

Press Clippings for the period of December 6th to 12th 2016 / Revue de presse pour la période du 6 au 12 décembre 2016

The AJC Press Clippings provides articles in both English and French. The articles appear in the language of publication. La revue de presse de l'AJJ partage des articles en français et en anglais. Les articles apparaissent dans la langue de publication.

Lawyers head to SCC over unpaid on-call duty

Michael McKiernan, Law Times, December 5 2016

Government immigration lawyers are headed to the nation's top court as they continue their long-running fight against mandatory unpaid on-call duty.

Since 2010, the Federal Department of Justice has required all immigration lawyers in its Quebec regional office to make themselves available on weeknights and weekends on a rotational basis to process urgent stay applications before the Federal Court. But the lawyers get paid only for time spent working, with no remuneration for the hours on standby.

The Supreme Court of Canada agreed to hear the case last month after the Federal Court of Appeal overturned a Labour Relations Board adjudicator's finding that the policy violated not only the collective agreement between the government and the Association of Justice Counsel, which represents the lawyers, but also s. 7 of the Charter, which protects the right to liberty. A tentative hearing date is scheduled for April.

According to the AJC, similar policies are in place in other justice department offices around the country, including in Toronto, with the Quebec grievance performing a representative function. But AJC president Ursula Hendel says the case has implications far beyond the association.

"If we lose this case, I think it presents an opportunity for employers to expand their interpretation of management rights very aggressively when it comes to restrictions imposed on employees' personal activities away from work," she says. "The decision is not limited to unions; it's about management rights writ large. If the federal government can do this to us, it's going to make workers vulnerable anywhere in Canada, whether they're part of a union or not."

Lawyers on standby duty must make themselves available by pager or cellphone and be able to get to the office within an hour of receiving a call. According to the Federal Court of Appeal decision, in Quebec, each lawyer ends up on standby duty for two or three weeks out of the year. Weekend calls are rare, according to the decision, occurring only around six times per year. Weeknight work is more frequent, with about 120 stay applications per year requiring attention. Before 2010, on-call slots were filled by volunteer lawyers who received days of leave in return at their employer's discretion. However, the volunteer pool dried up when the government announced that it would compensate lawyers only for hours worked while on call, and a rota was drawn up to include all lawyers, according to their

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individual availability and personal situation.

Laura Williams, a labour and employment lawyer who acts for employers, says the *Charter* protections available to government lawyers adds an extra layer of complexity to the relatively common problem of on-call duty.

“I think we’re on a real slippery slope if the court further expands the scope of liberty under s. 7 to include some of the activities that these employees are saying were restricted by the policy,” says Williams, the principal at Williams HR Law in Markham, Ont.

With the collective agreement silent on the issue of on-call duty, the AJC filed a grievance in the Quebec case within weeks of the new policy coming into force in March 2010. However, it wasn’t until April 2015 that Stephan Bertrand, an adjudicator with the Public Service Labour Relations and Employment Board, delivered his ruling in the group’s favour.

The government directive was “neither reasonable nor fair,” according to Bertrand, who found that it breached s. 7 of the Charter: However, in its March 23 decision in [Canada \(Attorney General\) v. Association of Justice Counsel](#), a three-judge panel of the Federal Court of Appeal granted the Attorney General of Canada’s application for judicial review of Bertrand’s decision, finding that it was unreasonable for him to conclude a breach of the collective agreement had occurred.

“We feel the court of appeal’s definition of the right to liberty was too narrow,” says Bernard Phillion, the lawyer with Montreal firm Phillion Leblanc Beaudry who represented the AJC on the appeal, who’s hopeful the Supreme Court will see things differently in the spring.

Une entente avec un quatrième groupe de l'IPFPC

Le Droit, le 11 décembre 2016

Après la conclusion d'ententes avec le gouvernement fédéral pour trois groupes d'employés la semaine dernière, l'Institut professionnel de la fonction publique du Canada (IPFPC) a annoncé dimanche qu'un accord est aussi intervenu avec l'employeur pour ses membres du groupe SP (sciences appliquées et examen des brevets).

Ces ententes de principe comprennent en outre les membres des groupes AV (les spécialistes aux achats, approvisionnement et officiers de commerce), RE (recherche) et SH (infirmières, psychiatres, psychologues).

Les ententes des quatre groupes, qui représentent 18 000 employés, prévoient une augmentation économique générale de 5 % sur quatre ans à compter de 2014, année

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d'expiration de la dernière convention, et des ententes monétaires complémentaires remédiant aux inégalités au sein des mêmes métiers et professions.

En outre, l'IPFPC fait enchâsser l'intégrité scientifique dans les conventions collectives, une réalisation sans précédent, signale-t-il dans un communiqué publié dimanche.

Cela signifie que « les scientifiques auront dorénavant le droit de parler de la science et de leurs recherches sans être des porte-paroles officiels », précise l'Institut.

« Ces ententes sont bonnes non seulement pour nos membres, mais aussi pour tous les Canadiens, a indiqué Debi Daviau, présidente de l'Institut. Nous avons réalisé d'importants progrès dans des dossiers touchant l'intérêt public, dont l'intégrité scientifique, la sous-traitance, la violence familiale et la sécurité des infirmières du Nord. »

Meilleur soutien

Les parties ont également convenu d'intégrer aux conventions collectives une procédure visant à améliorer le soutien et le mieux-être des employés, pour que les membres qui tombent malades n'aient plus jamais à choisir entre aller au travail ou prendre un congé non payé. Jusqu'à ce qu'un nouveau système soit établi d'un commun accord à la prochaine ronde de négociations, le régime actuel de congés de maladie reste en vigueur.

Pour plus de 32 000 autres membres de l'IPFPC, les négociations se poursuivent. Il s'agit des informaticiens et des vérificateurs comptables à l'Agence de revenu du Canada.

PIPSC reaches tentative deal, staves off sick-leave battle

Kathryn May, The Ottawa Citizen, December 11 2016

The Liberal government and union representing professionals working in Canada's public service have struck a tentative four-year deal that will increase employees' pay by more than five per cent and lays the foundation for a new sick leave regime.

The Professional Institute of the Public Service of Canada (PIPSC) is the first of the 18 unions to reach a settlement, including an agreement on what it maintains will "improve" sick leave, the highly contentious issue that was brought to the bargaining table by the previous Conservative government two-and-a-half years ago.

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“We are improving sick leave,” said Debi Daviau. “What we negotiated is an opportunity to turn a take-away into a gain.”

The deal, agreed to by the union’s bargaining committee on the weekend, will be sent to members for a ratification vote in coming weeks.

PIPSC is the second-largest federal union, with 57,000 members representing professionals from scientists and auditors to nurses and computer and IT specialists.

Tentative deals were reached with four of the union’s six large bargaining groups: those working in health services, research and audit, commerce and purchasing, as well as applied science and patent examination.

These employees are offered a 1.25 per cent increase in each of the next four years, and some will get additional increases on top of the base raise increase. The biggest additional increase is a four-per-cent “market adjustment” for medical doctors and dentists.

The \$45-billion wage bill is one of the government’s biggest single costs; a one-per-cent-a-year raise represents another \$450 million.

But the big move is sick leave, the hot-button issue that has stalled contract talks for months.

PIPSC and the government have signed a memorandum of agreement to study a new “employee wellness and support plan” built on some features of the short-term disability plan originally proposed.

This agreement takes sick leave off the bargaining table to be discussed in a separate process with an eye to negotiated it in next round of collective bargaining. Until then, the existing sick leave regime remains in place.

This round of bargaining began with the Conservatives wanting to replace the existing sick leave with a short-term disability plan. The Liberals continued with the same offer but dropped the Tories’ plan to impose it by legislation.

Public servants currently get 15 days’ sick leave a year. They can carry unused days from year to year. They typically take about 12 days a year, banking the rest. There are about 15 million unused sick days currently banked.

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Currently, employees who fall ill must wait 13 weeks before they qualify for long-term disability. Those who have banked sick leave can use it to bridge this waiting period, or they can collect employment insurance.

The PIPSC memorandum sketches out a plan that calls for nine days of sick leave and employees would be entitled to 100 per cent of salary for 26 weeks, getting rid of the existing 13-week waiting period.

Employees would carry over no more than three days of unused sick leave to be used the next year. The banking of sick leave would stop once a new plan was implemented. Employees with more than 26 weeks can keep their sick leave banks to use to top up their salaries to 100 per cent in the event of long illnesses before going on long-term disability.

Daviau argued the proposed changes would be a big improvement for young public servants or those facing chronic illness who have not banked enough sick leave for a long or recurrent illness.

The professionals represented by the PIPSC take fewer sick days than the average and their sick leave banks are among the highest. Only federal executives take fewer sick days.

At least one quarter of PIPSC members have more than 26 weeks banked and half have more than 13 weeks in the bank.

The memorandum calls for a task force, which will put together a steering committee and technical committee that will flesh out further recommendations for the new wellness plan. The steering committee would include union and management representatives.

Until now the 18 unions have held firm in the historic solidarity pact they signed refusing to make any concessions on the existing sick leave currently enshrined in employees collective agreements. It's unclear whether PIPSC's deal will flare tensions among unions or be seen as a break in the pact.

But Daviau said PIPSC agreed to a framework that "improves" sick leave and is in the "best interests of our members." But she said if the government and union can't reach an agreement during consultations before the new contract expires in 2018, then the union has an "exit" clause.

"What Treasury Board wanted was a partner to work with to get the right solution to modernizing sick leave and they found that partner in us and anyone else who wants to come along and if we can't there is an exit clause," said Daviau.

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She said she has discussed the terms of the memorandum with the other unions and assured them it would uphold the solidarity pact's critical principles.

Two showstoppers were the government's attempt to remove sick leave provisions from collective agreements and to turn it over to an insurance company to administer.

In PIPSC agreement, whatever plan is developed will be enshrined in all contracts and will be managed in-house, not by a third party.

"No we definitely didn't break solidarity. We stuck to all the principles established on sick leave and working with other bargaining agents in coming to these agreements," said Daviau.

It's unclear what impact PIPSC agreement will have on the other unions. The giant Public Service Alliance of Canada returns to the bargaining table with a mediator on Monday.

This is the first time PIPSC has reached a deal before PSAC whose settlements have historically set the precedent for the other unions.

PSAC is one of the strongest opponents to changes to sick leave and it is also negotiating a memorandum on wellness with Treasury Board but it is very broad and does not include any of the specific guidelines that PIPSC agreed to.

Treasury Board President Scott Brison said the tentative deals show the government's commitment to restore a "culture of respect for the public service."

"I am pleased that our approach, along with the tireless work of my officials, and the leadership demonstrated by the Professional Institute of the Public Service of Canada, have produced tentative agreements that are good for our employees and fair for Canadians," he said in a statement.

La médiation débute le 12 décembre

Paul Gaboury, Le Droit, le 6 décembre 2016

Les négociations entre l'Alliance de la fonction publique du Canada (AFPC) et le Conseil du Trésor reprendront le 12 décembre, en présence d'un médiateur.

Le syndicat avait accepté de reprendre les négociations, du 1er au 9 novembre, après avoir appris que le gouvernement libéral avait donné un nouveau mandat à l'équipe de négociateurs du

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Conseil du Trésor. Après dix jours d'échanges, l'AFPC a proposé que les discussions se poursuivent avec l'aide d'un médiateur, une demande que le gouvernement a acceptée.

Cette ronde de négociations vise le renouvellement du contrat de travail de plus de 100 000 membres de l'AFPC, de divers groupes d'employés fédéraux, dont le groupe des Programmes et administration (PA) qui compte à lui seul plus de 68 500 membres.

Phoenix jitters affects federal United Way campaign

Kathryn May, The Ottawa Citizen, December 8 2016

The federal government hopes to close in on its \$19 million goal for this year's United Way workplace campaign despite employees' jitters about using the fickle Phoenix payroll system for their campaign donations.

William Pentney, deputy minister at Justice and the campaign's chair, said apprehensions about Phoenix reduced the number of employees using payroll deductions for their donations this year, but they didn't put as much of a damper on the campaign as organizers had feared.

The federal workplace campaign is the biggest in the country, with 80 per cent of donations typically come from payroll deductions. This year, that slipped to 70 per cent. About \$14.6 million has been raised so far.

"Seven out of 10 using payroll deduction is a bit of drop but I might have thought it would have been more dramatic than that," said Pentney in an interview.

Public servants can also donate using credit cards, PayPal, cash and e-pledges, but contributions have tended to be more generous when they can be extended over 26 pay cheques.

The problem is Phoenix has worked so erratically that public servants could be afraid to risk making deductions for fear of fouling up their pay.

Pentney said the campaign could fall short of its target but he is hopeful it will climb to the \$19 million mark as donations continue to roll in before the campaign closes at the end of December. He said 25 of 101 departments have reached their goals.

"It is difficult to know where we will come in," he said.

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Last year, the active campaign ended with donations falling 25 per cent short of its \$19 million target, but the gap was all but eliminated as contributions continued to flow in until the end of March.

The deadline for making contributions by payroll deduction is Friday. That gives enough lead time for Phoenix to make deductions by the first payday in January.

Departments run their own campaigns and some will continue canvassing into the new year or until they reach their goal. The majority wrap up at the end of the December.

Canada's public servants and federal retirees are historically the largest contributor to the United Way's campaign. Last year, the campaign raised \$33.6 million.

In that campaign, nearly 68 per cent of public service donors used payroll deductions to make their contributions.

Fears about using Phoenix, coupled with employees who faced pay shortfalls and feel unable to make contributions, were not the only pressures on this year's campaign.

Pentney said the pattern of giving is also changing. The number of public servants who contribute has declined over the past five years, but those who contribute give more.

The government re-arranged the timing of this campaign to make sure Phoenix glitches were fixed, which changed the pace of the campaign. The campaign typically kicks off in September with full-out canvassing but that was delayed until November.

That delay also left less time for canvassing and some feel pushed it too close to Christmas when people are getting ready for holiday spending or giving to seasonal charities.

At the same time, digital technology is forcing United Way and the government to rethink its campaign. Young public servants, who are comfortable contributing online, crowdsourcing or with their smart phones, are drawn by different ways of fundraising.

The youth cabinet of this year's campaign launched the successful Project BE as part of this campaign to raise money to help Canadian youth struggling with mental health and addiction problems. It is holding an online auction on a pair of boxing gloves signed by Prime Minister Justin Trudeau to raise money for mental health.

"We raise funds and awareness and are encouraging volunteerism in organizations that work in those areas," said Tasha Taylor, the campaign's national youth co-chair.

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Phoenix, the government's new automated pay system, was rolled out in two stages in February and April. Problems began from the start, with thousands complaining they were unpaid, overpaid or not paid enough.

The payroll deduction feature of Phoenix has been installed in the fall, tested and is working. Payroll deductions for last year's contributions have been made without glitches.

Last year, the average donation among federal workers in the National Capital Region was \$474.

Phoenix payroll woes 'demoralizing,' says federal employee after 10 weeks without pay

Cape Breton woman says she's draining her savings as government tries to clear massive backlog

Norma Jean MacPhee, CBC News, December 6 2016

After 10 weeks without a paycheque, a Cape Breton woman says she's draining her savings and is demoralized as Christmas approaches and the federal government continues to struggle with its payroll system.

Since the Phoenix payroll system was rolled out in February, more than 80,000 public servants have been underpaid, overpaid or not paid at all. The government had pledged to fix the problem by the end of October, but has missed its self-imposed deadline.

- [Who should shoulder the blame for Phoenix fiasco?](#)

"My husband and I have maxed our credit cards, essentially, we've taken out any savings that we had," said the federal government employee, who asked not to be identified for fear she will be disciplined by her employer.

She said she's not been paid since Sept. 22.

"We weren't prepared to go for several months without my income and I'm the main earner in my household. It's been extremely stressful."

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'We're living on credit'

She said she and others are now at the mercy of the speed with which the large backlog of pay issues are solved.

"We've basically depleted our savings and now we're living on credit, which is not an ideal way to be functioning."

The bureaucrat who had been in charge of Phoenix, Rosanna Di Paola, [said in September the system isn't to blame](#) for the backlog, but rather incorrectly entered information and processing times slower than expected.

- [Bureaucrat in charge of Phoenix pay system shuffled into new role](#)

On Friday, the deputy minister of Public Services and Procurement, Marie Lamey, released a statement that said [15,000 employee cases remained in backlog](#) and have some form of outstanding pay transaction.

"To date, we have closed pay transactions for over 83 per cent of the employees in our backlog," she said.

'It's pretty demoralizing'

The employee in Cape Breton is not one of them. She's still waiting, and continues to go to a job every day without being paid.

"It's pretty demoralizing, I don't know too many people that keep going to work without receiving any remuneration," she said. "We're of course expected to go to work, even though we're not actually getting a paycheque."

She said it's tough to just cover the financial basics, such as mortgage, daycare and food. And now with Christmas on the horizon, there's extra pressure.

"That's been causing anxiety in our household because obviously we want to have a nice Christmas holiday," she said. "I normally support local charities and local businesses, but that's not at all possible this year. We're just trying to get by and make sure that the people in our lives have a couple of things to open under the tree."

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'Completely unacceptable'

No one from Public Services Canada was available for comment Monday.

A media spokesperson sent a statement that said: "The ongoing public service pay problems are completely unacceptable and we continue to work tirelessly to help each and every employee experiencing a problem with his or her pay."

- [Ottawa seeks dismissal of Phoenix legal action forcing it to pay workers on time](#)

But the Cape Breton federal employee said her frustration is exacerbated by a lack of answers for when she can expect to see her pay return to normal. She said she's been told that she might resume later in December, but there's nothing definite.

And also there are no projections on when she'd see the pay she's owed for the last 10 weeks.

"It's very frustrating. I can't get any information whatsoever on when I'll be receiving that."

Phoenix pay system leaves Ottawa man broke while recovering from nearly fatal heart issue

Jeff Lagerquist, CTV News, December 6 2016

A federal government employee is relying on friends, family, and charity to help him keep up with bills and provide Christmas gifts for his two young children after Ottawa's broken Phoenix pay system cut off his income while he recovered from a nearly fatal heart condition.

Denis Begin is one of the 18,000 public servants impacted by the outstanding pay backlog, according to the latest update from deputy minister of public services and procurement Marie Lemay last month.

A rare and sudden heart condition nearly killed 39-year-old Begin in July. He underwent emergency surgery at the Ottawa Heart Institute, followed by months of rehab and recovery.

"I took my aorta and shredded it," he told CTV Ottawa. "It blew up, which normally has a five per cent survival rate."

Workers must take sick leave or go on employment insurance during a 13-week waiting period before insurance benefits kick in for those on long-term disability. But the troubled Phoenix pay system didn't process the paperwork correctly, leaving Begin without a paycheque for three months while he recovered. When his pay started to roll in, it wasn't nearly enough.

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“We owe so much money to so many people,” he said. “We’re in a rough place.”

Friends, family, and neighbours have provided gift cards to help cover the necessities for him, his fiancé, and their two children. He’s even been gifted a snow removal service to clear his driveway while he regains his strength.

Ironically, Begin, a federal public servant for more than 15 years, looked into assistance from the City of Ottawa, but was told he makes too much money to qualify. He has registered his children for donated Christmas gifts through the [Toy Mountain](#) gift drive, but is unsure if any will arrive.

The federal government is working to whittle away the more than two-month pay request backlog. Lemay said in November that the goal is to ensure that federal workers are paid what they are owed within 20 day of submitting pay claims. But she admits that goal is only being met 20 per cent of the time. The remaining 80 per cent are looking at wait times of two months or longer.

Begin is slowly recovering and has returned to his job part-time. His private insurance policy is covering the day’s he’s at home. He’s counting on Phoenix to pay for the days he works.

“Do I have any faith in that? No,” he said. “They told me it would be anywhere from six to 10 weeks before Phoenix will even have me back into the pay system. So we are talking mid-January before we see anything.”

Begin considers himself lucky when he reflects on what happened. At least he has his health.

“It’s sad to see the situation we are in, but then again, it could just be her (his fiancé) and the two girls, and they get to visit me in the ground. That’s what’s important.”

Criminal-record database spotty and out of date, lawyers lament

**CPIC system under more scrutiny after convicted sex attacker managed to flee to Pakistan.
Alyshah Hasham, The Toronto Star, December 19 2016**

Lawyers say they regularly receive incomplete or inaccurate criminal records from the national police database which can lead to wrongful arrests, unfair sentences or critical information missing at bail hearings.

The consequences of this were most recently seen when a man convicted of sexual assault fled to Pakistan in November before he could be sentenced.

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Moazzam Tariq was allowed to remain out on \$10,000 bail after his conviction, because the Toronto police and Crown didn't know he'd fled the country before while on bail after being criminally charged in Peel Region in 2010.

Tariq, now 29, came back to Canada in 2011 and was arrested at the airport. He eventually pleaded guilty to dangerous driving in 2012.

However, that conviction and his withdrawn charges — including for a failure to appear for his court date — were not recorded in the Canadian Police Information Centre (CPIC) database, a Toronto court heard Thursday.

It's unclear whether Peel Regional Police failed to submit the information to the RCMP, which is in charge of the database, whether it was part of the backlog of convictions the RCMP has yet to enter into the database, or whether it fell through the cracks.

The RCMP was not able to respond to questions by deadline on Friday and questions to the Minister of Public Safety were referred to the RCMP.

Peel Regional Police did not respond to questions.

The backlog of criminal records still to be entered into the CPIC database — estimated at several hundred thousand in March 2015, according to the CBC — has been criticized for years.

In 2012, an outraged judge in Kitchener slammed the RCMP after it was discovered 12 convictions between 2008 and 2012 were not part of the offender's criminal record on CPIC.

"If the RCMP wanted to undermine the administration of justice . . . it would be hard to find a better way," Justice Elliott Allen said, according to the Waterloo Region Record.

While the RCMP is working on modernizing the system, CPIC records continue to fail to show an up-to-date and accurate criminal history across jurisdictions, lawyers say.

"It can be an absolute nightmare. It can result in huge consequences to people's lives," says Toronto defence lawyer Mary Cremer. "So much can really rely on clerical data."

Cremer says it is routine to expect a CPIC record to be at least six to eight months out of date.

She recently had a client who had all his charges stayed, but who called in a panic a few days later after being pulled over by the police.

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According to the CPIC database, he was still on bail facing serious charges.

Often CPIC is not updated to include bail variations, leading police to believe an accused person is violating their bail conditions, she says.

Cremer adds that jobs are increasingly requiring applicants to undergo background checks and an incomplete or inaccurate criminal record can have devastating consequences.

The Star has previously reported on the impact of withdrawn charges or non-criminal, mental-health-related encounters with police being routinely disclosed in background checks by employers or volunteer groups.

The Toronto police stopped disclosing mental health-related interactions in background checks last year.

Michael Spratt, a defence lawyer based in Ottawa, says he has seen CPIC reports with information that is incorrect — such as a minor theft conviction listed as the more serious offence of robbery.

It's an error that some people might not catch, but could result in an unfair sentence, he says.

"We don't even know how many errors there are," he says. "The problem is so bad we are unable to identify the scope of the problem."

This should be an easy part of the justice system to get right, he adds.

"This does not require complicated tasks like weighing credibility or piecing together circumstantial evidence or divining what is true or not true. This is a simple task of recording what judges have found in court," he said.

"If we can't get this simple part of the justice system correct, it doesn't give the public much confidence that those more difficult parts are being taken care of in a proper manner."

Greater Victoria man's drug case took too long in court: lawyer

Times Colonist, December 10 2016

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The lawyer for a Greater Victoria man found guilty of drug possession for the purpose of trafficking will try to have the charges stayed, claiming that the case took too long to get through the courts.

Zachary Scott Matheson was charged with four counts of possession of a controlled substance for the purpose of trafficking. He was found guilty in B.C. Supreme Court on Thursday.

Defence lawyer Bradley Hickford and Crown prosecutor Joshua Cramer are scheduled to present their arguments on the issue Jan. 9 and 10 before B.C. Supreme Court Justice Brian MacKenzie.

In the meantime, Matheson will remain on bail.

Cramer said the timeliness of prosecutions has come up lately due to a Supreme Court of Canada decision from July. The so-called Jordan decision said it is reasonable for provincial court cases to get to trial within 18 months and for Supreme Court cases to take 30 months.

The Jordan decision was cited in an October ruling in which an Edmonton judge stayed a count of first-degree murder against a man whose trial was set to start more than five years after he was charged.

The charges against Matheson stem from a major drug bust in 2013. He was charged in 2014.

Cramer said the Crown asserts that Matheson's trial went ahead in a reasonable way, and the defence will have to compile evidence to the contrary. "The onus is on the defence," he said.

Matheson and Ali Arash Ziaee were arrested in June 2013 following an investigation by B.C.'s Combined Forces Special Enforcement Unit.

Search warrants were executed at an apartment building on Peatt Road in Langford, a residence on Claude Road in Langford and a residence on Heatherdale Road in Saanich. Drugs valued at \$542,000 were seized, including cocaine, marijuana, ecstasy, crystal meth and GHB, also known as the "date-rape" drug.

Ziaee pleaded guilty to three charges of possession for the purpose of trafficking. He was sentenced to 21 years in prison.

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New task force aims for diverse public service where everyone feels welcome

'We want every employee to be able to bring their whole self to work,' says Treasury Board's Margaret Van Amelsvoort-Thoms.

Derek Abma, The Hill Times, December 12 2016

It's important not only for the federal public service to be comprised of a fair representation of Canada's various kinds of people, but also that these employees feel comfortable in their surroundings, says the head of Canada's largest public service union.

Robyn Benson, president of the Public Service Alliance of Canada (PSAC), said this is among the reasons the Joint Union/Management Task Force on Diversity and Inclusion has been established.

"We, as a union, have great concerns about our workplaces and whether the workplaces are safe for our members, whether or not they are harassment-free, whether or not there is violence in the workplace," she said. "We wanted to make sure we were part of ensuring that the workplace was safe."

She added: "While we strive to hire individuals who fall within the equity groups (aboriginals, visible minorities, people with disabilities, and women), you need to not just hire them; you need to provide a workplace where they are safe, where there is no harassment, where there is no violence, where they can be engaged in all levels of the public service, and certainly where there's accommodation for people with disabilities."

The new task force includes representation from the following unions: PSAC, the Professional Institute of the Public Service of Canada (PIPSC), the Canadian Association of Professional Employees (CAPE), and the Professional Association of Foreign Service Officers (PAFSO). It also has members from management of the Treasury Board of Canada Secretariat, Correctional Services, Public Safety, Agriculture, and Public Services, as well someone from the Association of Professional Executives of the Public Service of Canada (APEX).

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Larry Rousseau, PSAC's vice-president for the national capital region and co-chair of the task force's steering committee, echoed the idea that it's not just about quotas, but making sure those working for the government are comfortable in their surroundings.

"The way to make sure that people feel respected is that they feel included in the processes, in the decision-making, and just the overall work of the public service," he said. "It's one thing to have diversity in the workforce. It's what you do with it that is going to be very, very important."

Margaret Van Amelsvoort-Thoms, the Treasury Board's executive director of people management and the other co-chair of the task force's steering committee, said: "We want every employee to be able to bring their whole self to work, and so [the task force] is the strategy that says, 'How do we do that and make this an inclusive workplace.'"

Mr. Rousseau said one of the task force's objectives will be defining what diversity is. The federal government already has policies intended to ensure that women, aboriginals, visible minorities, and people with disabilities are adequately represented in the public service. He said preventing discrimination and harassment of people in the LGBTQ community is another issue that has emerged as something all employers should strive for.

Ms. Van Amelsvoort-Thoms added that other demographic factors, such as age, where people are from geographically, and their family structure, can also be part of the conversation about diversity.

The task force was modelled on the Mental Health Joint Task Force that was established in March 2015 under the former Conservative government and continues to function.

Ms. Benson described the roots of this newer Task Force on Diversity: "[Treasury Board President Scott] Brison and I had a discussion several, several months ago about the work around diversity and inclusion. We thought it would be good to construct committees that look like our Mental Health [Task Force]," she said, adding that the Mental Health Task Force "has worked really well."

While the government didn't officially announce the Task Force on Diversity until late November, it's been quietly in operation since September.

Ms. Van Amelsvoort-Thoms said part of the work so far has been doing an "environment scan" of what various employers, in both the private and public sectors, are doing in terms of diversity and

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inclusiveness. She said the federal government is behind some sectors in its approach to this issue, while it's ahead of others.

Mr. Rousseau made note of the technology sector, which he said during the 1990s boom years realized the practical benefits of staff diversity and how it brings an array of different perspectives to achieving business goals.

"Diversity was seen as value added in the design and development of products and services, and ... companies saw this as a win-win situation for increasing their profitability," he said.

Ms. Van Amelsvoort-Thoms said a diverse workplace also leads to better results in government.

"We know that if we have that kind of diverse perspective from different players, we're going to end up with better products, better decisions, and better services for Canadians at the end of the day," she said.

Ms. Benson said a workplace survey of government workers, which happens every three years, will be taking place next year, and she hopes it's finalized in time to be factored in to the action plan the task force is due to have done by the fall of next year.

She said past surveys of this type have indicated problems with workplace harassment. While it's not clear how much of this is related to factors such as ethnicity, gender, sexual orientation, or disabilities, she said this year's workplace survey, conducted by the Treasury Board, is likely to have specific questions that will illuminate issues this new task force is dealing with. PSAC was consulted on what kind of questions it wanted in this survey, she said.

This task force was launched in the midst of a leadership campaign for the federal Conservative Party that sees identity being used as a campaign issue. For example, MP Kellie Leitch (Simcoe-Grey, Ont.) has called for immigrants to be screened for not-yet-defined Canadian values, while fellow MP and leadership candidate Steven Blaney (Bellechasse-Les Etchemins-Lévis, Que.) has called for a royal commission on Canadian identity and a ban on the niqab in federal workplaces, even if it means using the notwithstanding clause to override the Supreme Court.

On the effect this type of campaigning has on acceptance in the federal workplace, Ms. Benson said: "We always have concerns about individuals who want to go forward in leadership who don't

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necessarily seem to be as open and inclusive as what they can be. Canada is a multicultural country.”

In terms of any problems being created by public service employees wearing niqabs at work, Ms. Benson said: “It’s not been a problem in any of our workplaces, and we welcome diversity in our workplaces.”

She added that one of the goals of this new task force should be to “protect religious minorities, and in particular, quite frankly, Muslim women.”

The most recent Employment Equity in the Public Service of Canada report for 2014-15, released last June, showed the government’s workforce is more than representative of the four groups identified in the Employment Equity Act. Women made up 54.3 per cent of the public service compared to 52.5 per cent of the available workforce, the latter of which represents those in the overall workforce in corresponding occupations. Visible minorities were 13.8 per cent of the public service and 13 per cent of the available workforce. Aboriginals were 5.1 per cent of the federal public service and 3.4 per cent of the available workforce. And people with disabilities made up 5.6 per cent of federal government workers and 4.4 per cent of the available workforce.

However, the numbers were not as representative at the executive level. Women made up 46.4 per cent of federal executives but 47.8 per cent of the available workforce. The score was 8.8 per cent employed and 9.5 per cent available for visible minorities, and 3.4 per cent employed versus 5.2 per cent available for aboriginals. In the category of disabilities, the advantage swung the other way as such workers made up 5.3 per cent of federal executives versus their 2.3 per cent workplace availability.

“We’ve already recognized, in the management category, for example, that there’s not enough aboriginal people, there’s not enough women,” Ms. Benson said. “There’s already identified gaps. ... The federal government should be reflective of the communities.”

Ms. Benson added that as the baby boomers age, there will be more government employees with physical limitations, and this is something leaders should recognize.

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“If you need a special desk, if you need a special keyboard, if you need special lighting, those types of things need to happen in order for [some employees] to be productive in the workplace,” she said.

She said by not taking measures to be inclusive to a variety different people, there are a lot of talented people that the government is missing out on.

“There are folks out there who might not think of applying for work in the federal government, and we’re really missing the opportunity to ensure that we have the talent that we need,” Ms. Benson said.

Membership of Joint Union/Management Task Force on Diversity and Inclusion:

Steering committee

Larry Rousseau, PSAC regional vice-president for national capital region

Margaret Van Amelsvoort-Thoms, Treasury Board executive director of people management

Technical committee

Union representatives

Waheed Kahn, PIPSC employment equity champion

Michael Desautels, PSAC aboriginal rights program officer

Lionel Siniyunguruza, PIPSC research officer

Karen Brook, CAPE labour relations officer

Seema Lamba, PSAC human rights program officer

Melanie Bejzyk, PAFSO legal officer

Andrée Côté, PSAC women’s and human rights officer

Management representatives

Louise Mignault, Treasury board senior director of diversity and inclusion

Andrea Markowski, Correctional Services district director

Nadine Huggins, Public Safety director for indigenous representation

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Cheryl Grant, Health Canada director general for policy coordinator and planning

Sonja Crosby, Public Services manager of diversity network

Manjeet Sethi, Agriculture director of pest management centre

Executive representative

Debbie Winker, APEX visiting executive

Public servant steals nearly \$1 million in computer parts, sells them on Kijiji

Andrew Seymour, The Ottawa Citizen, December 5 2016

A former federal public servant who stole nearly \$1 million in computer parts from the [Department of National Defence](#) and sold some of them on the classified website Kijiji has pleaded guilty to fraud and breach of trust.

Andrew Heggaton, 33, was a civilian member of the Canadian Forces Crypto Support Unit when he ordered the hard drives, motherboards, processors and graphics cards he would later steal over a four-year period between June 2011 and March 2015.

Heggaton's scam began unravelling in September 2014 when his superiors in the crypto support unit, also known as CFCSU, started getting invoices for graphic cards they didn't normally buy, and hard drives and processors that were usually purchased as part of larger orders of complete computer systems. Worse yet, no one in the CFCSU could find the items they were being billed for.

Two of the invoices — one for \$61,647.46 and the other for \$76,405.31 — indicated the items had been shipped to Heggaton.

"When questioned by his supervisors about this, Mr. Heggaton provided some nonsensical explanations," said prosecutor Bruce Lee-Shanok following Heggaton's guilty plea earlier this year. "He stated those two orders were in fact official government orders, however the authorization forms attached to the orders had signatures that weren't recognizable by anyone in the unit."

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The invoices were also missing an additional level of certification that is required before they could be sent out, Lee-Shanok said.

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- [Canadian Mint employee accused of smuggling \\$180K of gold in his rectum](#)
- [The mystery of the listening devices at DND's Nortel Campus](#)

“Further, Mr. Heggaton had attempted to pass off older model processors to his supervisors, claiming that those were the processors that had in fact been delivered as part of those invoices,” said the prosecutor.

Following the discovery of irregularities in September, the CFCSU contacted military police to report a possible fraud. By November, the Canadian Forces National Investigative Service, or NIS, was examining invoices.

Two in particular caught their eye, mostly because they had the exact same invoice number and both were shipped to Heggaton.

The orders were for 40 Intel Core i7 processors, along with 40 licences for computer software. The Ottawa company that supplied the parts conducted an internal review and concluded the invoice for the licences had been doctored by someone who “attempted to cut and paste” to make it look legitimate.

On Jan. 27, 2015 — four months after his employers first questioned him about a suspicious order — the CFCSU received an invoice from another supplier for the purchase of Intel Core i7 processors that was never logged as being received.

“That invoice was reviewed in the presence of Mr. Heggaton, who began acting in a way that is described as ‘weird’, stating that it must of been a mistake due to the year-end rush and he would look into it,” said Lee-Shanok.

By this point, a system was implemented that any products sent to Heggaton were to be reviewed by the supervisor. All deliveries that entered CFCSU were also now to be documented by a commissionaire.

But despite the increased scrutiny, Heggaton wasn’t dissuaded from ordering more Intel Core i7 processors.

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On March 6, 2015, a package addressed to Heggaton containing what the prosecutor described as a “large number” of the processors was intercepted. After it was determined the processors weren’t needed by the unit, investigators released the package for Heggaton to pick up.

A surveillance team later watched as Heggaton left work carrying a large laptop bag. Investigators stopped him and searched the bag, finding 15 Intel Core i7 processors valued at \$11,430 and four hard drives valued at \$2,084. All were still in their original retail packaging.

A search warrant was later executed on Heggaton’s cubicle and common area, and investigators seized what was described as a large number of suspicious invoices, purchase orders and brand new computer parts that were not used by the unit.

Further investigation revealed that Heggaton was selling some of the stolen items on Internet classified site Kijiji.

Investigators were able to recover one Intel Core i7 processor from an online purchaser. The serial number matched one of the missing processors that had been ordered by Heggaton and delivered to the CFCSU, according to the prosecutor.

“CFCSU and NIS conducted an audit that revealed a total value of items fraudulently ordered and stolen by Mr. Heggaton to be \$966,933.82,” said Lee-Shanok, adding the invoices dated back to June 3, 2011.

Heggaton’s lawyer, Michael Smith, told Ontario Court Justice Heather Perkins-McVey that Heggaton didn’t receive all that money, it was just the value of the items.

Heggaton pleaded guilty to fraud, breach of trust and the trafficking of the processor that was sold online. Smith didn’t offer any explanation in court as to why Heggaton stole the computer parts.

Those details are likely to emerge during a sentencing hearing, which was initially scheduled for November but was put over until January. However, Smith did tell the judge that Heggaton has been attending Narcotics Anonymous.

Smith declined to discuss the case in further detail when reached by Postmedia, but confirmed addiction played a role in the crime. He said his client had been fired.

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Quebec to hire new judges, prosecutors to address backlog in justice system

Funds will help courts address unreasonable delays, justice minister says
Benjamin Shingler, CBC News, December 7 2016

The Quebec government wants to hire nearly two dozen new judges as part of a plan aimed at easing the burden on its overloaded justice system.

Justice Minister Stéphanie Vallée tabled a bill Wednesday that would add two appeals court justices, five Superior Court justices and 16 provincial court judges to the current numbers.

At a news conference, Vallée announced further details of a four-year, \$175.2-million plan to address the province's case backlog.

Between now and June 30, 2017, she said Quebec's Director of Criminal and Penal Prosecutions will hire 69 more Crown prosecutors and 114 support staff.

The changes will allow the province to handle 10,000 additional cases a year, she said.

In addition to the influx of cash, Vallée said there's a need for a "culture shift" within the justice system.

"There is still a lot more to do address the delays," she said.

Quebec's legislative session ends Friday, but Opposition Parti Québécois Leader Jean-François Lisée said his party will support the bill if the legal community says it is satisfied with the measures.

Accused walk free

The pledge for more cash and new hires comes following a [Supreme Court judgment in July](#) known as the Jordan decision.

It states that the time between when an accused is charged and when their case reaches trial should be 18 months in a provincial court or 30 months in a Superior Court.

The decision has raised concern across the country that backlogs in the courts could allow people accused of serious crimes to go free.

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Last month, four alleged drug traffickers, including Richard Hudon, one of the founding members of the Quebec Hells Angels, obtained a stay of proceedings at the Quebec City courthouse.

They had waited more than 60 months for a trial date on drug-related charges.

About a week after that, a Quebec Court judge in Joliette threw out the case of contractor Christian Blanchet, who was arrested on fraud, breach of trust and conspiracy charges, due to unreasonable court delays.

Quebec's director of criminal prosecutions said recently it has received 222 requests for a stay of proceedings due to unreasonable delays under the new rules, a number others say could be just the tip of the iceberg.

Struggles not new

The province has been grappling with delays in the court system for years.

Vallée announced new measures last October aimed at making things more efficient, including bringing back retired judges to handle administrative tasks and making use of alternatives to the courts for certain infractions.

But there was no plan to hire new staff at that time and no new funding.

"It's not a question of numbers. It's question of how we do things, how we address an issue," Vallée said at the time.

"Can we be more efficient? The message we are sending is, 'Yes, we can.'"

On Wednesday, Vallée denied the province had been slow to introduce more funding, saying she wanted to make sure the money would be put to good use.

“He got pulled into it and things just spiralled out of control,” said Smith.

**Free speech vs. copyright in Supreme Court battle between Google, B.C. firm
The Canadian Press, CTV News, December 6 2016**

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A legal fight between Internet giant Google and a British Columbia technology company unfolds today in the Supreme Court of Canada, where they will duel over competing free speech and copyright infringement issues.

At issue is whether Canadian courts have the jurisdiction to make sweeping orders to block access to content on the Internet beyond Canada's borders.

Google is challenging a 2015 ruling by the British Columbia Court of Appeal that ordered it to stop indexing or referencing websites linked to a company called Datalink Technologies Gateways.

The B.C. appeal court granted that injunction at the request of Equustek Solutions Inc., which won a judgment against Datalink for essentially stealing, copying and reselling industrial network interface hardware that it created.

Equustek wanted to stop Datalink from selling the hardware through various websites and turned to Google to shut down references to them.

Initially, Google removed more than 300 URLs from search results on Google.ca, but more kept popping up, so Equustek sought -- and won -- the broader injunction that ordered Google to impose a worldwide ban.

Google fought back against the "worldwide order" arguing that Canadian courts don't have the legal authority to impose such an injunction.

Its written argument to the Supreme Court calls the injunction "an improper and unprecedented extension of Canadian jurisprudence."

Equustek's lawyers argue in their written submission that there is no issue of freedom of expression at play in the case. The only purpose of the offending websites "is to generate profit for the outlaw Datalink defendants and their collaborators by selling illegal products in violation of multiple court orders."

The company's lawyers say their clients created "complex industrial equipment."

"The defendants are not selling counterfeit handbags or watches on street corners," they argue.

"If the court is powerless to act in the face of this kind of conduct, then we no longer live in a world ruled by law."

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Equustek's lawyers did not respond to a request for comment.

Google lawyer David Price said if his client loses, it could lead to a proliferation of removal orders across the globe.

"That may embolden countries whose perspectives on free expression may not align with Canada," he said in an interview from London.

That view is shared by the New York-based Human Rights Watch, which has been granted intervener status by the Supreme Court.

It argues that "an injunction issued by a court in one country which restricts freedom of expression in another country will rarely, if ever, be consistent with international human rights law."

Human Rights Watch is joining a coalition of civil liberties groups, as well as 15 news organizations including Dow Jones, the Newspaper Association of America and The Associated Press. They argue the Canadian courts are overextending themselves and threatening free speech across the globe.

Equustek has the support of a coalition of Canadian publishers, authors, composers and filmmakers, as well as an international federation of film producers. They take exception with Google's argument that it cannot be "deputized by a court to deindex a site."

The issues in the case are part of a growing global trend of "intermediary liability" where companies such as Google are being pressed to take down harmful or illegal content, said Fen Hampson, an Canadian foreign affairs expert and author of "Look Who's Watching," a new book on the evolution of the Internet.

The European Court of Justice has upheld the "right to be forgotten," which upholds the removal of defamatory or inaccurate personal information if it comes up in a search engine such as Google, he said.

"In this case, Google (the intermediary) was asked by the B.C. court to deal with a copyright infringement issue, but the concept can be applied to other issues such as trademark disputes, defamation, hate speech, censorship or the protection of privacy."