phoenix would save \$70 million annually.

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More PSAC public servants reach tentative contracts with federal government

Andrew Seymore, The Ottawa Citizen, January 23 2017

Bargaining teams representing technical services and education and library science workers in the public service have reached tentative four-year contract agreements with the federal government that include wage increases of at least 5.5 per cent.

The tentative agreements were reached Saturday by Public Service Alliance of Canada negotiators and includes the same language negotiated in a December agreement involving workers in program and administrative services that protected the existing sick leave regime.

The approximately 11,900 workers covered by the two tentative agreements will receive a minimum wage increase of 1.25 per cent per year. Employees in the technical services group will also receive a 0.5 per cent market adjustment in the third year of the deal, while the 0.5 per cent market adjustment for education and library science workers will be retroactive to last year. They will also receive a \$650 signing bonus once the deal is ratified.

The deal with technical services staff, which include a number of inspection and enforcement officers, also includes allowances of up to \$3,000 a year for some job classifications. Those include fishery officers, enforcement and wildlife officers, technical inspectors at Measurements Canada and labour affairs officers. There are also increases of up to 4 per cent for marine, rail and air technical inspectors and those in shore-based positions at the Canadian Coast Guard.

There will be a signing bonus of \$650 for those in the technical services classification who didn't receive a group specific salary adjustment, according to PSAC.

The tentative agreements include the creation of a committee to look at childcare needs. Family leave has been improved, including better provisions for extended family, PSAC said. There are also provisions more respectful and inclusive of indigenous culture.

The deal also includes the same workforce adjustment provisions that were reached in the earlier agreement. Those include changes that will reduce involuntary layoffs by allowing employees to volunteer to leave the public service, an increase of up to 15 months for laid off employees to find a position elsewhere in the public service and the right to union representation during the adjustment process, PSAC said.

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The tentative agreement avoids changes to sick leave. The government wants to replace the existing sick leave with a short term disability plan. PSAC has steadfastly refused to make concessions on sick leave. However, they have negotiated a memorandum of agreement to establish a task force to develop a new “wellness” plan.

Ontario lawyers warn civil court delays a worsening 'disaster'

Ontario civil lawyers are sounding the alarm about lengthy court delays that are hurting their clients.

Jacques Gallant, the Toronto Star, January 24, 2017

When medical malpractice lawyer Amani Oakley appeared in a Toronto courtroom last October to get a trial date for her client, who is suing her chiropractor, the response she got “was like a blow to the stomach.”

March 11, 2019.

“Though we try our best to explain, I am absolutely certain that many clients will assume that the lawyers are not working hard enough, and not moving forward,” she told the Star.

“Sometimes that is the case, but very often it's out of our control.”

Oakley is among a growing list of Ontario civil lawyers — who handle lawsuits including personal injury and medical malpractice matters — sounding the alarm regarding what they describe as excessive court delays.

While there is a constitutional requirement to try a criminal case “within a reasonable time,” there is no such obligation for civil cases.

Their clients may not be in jail or facing the possibility of jail while they await their trial, but civil lawyers point out they suffer from a range of predicaments while they wait years to get to court, including financial losses, difficulty working, family troubles, and physical and mental health issues.

The current problem, lawyers say, is twofold. For one thing, they point to a failure by the federal government to quickly appoint more judges to the Superior Court of Justice, which rules on lawsuits and also handles the most serious criminal cases, such as murder.

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Second, they say a landmark 2016 Supreme Court of Canada ruling, R v. Jordan, which set specific timelines to try criminal cases, has meant that an understaffed Superior Court has had to redeploy judges to hear criminal matters at risk of being thrown out due to delay.

“It is not an overstatement to say that it is a disaster and it's only going to get worse,” said Adam Wagman, president of the Ontario Trial Lawyers Association, which represents lawyers acting for plaintiffs. “Very significant delays that have occasionally been a problem in our system are now becoming chronic and entrenched.

“Resources are being allocated to the criminal system to deal with the repercussions of the Jordan decision, without question.”

There has been heightened public scrutiny on courts to deal with criminal cases at risk of being tossed since the Jordan ruling, and that pressure only increased last November when a Superior Court judge in Ottawa stayed a first-degree murder charge against ex-soldier Adam Picard, after it took four years to get his case to trial.

The Ontario government has tried to respond to the strain on the system by appointing 13 new judges to the Ontario court of justice, which handles most family matters and less serious criminal cases, and 32 new Crown attorneys. But appointment to the Superior Court and Court of Appeal is a federal responsibility.

A spokeswoman for the Superior Court said there has been no province-wide direction about diverting more resources to hear criminal cases in light of the Jordan ruling.

Roslyn Levine, executive legal officer in the office of the chief justice, said even though the court schedule is set months in advance, it is revisited regularly as circumstances change. This would include whether a criminal case is at risk of being stayed due to delay, which she said was already being done under the legal framework for such matters that existed before the Jordan ruling.

“As has always been the operating principle of this court, if there is a particular case — whether civil, family or criminal — of an urgent nature that requires an early hearing date, the regional senior judge will seek to accommodate that case where possible,” she said.

Oakley, whose case involving the chiropractor is expected to last four to six weeks, said she has encountered fallout from the Jordan decision in courtrooms in the GTA.

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“We were always the poor cousins (in the court system), but I had a case when I was in Brampton that wasn’t worth much . . . and the judge said to me in closed quarters, ‘You’re wasting my time, and we’re really backed up on criminal matters.’”

Even if a lawyer can secure a court date, there is no guarantee that a judge will actually be available to hear the case.

That’s what happened to Ottawa lawyer Andrea Girones, who is representing a family suing a doctor and hospital for negligence relating to their daughter’s birth. The girl, now 5, allegedly suffered a lack of oxygen and has severe neurological problems and disabilities, Girones said.

The six- to eight-week trial — the length is typical for a complex medical malpractice case — was set in late 2015 for February of this year. But just before Christmas, Girones said she was notified there was no judge available. No new date has been set, but she’s concerned it will take at least another year to get to trial.

“The really big issue is that trial dates are the end game,” she told the Star. “The single biggest motivator to settle a case is the threat of the trial. It makes people sit down and seriously consider whether they want to settle, particularly if it’s a very big claim. But why pay now when you can wait for the trial two years down the road?”

Legal groups have been urging the Liberals since they took office in 2015 to quickly fill judicial vacancies across the country. While the government did announce a slew of appointments last year, lawyers say it doesn’t come close to filling the gap.

There are currently 57 judicial vacancies in Canada, including 10 in Ontario Superior Court.

“The Chief Justice has been strongly urging the Minister of Justice to fill those vacancies right away and to fill new vacancies promptly when they arise,” said Levine, the Superior Court spokeswoman.

There are also four vacancies at the Ontario Court of Appeal, the province’s highest court.

The 17 judicial advisory committees — which screen applicants for federally-appointed judgeships — had been left vacant for months, as the Liberals looked to revamp them to make the committees more diverse and transparent.

Last week, Federal Justice Minister Jody Wilson-Raybould announced appointments to seven of the committees, including two that cover Ontario. She said the committees will immediately begin reviewing judicial applications and create a short list of candidates.

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With no clear timeline for when more judges will be added in Ontario, personal injury and malpractice victims are left to languish with uncertainty, said Wagman at the trial lawyers association.

“You’re talking about people who don’t have the financial resources to just wait another couple of years for a trial date, you’re talking about people who can’t pay their mortgage today, you’re talking about people who can’t pay their medical bills today,” he said.

“The result is that for many of those people who can’t wait, they’re forced by our system of so-called justice to accept a settlement that is far less than what their case is worth. It’s a tragedy for those people, and what’s worse is that it’s a preventable tragedy.”

Federal government will soon drop mention of gender from ID, activist says

Jordan Press, CTV News, January 27 2017

A trans rights activist at the heart of a recently settled human rights complaint says it is now only a matter of time before the federal government drops any mention of gender from government-issued identification.

Christin Milloy and the federal government settled a long-running human rights complaint earlier this month after the Liberals agreed the federal government doesn't always need to know someone's sex or gender before handing out a social insurance number.

Milloy's human rights complaint argued the department's policy of using the sex designation at birth discriminated against transgender persons. She also noted that the information was not necessary to identify a number's holder.

Social Development Minister Jean-Yves Duclos said in a statement this week that his department will only collect the information if needed to receive a benefit or for legitimate purposes, such as policy and program development.

The government will no longer make it mandatory to provide sex or gender information for a social insurance number and provide a third option for those who want to provide the detail but don't identify as male or female. ESDC also no longer requires supporting documents to change the gender designation in the registry.

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Milloy said other trans activists will likely refer to her settlement in pushing governments to adopt gender-neutral identification.

Next up may be passports, which have been under government review for almost two years.

Seven countries allow a third sex designation on their passports and passport standards from the International Civil Aviation Organization, which Canada adheres to, allow governments to allow a third sex or gender category, usually marked with an 'X.'

Federal immigration officials first started looking into the issue in 2015, but have yet to come to any decision. A spokesman for the department said officials are still considering offering a third-sex option on department-issued documents, including passports, "as not all people identify with the choices of either female or male."

The review at the immigration department and a similar one that Employment and Social Development Canada went through with the social insurance program, is part of a government-wide review of how sex and gender information is used in all manner of government programs.