**Families worry accused killer could go free if judge shortage continues**
Calgary Herald
Bryan Passifiume
April 3, 2018

Ottawa's delays in filling vacant judicial positions are denying justice for Canada's murder victims, say two Alberta MPs.

Speaking to media Tuesday morning, Calgary Nose Hill MP Michelle Rempel and St. Albert Edmonton MP Michael Cooper called on federal Justice Minister Jody Wilson-Raybould to clear logjams of cases they say are causing unacceptable delays in Canada's justice system.

"Canadians must have the assurance that the justice system will work for them, and place the rights of the victims ahead of those who commit these terrible offences," Rempel said at her north Calgary constituency office.

"Their inability to do the most basic function of appointing judges undermines Canadians' confidence in their judicial system."

To that end, the pair launched an official online Parliamentary petition urging Ottawa to take action.

They were joined by families of murdered Calgary mom and daughter Sara Baillie and Taliyah Marsman — who reached out to Rempel over concerns in delays in the case against Edward Downey, the man accused in their 2016 killings.

They say limits imposed by R. v. Jordan — the 2016 Supreme Court decision that puts an 18-to-30 month limit between a suspect's arrest and the conclusion of their trial — could potentially see the accused killer go free.

"We will be attending a trial 29 months after the alleged murderer was charged," said family spokesman Scott Hamilton.

"The government's inaction to appoint judges isn't protecting the rights of anyone — we're all entitled to trials without undue delay."

Baillie was found dead inside her northwest Calgary home on July 11, 2016, while five-year-old Taliyah's body was found in a field outside the city three days later.

Arrested on July 14, Downey's three-week trial begins on Nov. 26.

It would need to be completed by Jan. 14, 2019, to be within the 30-month Jordan deadline.

Cooper, the shadow minister of justice, intends to introduce a justice committee notice of motion to study the impact the vacancies are having on Canada's courts.

As Rempel and Cooper's press conference was getting underway, word trickled in from Ottawa that Wilson-Raybould was about to fill some of these vacant positions.

"The minister of justice is committed to ensuring that the most meritorious jurists are appointed to the bench in order to meet the needs of Albertans," ministerial spokesman David Taylor told Postmedia Tuesday. "She expects to make further appointments in short order."

Last June, Postmedia reported nearly 1,400 Alberta court cases were at risk of being dropped due the Jordan decision.

Of those, information from Alberta Justice suggested 245 Queen's Bench cases had languished on court dockets for over 30 months.

The seeds of the current situation, said ministry parliamentary secretary Marco Mendicino, were sown prior to the Liberals taking power.

"Under the last Conservative government, appointments had completely stalled," he said. "We've renewed that process, and as a result we've made over 160 appointments since taking office."

In Alberta, Mendicino says the Trudeau Liberals have appointed 24 new federal judges since coming to power.

Last week, the federal government introduced Bill C-75 — a wide-ranging judicial reform meant to reform the justice system and break the backlog of cases plaguing Canada's courts.

"Judicial appointments are only one facet to a very comprehensive approach we're taking to address the culture of complacency which has plagued our court system for far too long," Mendicino said.

**Former federal justice lawyer Schmidt accuses department of 'doublespeak' after losing appeal**
Lawyer's Daily
Christopher Guly
April 3, 2018

Edgar Schmidt has yet to decide whether he will ask the Supreme Court of Canada to review the Federal Court of Appeal's recent ruling that dismissed his challenge of the federal government's approach to determining the constitutionality of legislation. The former federal Department of Justice (DOJ)...

However, the Canadian Bill of Rights and the Department of Justice Act provide Parliament's "instructions" to the justice minister for reporting any provisions that are inconsistent with either the Bill of Rights or the Charter," Schmidt wrote in his brief, noting that "one does not defer to the servant's

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**Relatives of woman, girl killed in Calgary raise concerns about court delays**
The Globe and Mail
Lauren Krugel
The Canadian Press
April 3, 2018

The family of a mother and daughter who were killed in Calgary nearly two years ago has raised concerns the case could be jeopardized by court delays.

Scott Hamilton, a relative of Sara Baillie and five-year-old Taliyah Marsman, has sponsored a petition calling on Justice Minister Jody Wilson-Raybould to immediately fill vacancies on the bench.

“We will be attending a trial 29 months after the alleged murderer was charged with the murders of Sara and Taliyah,” he said Tuesday in Calgary. “We are entitled to trials without undue delay.”

Prime Minister Justin Trudeau has said the justice system can do better, he said.

“Let’s see you do better. Let’s see the minister of justice do better.”

Ms. Baillie, 34, was found dead in her home on July 11, 2016. Taliyah’s body was found days later in a rural area east of the city.

Edward Downey is charged with first-degree murder and is scheduled to stand trial Nov. 26 – one month shy of the time limit set out by the Supreme Court.

The top court said in its 2016 Jordan decision that those charged with a criminal offence have the right to have their cases tried within a reasonable time – 18 months in provincial court and 30 months in Superior Court.

Hundreds of cases have since been thrown out and governments have been under pressure to deal with the backlog.

As of last month, there were 56 vacancies for federally appointed judges across Canada.

Conservative MPs Michelle Rempel and Michael Cooper said the Trudeau government is failing victims of crime and their families. Ms. Rempel said the family of Ms. Baillie and her daughter approached her with concerns that Mr. Downey’s case could be thrown out.

“Every day that the government drags their feet increases the pressure on our courts, adds stress to victims and their families and allows the opportunities for those accused of serious crimes to have their cases stayed or dismissed,” she said, standing alongside Hamilton.

Mr. Cooper is calling on the Commons justice committee to examine the issue.

"The failure of the minister to fill judicial vacancies in a timely manner is not only an abdication of her responsibilities as minister of justice, it is completely inexcusable in light of the Jordan decision," said Mr. Cooper.

Mr. Hamilton said it's too late for Ms. Rempel and Mr. Cooper's efforts to help his family.

"However, with enough support we can all assist families of victims in the future," he said.

Liberal MP Marco Mendicino, parliamentary secretary to Ms. Wilson-Raybould, said the Trudeau government has made 160 federal judicial appointments since it took office in 2015 and 100 of those were in 2017 alone.

He said appointments are made as quickly as possible.

"But we also have to be prudent because these are important positions within the court system and we place a lot of faith and confidence in our judges and we have to be sure they're the right people."

Mr. Mendicino suggested more jobs will be filled soon.

"Expect some news in the very, very short term, particularly as it relates to the province of Alberta."

Gavin Wolch, the lawyer defending Mr. Downey, said everyone involved in the case is doing their best to move it along and the trial is on track to wrap up within the Jordan time frame.

"Our intention is to defend him in a courtroom, where he will have his day in court and people will decide his fate based on evidence, not on tag lines in press conferences."

**There'll be no trial against bankrupt railway in Lac-Mégantic tragedy, Crown says**
*Prosecutors weren't convinced they could obtain a guilty verdict against the now-bankrupt Montreal Maine and Atlantic Railway, Crown spokesperson said.*
Toronto Star
The Canadian Press
April 3, 2018

MONTREAL—The railway at the heart of the Lac-Megantic tragedy five years ago will not have to stand trial for criminal negligence causing the death of 47 people, Crown officials in Quebec said Tuesday.

Prosecutors weren't convinced they could obtain a guilty verdict against the now-bankrupt Montreal Maine and Atlantic Railway, Crown spokesperson Robert Benoit said in an interview.

One of the reasons for believing that, he said, is the acquittal in January of three former MMA railway employees who were charged with criminal negligence in the tragedy.

The railway was facing the same charge.

"The (Crown) was no longer reasonably convinced it could obtain a conviction against the company," Benoit said.

The order to halt the procedures against MMA was tabled Tuesday morning in a courtroom in Sherbrooke, Que.

"This closes the file," Benoit added.

An unattended MMA-owned train carrying crude oil rolled down an incline before coming off the tracks in Lac-Megantic and exploding in the wee hours of July 6, 2013, killing the 47 people.

MMA went through bankruptcy proceedings in the United States and in Canada and its assets have been sold.

The defunct company was not represented by a lawyer in the criminal negligence case.

In February, MMA and six of its former employees settled with federal prosecutors and were ordered to pay fines totalling $1.25 million, while one ex-railway worker was given a conditional jail term.

As of early that month, the company had paid only $400,000, an amount set aside during bankruptcy proceedings for the U.S. branch of the company.

A lawyer with the Public Prosecution Service of Canada said at the time the financial status of the defunct railroad was "precarious" and that it wasn't clear how the court would collect the outstanding money.

**OPINION: In Canada, we criminalize public-interest speech**
David Pritchard And Lisa Taylor
The Globe and Mail
April 3, 2018

*David Pritchard is a professor at the University of Wisconsin-Milwaukee. Lisa Taylor is an assistant professor in the School of Journalism at Ryerson University and a Senior Fellow of Ryerson's Centre for Free Expression*

Twenty years ago this month, the Supreme Court of Canada upheld the convictions of a Saskatoon couple, John and Johanna Lucas, who were charged with criminal defamatory libel for carrying placards featuring messages harshly critical of a police officer. The case represents the Court's sole assessment of a law that criminalizes the sort of speech that is ordinarily dealt with in civil courts.

Defamatory libel is civil defamation's decidedly more brutish cousin: rather than paying monetary damages, its transgressors can be incarcerated for up to five years. Despite its draconian penalties, there's a good chance you've never heard of defamatory libel, in large measure because most Canadian legal experts operate under the false assumption that criminal libel is a legal relic. Until relatively

recently, that was true — a 1984 report of the Law Reform Commission, which unsuccessfully recommended abolishing the charge, concluded that "defamatory libel is rarely prosecuted," a conclusion based on data that showed an average of about three criminal-libel prosecutions a year.

Recently, however, we undertook a study of criminal-libel cases and concluded that, while it's flown beneath the radar of most experts, criminal libel is enjoying a troubling resurgence in Canada. Our research, which will be published in Communication Law and Policy, a scholarly journal, resulted in several interesting findings. The first is that criminal libel is far more common than anyone has realized: There were more than 400 completed prosecutions in the first 16 years of this century.

Another interesting finding is that criminal-libel cases fall into two distinct categories. First, there is cyber-smearing, in which almost all victims are women defamed by men whose romantic interests they have rejected. Victims are often portrayed as being sexually indiscriminate, eager to engage in group sex or interested in bestiality. This is slut-shaming, a centuries-old misogynistic practice made exponentially more powerful by social media.

While the slut-shaming cases are personal, the second category of cases is political in the sense that the allegedly defamatory comments criticize official actions of government employees, mostly police officers or judges, accusing them of misconduct. Police and prosecutors throughout Canada have used criminal libel to punish people whose only sin has been to employ harsh language and/or personal invective in commenting on matters of public importance.

In 1994, for example, two activists made six "Wanted" posters, one for each of the prison guards who had been charged with manslaughter in connection with the death of an Ontario prison inmate. The posters said the guards were "wanted in connection with the kidnap, torture and killing" of the inmate. And in 2009, a man from a Quebec village whose house had been entered illegally by a police officer spray-painted the officer's name and the words "fat cow" and "bitch" on a large boulder. (The officer was suspended without pay for five days because of the illegal entry.)

In theory, Canadians enjoy the constitutional right to criticize government and public officials, but in reality, there is considerable evidence that police use criminal libel to punish critics for disrespect and dissent. Our review of threatened and actual prosecutions in Canada shows that allegations of criminal libel are used to justify harassment of various kinds at the hands of law enforcement. Intrusive searches and seizures of computers, cellphones and other personal technology by police, for example, not only compromise privacy but also limit citizens' ability to communicate. In short, the process of being investigated for criminal libel is significant punishment, even if no charges are filed or if charges are filed but later withdrawn.

In R v Lucas, the case in which the Supreme Court upheld the constitutionality of criminal libel, a police officer failed to take action to prevent a boy who was taken into in foster care at age eight from sexually assaulting his younger sisters, who were also in care. During repeated interviews with the children, Sergeant Brian Dueck and a social worker described the boy's actions as a "touching problem." Complaints about the officer's inaction were made to all levels of government, but to no avail. Frustrated by the failure of the complaints, the Lucases were charged after picketing the Saskatoon

police headquarters, carrying signs reading, “Did Dueck just allow or help with the rape/sodomy of an 8 year old?” and “If you admit it Dueck you might get help with your touching problem.” While the Lucases’ words were harsh, the essence of their criticism was true – in a related 2003 malicious prosecution lawsuit, a judge characterized Dueck’s inaction as “reprehensible.”

Courts in a free and democratic society should not permit legal action to be initiated when its principal goal is to stifle constitutionally protected expression. Specifically, criminal-libel charges should never be brought against critics of the official actions of public employees. Instead, those who hold public positions of power should accept that criticism – including commentary that is crude and hyperbolic – comes with the territory, and simply grow a thick skin.

**Supreme Court to weigh RCMP seizure of Vice News material**
*The top court’s spring session will also include appeals centred on victim surcharges and mandatory minimums in child luring cases.*
Toronto Star
Tonda MacCharles
April 4, 2018

OTTAWA—The Supreme Court of Canada will weigh high-profile appeals centred on the constitutionality of victim surcharges, of the media’s right to resist police seizure of their source materials, and of mandatory minimum penalties in child luring cases as its spring session gets underway in mid-April.

Amid the court’s upcoming docket of 19 cases is an appeal brought by Vice News which asks the court to decide whether journalists have a constitutional right to protect source material from the prying eyes of police agencies investigating suspected terrorists.

In this case the suspected terrorist’s identity is already known to the police and the public.

Vice News reporter Ben Makuch interviewed Farah Shirdon, a Calgary-raised self-declared Daesh fighter who left Canada for Syria and Iraq in 2014, for a series of three articles Vice published between June and October 2014. The following February, the Mounties came calling for Makuch’s notes.

The RCMP persuaded an Ontario provincial court judge, with no advance warning or opportunity for Vice to rebut the police arguments, to issue a production order forcing Vice to turn over Makuch and Shirdon’s communications conducted via the Kik text messaging system.

The February 2015 production order was later upheld by the Ontario Court of Appeal, and the RCMP charged Shirdon with six terrorism offences.

It’s not at all clear whether the Mounties will get their man. Shirdon, 21 at the time Makuch reached him, has been reported dead, though not for the first time.

Still, in the Crown’s eyes, the issue is very much alive. The RCMP has not dropped their pursuit of the Vice materials, which remain under seal pending the outcome of Vice’s challenge.

The case unfolded before Parliament passed the Protection of Journalistic Sources Act last October. That law now sets out protections and procedures to follow before journalists' confidential sources may be seized by police, including requiring a heads-up to media when the cops are looking for a judicial warrant to access their materials.

It's doubtful whether even that law could have protected Makuch's material.

It doesn't say journalists' sources and documents are completely off-limits; it merely outlines ways to ensure that they are a last-resort in criminal investigations, and that competing constitutional rights and interests are properly balanced by a senior trial court judge. The law may only apply to confidential sources, not to non-confidential sources such as Shirdon.

Vice News argues journalists should not be turned into the investigative arm of police, saying sources will dry up for reporters, and ultimately threaten the ability of free press to do its work in a democracy.

Lawyer Justin Safayeni, who is seeking to intervene on behalf of a group of media organizations in the case, said the Supreme Court hasn't squarely considered a case such as this before, and it will further define what the Charter's guarantee of a free press means.

The high court in the past agreed the press deserve certain protections but ultimately ruled in favour of the police in a 1991 case where investigators seized CBC broadcast videotapes of a public protest. In that case there was no confidential source.

And in a 2010 case, the high court ruled journalists do not enjoy a blanket right to shield their materials or identity of confidential sources during police investigations, but said sources may be shielded on a case-by-case basis.

The Vice case, Safayeni said, falls in the middle: it involves a journalist-source relationship and journalistic materials, but the source is not a confidential one. He said the court must weigh carefully the fact that the material sought is to be used in the police prosecution of the source, not to prevent a crime or to investigate someone else, and the fact that the possibility of a trial anytime soon is remote.

"Our argument is not that we stand above and beyond the reach of warrants and production orders in every case, but the Supreme Court has recognized 25-plus years ago now that special considerations do apply to media, and that's appropriate because of the media's unique role," Safayeni said. "It doesn't mean that the police can never get records from the media but it does mean you have to scrutinize requests very carefully, and a case like this really puts those principles to the test."

Among a number of parties seeking to intervene in the case are the CBC, Global News, Postmedia, Aboriginal Peoples Television Network, the Canadian Media Lawyers Association, the Canadian Association of Journalists, Canadian Journalists for Free Expression, the Canadian Media Guild, Communications Workers of America Canada, Centre for Free Expression, the Media Legal Defence Initiative, Reporters Without Borders, Reporters Committee for Freedom of the Press, Media Law Resource Centre, International Press Institute, Article 19, Pen International and Pen Canada.

On April 17, the high court will hear several appeals that put a spotlight on previous Conservative government criminal justice bills, including mandatory impositions of victim surcharges amounting to 30 per cent of any fine per offence, plus surcharges of $100 to $200 depending on the severity of the crime, amounts that could be increased. In 2013, the Harper government passed a bill that removed judicial discretion to waive the victim surcharge in cases where it was a hardship.

The judges will also decide whether a one-year mandatory minimum penalty in an internet child-luring case was excessive, and in another child-luring case will decide the extent of police powers to seize screenshots of emails and whether an accused had a reasonable expectation of privacy.

**Your letters: Debating the merits of Canada's proposed justice reform**
Toronto Star
April 5, 2018

Liberal bill a step backward for Canadian justice reform, Opinion, April 3

I appreciated the critique by lawyer Stephanie DiGiuseppe of the new justice reform Bill C-75. Is this how the federal government envisions "we must do better?"

How does repealing peremptory challenges in jury selection, making it more difficult to cross-examine police officers, eliminating preliminary inquiries for most offences, and so on, improve our justice system?

How does stripping a defendant's right to fair jury selection and a fair trial, as this bill appears to do, help the cause of justice in Canada?

Grant Orchard, Toronto

Not fairer or quicker, Editorial, April 3

Bill C-75 is Parliament's bold response to the challenge of delays in our criminal justice system. The bill would, among other things, reduce the number of charges clogging the courts, speed up hearings, make jury selection more transparent and toughen sentences for those convicted of intimate partner violence.

The legislation also takes a new approach to preliminary inquiries, reserving them for offences that carry a maximum life sentence. Cases where preliminary inquiries are held take on average four times longer to complete than cases without them. They frequently subject victims to re-traumatization by making them testify twice.

In its Jordan decision, the Supreme Court invited the government to "consider the value of preliminary inquiries in light of expanded disclosure obligations," which have reduced the relevance of the procedure. Bill C-75 would decrease the number of preliminary inquiries by about 87 per cent, freeing up valuable court resources and time.

Bill C-75 must be viewed against the backdrop of other key initiatives, including a robust judicial appointments process and more resources for the judiciary. Taken together, the government's actions reflect the kind of bold transformation that Canadians demand.

Marco Mendicino and Bill Blair, Toronto MPs and Parliamentary secretaries to the minister of justice and Attorney General of Canada

**Deux nouveaux juges à la Cour supérieure**
*Ils étaient tous deux associés dans des cabinets privés et pratiqueront à Montréal*
Droit Inc
Martine Turenne
5 avril 2018

La ministre de la Justice Jody Wilson-Raybould annonce les nominations de deux nouveaux juges de la Cour supérieure du Québec pour le district de Montréal. Il s'agit de David E. Platts, qui remplace le juge P.C. Gagnon, devenu juge surnuméraire le 12 décembre 2017, et de Jérôme Frappier. Celui-ci remplace le juge M. Déziel, qui avait choisi de devenir juge surnuméraire le 16 janvier dernier.

Un champion de l'inclusion
Associé du cabinet McCarthy Tétrault jusqu'à sa nomination, David E. Platts a obtenu son baccalauréat en sciences politiques et français, avec distinction, de l'Université de Calgary (dont une année passée à l'Université Laval) et ses baccalauréats en droit civil et en common law de l'Université McGill. Il été reçu au Barreau du Québec en 1991.

Le nouveau juge a ensuite été auxiliaire judiciaire pour Peter deCarteret Cory à la Cour suprême du Canada avant de réintégrer la pratique privée: d'abord chez Langlois Robert, puis au sein du cabinet McCarthy Tétrault, où il pratiquait depuis 1996 le droit de la propriété intellectuelle, le litige civil et commercial, et la responsabilité professionnelle et le droit disciplinaire.

Il était le Chef de l'inclusion chez McCarthy Tétrault et de 2012 à 2017, a été président du GRIS-Montréal, l'un des organismes communautaires LGBT le plus respecté au Québec, qui veille à démystifier l'homosexualité et la bisexualité dans les écoles et chez les aînés.

Un avocat polyvalent
Associé du cabinet Frappier, Crevier, Trempe, le nouveau juge Jérôme Frappier est diplômé de l'Université de Sherbrooke. En 1995, il a fondé, à Sorel-Tracy, le cabinet Gauthier & Frappier, maintenant Frappier, Crevier, Trempe.

Le juge Frappier a décidé d'exercer le droit en pratique privée à l'extérieur d'une grande ville, peut-on lire dans le communiqué du ministère de la justice, afin d'être plus polyvalent. Il a en effet travaillé dans plusieurs domaines du droit, soit le droit civil, commercial, administratif, matrimonial, criminel et pénal.

Le juge Frappier a fréquemment plaidé devant toutes les chambres de la Cour du Québec et de la Cour supérieure, ainsi que devant la Cour d'appel. Il est partisan des modes alternatifs de résolutions des conflits.

De 1997 à 2003, il a été président du conseil arbitral en matière d'assurance-emploi.

Jérôme Frappier a été administrateur de plusieurs organismes communautaires de sa région, comme Centraide, la Fondation des Amis de la bonne entente, la Fondation Hôtel-Dieu de Sorel et Azimut diffusion. Membre de l'Association du Barreau canadien, il fait partie du Comité égalité, qui a pour mission de sensibiliser les membres de la profession juridique aux questions d'égalité et de lutter contre la discrimination.

**Justice reform will speed up system, address biases, Sean Casey says**
*New government legislation would eliminate preliminary inquiries and peremptory challenges*
CBC News
April 5, 2018

A justice reform bill tabled by the federal government will address court backlogs across the country and address biases in the criminal system, according to a P.E.I. MP who led part of the consultation process for the bill.

The bill introduced last week would eliminate preliminary inquiries except in the case of crimes that carry a life sentence. The proposed changes also include an end to peremptory challenges in jury selection, takes steps to address the over-representation of Indigenous persons in the criminal justice system and addresses domestic, or "intimate partner" violence.

The legislation is meant in part to address the Supreme Court's so-called Jordan decision, which sets strict time limits for criminal trials: 18 months for proceedings at provincial court and up to 30 months for cases at Superior Court. That sent provinces and territories scrambling for ways to meet the new time frames, and led to hundreds of cases being dismissed due to lengthy delays.

Charlottetown MP Sean Casey is a former parliamentary secretary to the minister of justice and he participated in many of the roundtables and discussions leading to the creation of this bill.

System too slow
"What we repeatedly heard was that the system is too slow, that it's clogged up with administration of justice offences -- so people are tying up court and jail time because they've breached probation and failed to appear," he said. "We've heard that on bail hearings in some cases the criminal record of someone who is seeking bail doesn't come forward, that isn't right."

Casey said preliminary inquiries mean witnesses often have to testify twice, which can be traumatizing, and the bar is so low that the vast majority end up going to trial anyway.

"It's an extra step that isn't always necessary," he said. "So what this bill does is it limits the availability of preliminary inquiries to the more serious charges and essentially gets rid of them for those that aren't as serious where they could potentially be used to slow down and clog up the courts."

He noted the increased disclosure requirements from police also mean that there's very little new that comes up at a preliminary hearing.

Changes won't be felt as much on P.E.I.
Casey said the elimination of peremptory challenges addresses criticism that the system is unfair, following the high-profile Colten Boushie case where five potential jurors who appeared to be visibly Indigenous were rejected by the defence. CBC News has not independently determined the reason for their exclusion.

While most of the country is facing a critical backlog of cases, P.E.I. is faring a little better. The province leads the country in low crime rates, low court backlogs and confidence levels in police.

"You will see some impact on Prince Edward Island but the impacts will be much more pronounced where the problems are more pronounced," Casey said.

Among some of the other changes in the bill, Casey highlighted one that indirectly deals with mandatory minimum sentences introduced by the previous government.

"The other one that's a little bit below the radar but probably as significant as any is every criminal offence is either an indictable offence or summary conviction offence," Casey said. "This broadens the number of offences where summary conviction is an option.

"And although we haven't dealt with mandatory minimums head-on, that is one way of putting a discretion in the hands of the prosecution or in the hands of the court where lesser offences can be dealt with at a more appropriate level."

The bill is in its early stages right now and will take months before becoming law, following readings and possible amendments in the House of Commons and the Senate. Casey said he expects the bill to be law before the next election in October 2019.

**Morneau Shepell concludes successful Employers Connect events in eight Canadian cities**
PRESS RELEASE PR Newswire
April 5, 2018

More than 1,000 people attended annual workplace mental health summit, discussed new research and found ideas to improve employee well-being
TORONTO, April 5, 2018 /CNW/ - Morneau Shepell has completed its 2018 Employers Connect summit with events held from January 31 to April 4 in Vancouver, Calgary, Edmonton, Toronto, Ottawa, Montreal, Quebec City and Halifax. More than 1,000 people attended the events to learn more about

Morneau Shepell's latest research on workplace mental health and to hear from leading Canadian employers and Olympians on how to manage workplace stress.

Through its research on Canadian employers and employees, Morneau Shepell found that nearly half (40 per cent) of people managers and more than a third (34 per cent) of employees reported suffering from extreme levels of stress over the six months prior to the survey. Both groups ranked workplace stress higher than personal stress and indicated strong correlations to employee retention.

"There is an opportunity to improve support for coping and risk management in workplaces. Organizations that are looking to mitigate current and emerging risks should review their evaluation tools, adjust their mental health and wellness strategies, adapt their support resources to reflect change in the workplace, and consider practical ways for managers and employees to address mental health," said Paula Allen, vice president, research and analytic solutions, Morneau Shepell. "These conversations are incredibly valuable, as they give us a chance to discover solutions for Canadian employers. The increased interest we have seen at Employers Connect events over the years speaks to the importance of workplace mental health and how collectively, if we get together and share ideas, we will continue to make a difference."

A number of leading Canadian organizations were represented through panelists at Employers Connect including, Cree Leadership Consulting, University of Calgary, Scotiabank, McCarthy Tetrault LLP, The Co-operators Group Limited, Bruce Power, Youth Services Bureau of Ottawa, Association of Justice Counsel, Canadian Nuclear Laboratories, Université du Québec à Montréal (university based in Montreal, Quebec) and Tranquility Online. Olympians Dale Walters, Chandra Crawford, Ben Titley, Tom Hall, Jean-Paul Richard and Ellie Black were also in attendance to discuss the growing need for supporting employee well-being.

For an in-depth overview of the research results, including insight on stress among high performers, the importance of early intervention and the impact of stress on workplace productivity, please visit: http://morneaushepell.mediaroom.com/2018-01-30-Morneau-Shepell-finds-strong-correlation-between-workplace-stress-and-employee-retention

About Morneau Shepell
Morneau Shepell is the only human resources consulting and technology company that takes an integrated approach to employee assistance, health, benefits and retirement needs. The Company is the leading provider of employee and family assistance programs, the largest administrator of retirement and benefits plans and the largest provider of integrated absence management solutions in Canada. As a leader in strategic HR consulting and innovative pension design, the Company helps clients solve complex workforce problems and provides integrated productivity, health and retirement solutions. Established in 1966, Morneau Shepell serves approximately 20,000 clients, ranging from small businesses to some of the largest corporations and associations. With more than 4,000 employees in offices across North America, Morneau Shepell provides services to organizations across Canada, in the United States and around the globe. Morneau Shepell is a publicly-traded company on the Toronto Stock Exchange (TSX: MSI). For more information, visit morneaushepell.com.

**Tax agency workers want in-house pay system to replace Phoenix**
iPolitics
Kathryn May
April 5, 2018

The Canada Revenue employees are pressuring the agency to revamp an in-house system to take over pay operations and opt out of the calamitous Phoenix pay system.

The two unions representing the 40,000 employees at the tax agency are lobbying the Trudeau government for a change in CRA's mandate that would allow it to pay its own employees using an existing in-house corporate administrative system – known as CAS — and stop using Phoenix.

Debi Daviau, president of the Professional Institute of the Public Service of Canada (PIPSC), said she was assured by CRA's technology workers that the CAS system can be adapted into a pay system with the capacity to pay all employees. The Canada Border Services Agency also uses the same system for its more than 14,000 employees

In fact, IT workers, who are represented by PIPSC, posted a statement on the union's website this week suggesting CRA thought the idea was a possible "solution" and a revamped CAS could be up and running between six to nine months.

In an email, CRA officials didn't outright reject the idea, but said "CAS could not be operational as a pay system in the kind of timelines proposed by PIPSC." The agency said it has made no request to leave Phoenix. It is working with the government to consider "any and all options."

"If the Canada Revenue Agency (CRA) was able to implement an easy solution that would quickly stabilize the pay of its employees, it would already be implementing it," said agency spokesperson Karl Lavoie.

But Daviau argued modifying the CAS system would be a faster and cheaper interim solution to pay workers while the government works on the new pay system that will eventually replace Phoenix. Treasury Board got $16 million in the budget to start the search for a new system which could take five or six years.

"I know it will take time to revamp the data in the system but I feel confident that it will be shorter than the six years the government is now saying it will take to build a new system," said Daviau.

Daviau said she has informally discussed the idea with CRA management and "they haven't said no" despite some reservations.

Daviau said she now plans to make a formal written proposal to the government – the first to suggest that the government abandon its longstanding goal of having all departments on a single pay system.

She has also pitched the idea to the MPs in the National Capital Region, who feel the brunt of complaints from unhappy public servants.

Marc Brière, president of the Union of Taxation Employees, said he backs the idea.

“I think it could be done,” he said. “I strongly believe that CRA should do a full analysis of whether the (CAS) system can be expanded to a full pay system and change the legislation so CRA can pay employees directly.”

Many federal departments have speculated behind the scenes about opting out of the new pay centre in Miramichi, N.B., and using their own compensation advisers. This is the first time pay frustrations have bubbled over into talk of a department dumping Phoenix.

The Senate, which has much more flexibility than departments, is the only federal institution that has so far opted to leave Phoenix and build its own pay system.

Public Services and Procurement Canada is the government’s only legal pay master. The Phoenix business plan was built on centralizing pay operations in Miramichi and moving 300,000 employees in 101 departments and agencies to the same pay system.

CRA is the biggest federal department. With 14,000 employees at CBSA, the two departments account for nearly 20 per cent of the employees paid by Phoenix. Their departure would be a major blow to PSPC’s business model for pay operations and could prompt other departments to defect.

“If CRA bails, other departments will want to bail too and that is the potential unravelling of the whole model this was built on, which is having everyone on the same pay system and eventually getting every department to use to Miramichi,” said one senior official.

The CRA uses CAS to directly enter data into Phoenix.

Daviau said the CAS system has been doing all the necessary pay day calculations and payroll costing, which are sent to Phoenix for final processing and payment every two weeks so there is no reason this couldn’t be expanded to “actually cut the pay cheques”

The system, built using SAP software, was created as help manage finance and human resources for the old Canada Customs and Revenue Agency, which was re-organized in 2003 and split into two departments: CRA and the CBSA.

CBSA still uses CAS and under the union’s proposal would also opt out of Phoenix.

Brière says CRA is a perfect candidate to leave Phoenix and it could be studied as a ‘pilot project’ for a future pay system. As a separate employer, CRA operates at arms-length from government with different pay rates and occupational groups from other departments.

But CRA also has fewer pay problems than other departments. Brière chalks this up to a number of reasons: it kept its own compensation advisers; doesn't use the Miramichi pay centre and all its pay calculations and payroll costing are handled by the CAS system. CAS then sends that information to Phoenix to process payments.

He argued the big question is how much time would be needed to upgrade CAS, which he said could take several years – still faster than the time to build a new pay system to replace Phoenix.

CRA management and unions meet regularly to discuss Phoenix pay problems and the possibility of expanding the CAS into a "full-blown pay system" came up at a meeting last month. The unions decided to push it as an interim solution worth exploring while the government is looking for a permanent Phoenix replacement.

"We are in an exceptional situation and we need exceptional solutions and to think outside the box," said Brière. "The government wants PSPC to pay people but it can't do it right and on time. It's unacceptable and it's been going on for too long. Now they tell people that in five or six years we should be ok?"

Brière said he doesn't think it would be feasible for CRA pay other departments but it could be 'pilot project' for PSPC or other departments to duplicate.

Daviau goes a step further. She argues that if the CAS can be used as a pay system then why couldn't it be scaled or duplicated to handle payroll for other departments. She also questioned why other systems, particularly the 50-year-old regional pay system that was mothballed when Phoenix went live, can't be reactivated.

"They should go out and examine all the systems we have and bring them back as interim systems to get people paid correctly…Once that's done, we have the luxury of looking at the long-term and the be-all-end-all system of the future rather than in a crisis when three-quarters of all public servants are not paid correctly," said Daviau.

**Bill C-75 is justice reform that makes sense**
Allan Rock
Contributed to The Globe And Mail
April 6, 2018

*Allan Rock is president emeritus and a professor of Law at the University of Ottawa, and is a former minister of justice and attorney-general of Canada.*

In the summer of 2016, the Supreme Court delivered an unequivocal call to action.

It called on all criminal justice system actors to undertake real, transformative change. It called for an end to the "culture of complacency" plaguing our courts. The Jordan decision – one of the few Canadian

court decisions to become a household name – created the expectation among Canadians that their government would act to improve the criminal justice system.

Bill C-75 is the Trudeau government's response to that challenge. While the proposed legislation does not address all of the problems in the system, it would resolve many of them. It is a commendable piece of legislation, and it merits the support of Canadians.

Much of the bill is a direct response to the Supreme Court decision. The court explicitly encouraged Parliament to "consider the value of preliminary inquiries in light of expanded disclosure obligations" – a call echoed by provincial attorneys-general across the country, and by some chief justices. When they were created, "preliminaries" provided the principal means by which the accused learned the particulars about the Crown's case against them. Nowadays, stringent obligations compel prosecutors to make full disclosure as a matter of course. In short, preliminaries are no longer necessary.

While preliminaries occur in only three per cent of cases, they have a disproportionate impact. In Jordan itself, the preliminary took a full year to complete, including nine days of court time. Cases that include a preliminary take an average of four times longer to complete than those that do not. The Supreme Court has already held that preliminaries are not necessary in order for the accused to have a fair trial. Nor is there a constitutional right to a preliminary. Bill C-75 would bring about an 87-per-cent reduction in the number of preliminaries. That would provide welcome relief for an overburdened system.
Bill C-75's most extensive reforms are focused on the bail system. The question of bail arises in every one of the hundreds of thousands of criminal cases that come before our courts each year.

The proposed bail reforms, along with changes in the way "administration of justice offences" are handled, will unclog the courts while also addressing the overrepresentation of vulnerable communities in pretrial custody.

In many detention facilities, there are more people awaiting trial than those who have been found guilty. And the evidence shows that Indigenous people and members of vulnerable populations are more likely to be denied bail. This is morally indefensible.

Bill C-75 will improve the bail system in several ways. It will direct the police and judiciary to follow a "principle of restraint," instead of imposing burdensome conditions that set the accused up for failure without improving public safety. It will also require the court to consider the circumstances of accused from vulnerable, marginalized and Indigenous populations, and to ensure that any conditions imposed are necessary for public safety and the administration of justice.

We know that Indigenous and marginalized Canadians are more likely to be charged with breaching bail conditions. This is due in large part to long-standing inequalities that affect the person's life circumstances. For instance, the homeless may have trouble complying with a curfew, or may show up late to court. Those struggling with substance abuse may have trouble complying with a condition not to consume alcohol.
At present, the only option for the police – other than ignoring the breach – is to lay a fresh criminal charge against those who violate bail conditions. The consequences are significant: 40 per cent of cases

before the courts involve at least one so-called “administration of justice offence”. Bill C-75 will empower the court in those cases to issue a warning, vary the bail conditions or revoke bail. This new tool will result in many fewer such cases in the system.

The legislation contains many other overdue changes, including stronger responses to intimate-partner violence: repeat offenders will find it more difficult to obtain bail, and face higher penalties on conviction. In addition, judges will be given new case-management tools; there will be increased use of technology in the courtroom; and peremptory challenges of prospective jurors will be eliminated.

The Supreme Court called on the government in Jordan to ensure that the criminal justice system is “conducive to timely justice.” Bill C-75 responds to that call. While it is disappointing that the legislation does not roll back the many mandatory-minimum penalties irresponsibly imposed by the Harper government, Bill C-75 will result in a significant improvement to the fairness and effectiveness of Canadian criminal justice.

**There will only be one pay system for now and it’s Phoenix: MP**
iPolitics
Kathryn May
April 6, 2018

The Trudeau government isn’t going to let departments opt out of the troubled Phoenix pay system and take over paying their own employees.

Steve MacKinnon, parliamentary secretary to Public Services and Procurement Canada, put the kibosh on a union push for the government to let Canada Revenue Agency dump Phoenix and modify an existing in-house system to pay its employees.

PSPC is the government’s pay master. CRA would need a change in legislation to allow it to pay its 40,000 employees.

MacKinnon said the proposal is not a “substitute system” for Phoenix. He said the government remains focused on stabilizing Phoenix and isn’t interested in having “multiple pay technologies being run in the public service.”

“At first blush, the suggestion doesn’t offer us a short term fix and one of the things that we have been consistent on … is that there is no alternative to stabilizing Phoenix.” said MacKinnnon.

“Our focus is on stabilizing Phoenix and making sure people are paid accurately and on time. That is the obsession and we are not in support of efforts that would detract from that.

The federal budget gave the PSPC more than $431 million to stabilize Phoenix and Treasury Board another $16 million to start a search for a new system that will eventually replace Phoenix.

But MacKinnon said the government is certainly willing to look at existing systems and business processes that are working well, which could be tapped to help stabilize Phoenix or used in shaping the troubled pay system's replacement.

The two unions representing the 40,000 employees at the tax agency are lobbying the Trudeau government for a change in CRA's mandate that would allow it to pay its own employees using an existing in-house corporate administrative system – known as CAS — and stop using Phoenix.

They argue modifying the CAS system is worth exploring as a faster and cheaper interim solution to pay workers while the government searches for a new pay system that will eventually replace Phoenix.

The Professional Institute of the Public Service of Canada (PIPSC) has gone so far as to suggest CRA could pay other departments or there may be other systems, such as the mothballed regional pay system that Phoenix replaced, which could be modified and reactivated in the short term.

CRA's technology workers, who are represented by PIPSC, say a conversion is possible and suggested in an online statement that pay files could be transitioned to revamped CAS within six to nine months.

CRA officials have rejected that timeline. The agency has also not asked to leave Phoenix.

Daviau argues that even upgrade and move took several years would be better than the uncertainty hanging over employees relying on the fickle Phoenix which could take five or six years to replace.

The CRA uses CAS to directly enter data into Phoenix. The system, built using SAP software, was created as help manage finance and human resources for the old Canada Customs and Revenue Agency, which was re-organized in 2003 and split into two departments: CRA and the CBSA.

CBSA still uses CAS and under the union's proposal would also opt out of Phoenix.

Before Phoenix, CAS did all the payroll calculations and sent the information to the old regional pay system to issue pay cheques.

Daviau said the CAS system has been doing all the necessary pay day calculations and payroll costing, which are sent to Phoenix for final processing and payment every two weeks so there is no reason this couldn't be expanded to "actually cut the pay cheques."

But MacKinnon said CAS was not built as a pay system and as currently configured couldn't replace Phoenix in the "short, medium or long term."

He said it was built specifically for CRA andcouldn't handle other departments without a massive reconfiguration and customization. On top of that, the system is "getting long in the tooth" and requires a significant update.

Daviau has been making the pitch to CRA management and Ottawa area MPs and intends to formally submit a written proposal to the government to consider letting CRA go alone and adapt CAS into a full-blown pay system.

PIPSC initiated the push for the government to scrap Phoenix and start over on a new pay system.

This is the first time unions have pushed for departments to dump Phoenix. CRA is the biggest federal agency and with CBSA they account for nearly 20 per cent of the public servants paid by Phoenix. The Senate is the only federal institution that has opted to leave Phoenix.

Defections from Phoenix would upset the government's longstanding plan for a centralized pay system for all departments.

But it would also create chaos after PSPC has spent months re-engineering business processes around Phoenix technology, including a massive training programs tailored to the patchwork of human resources system in the federal government that feed information to Phoenix.

**OPINION: Bill C-75: On criminal justice reform, the time for complacency is over**
Special to Toronto Sun
Marco Mendicino
April 7, 2018

For more than two decades, our criminal court system has suffered from a stubborn culture of complacency. This has resulted in trial delays, systemic barriers for victims, and justice denied for the broader public. The Supreme Court of Canada's decision in Jordan ended all that with a thunderous wake-up call, upending 20 years of case-law and calling for bold reforms.

Bill C-75, introduced last week, is Parliament's response to Jordan. But this historic legislation transcends any one case. The amendments are system-wide and will get rid of unnecessary clog in the court dockets, speed up hearings, make jury selection more transparent, and toughen sentences for victims of sexual assault and intimate partner violence.

To accomplish these objectives, we need to challenge the status quo across the board. Here are three key areas that the Bill addresses.

First, bail is supposed to be an expedited process. Yet, adjournments are the norm, caused by bureaucratic red-tape and frivolous disputes over bail conditions. Not only do unnecessary bail restrictions create delay, they also lay the trap for technical breaches. In turn, these inevitably lead to more bail revocations and additional charges which rarely have anything to do with the original allegations. So-called "administration of justice offences" put a significant strain on court resources; in some jurisdictions taking up more than one-third of the court's time. The cost is steep.

Bill C-75 takes aim at redundant breach hearings and restoring some common sense to bail. It legislates a “principle of restraint” so that only those conditions which are necessary to protect public safety are imposed. And where there is an alleged breach, police and prosecutors will be given new tools to either enforce the condition, or modify it where appropriate.

Second, Bill C-75 implements long-called for jury reforms. Concerns surrounding jury representativeness have been well documented, particularly as they relate to Indigenous Peoples. In 2013, retired Supreme Court Justice Frank Iacobucci published a report on this subject and recommended considering the abolishment of peremptory challenges. Currently, the defence and prosecution can disqualify as many as 40 potential jurors without having to provide any reason. Under the new law, they will lose this absolute veto, but will retain the right to challenge potential jurors for cause – in other words, they have to give a reason. The trial judge will make this determination. We believe this new system will promote more transparency around the jury selection process and, ultimately, greater trial fairness.

Third and finally, Bill C-75 proposes raising the maximum sentences for those convicted of sexual assault and other offences where intimate partner violence is involved. By doing so, we are sending a strong message that victims should be able to come forward, have their stories heard, and get the justice they deserve.

The time for complacency is over. The need for bold and structural reform is urgent and long overdue. Canadians are entitled to a criminal justice system that is fair, accessible and efficient. In this regard, Bill C-75 is a courageous step in the right direction.

*Marco Mendicino is the Member of Parliament for Eglinton-Lawrence and Parliamentary Secretary to the Minister of Justice & Attorney General of Canada*

**Evidence behind Ottawa's choice to cut preliminary inquiries remains elusive**
*Liberals insist ending most preliminary inquiries will speed up the legal process*
CBC News
Joanna Smith
The Canadian Press
April 8, 2018

Not long ago, Justice Minister Jody Wilson-Raybould seemed hesitant to embrace the idea of eliminating preliminary inquiries as a way to reduce court backlogs.

Now that the Liberal government wants to curtail their use, it appears she was won over by politics, rather than any new evidence it would help solve the problem.

"This bold reform will substantively contribute to the reduction of the delays in provinces," Wilson-Raybould said last week after introducing a massive new bill she described as meant to bring about a fairer and more streamlined criminal justice system.

Preliminary inquiries are typically used to decide whether there is enough evidence to go to trial. Bill C-75 proposes limiting their use to cases where an adult offender is facing the possibility of life imprisonment, such as for murder or kidnapping — a change the Liberals insist will speed up the legal process.

The evidence to back up that claim remains unclear — and elusive.

Need for evidence-based policy

Peter Sankoff, a law professor at the University of Alberta, said he does not feel too strongly about preliminary inquiries one way or the other.

"What I do have a strong attachment to is evidence-based policy and discussions or decisions that are made that make sense with the rationale for which they are initiated," Sankoff said.

"It seems to me that if we are going to take it away, we should provide a convincing rationale for doing so."

Ontario Attorney General Yasir Naqvi made waves last year when he called for an end to preliminary inquiries in all but the most serious of cases, such as murder and treason, to help accelerate the wheels of justice. Manitoba and Saskatchewan soon joined the cause.

The need to move things along had taken on increased urgency in 2016 with the Supreme Court's landmark Jordan decision, which imposed strict new trial timelines that amounted to 18 months for provincial courts and 30 months for superior courts. Any longer and the accused could end up walking free.

Many Crown attorneys say that preliminary inquiries have outlived their usefulness, thanks to broader disclosure rules. Those on the other side of the bar, however, say they help to narrow the issues, sometimes even eliminating the need for a trial.

"They're like X-rays before an operation," said Bill Trudell, chair of the Canadian Council of Criminal Defence Lawyers.

It wasn't entirely clear that preliminary inquiries deserved the blame in the first place. Statistics Canada says they occurred in less than three per cent of cases in the adult criminal court system in 2014-15, with 81 per cent of those cases wrapping up within 30 months.

Potential for more wrongful convictions

In a 2005 study, University of Ottawa criminology professor Cheryl Webster found preliminary inquiries were rare, and those that did occur ended promptly.

How they were used also varied widely across the country, her data suggested, raising fears that any Canada-wide reforms could end up having different — and potentially negative — impacts, depending on the jurisdiction.

"My worry at this point is that without at least examining national [empirical] data on this criminal procedure, we are making critical decisions on its continued use or abolition without being in a position to predict, in any reliable way, the actual impact of such decisions," Webster wrote in an email last year when the debate over Naqvi's proposal was raging.

When justice ministers gathered to discuss court delays last April, Naqvi presented research from Ontario suggesting the hearings added an average of 5.4 months to the time it took for a case to go to trial in 2016. The province will not release the actual data or methodology.

The ministers agreed to examine the issue, but two months later, Wilson-Raybould acknowledged she remained wary.

"I'm not convinced, but I am open to being convinced," she said in a June 2017 interview with The Canadian Press.

The Liberal government has not provided any new research to explain why she changed her mind, beyond saying that Bill C-75, if passed, could reduce the number of preliminary inquiries by 87 per cent.

Asked what research went into the policy, an official from the Justice Department suggested it was a matter of weighing competing interests, not data.

"It was a decision made by our minister based on balancing those interests between the varying narratives," said the official, who provided a technical briefing on Bill C-75 on the condition of anonymity.

Ian McLeod, a spokesman for the Justice Department, did not cite any new statistics this week when asked for the research behind the decision to restrict preliminary inquiries.

Webster said the Justice Department contacted her about updating her analysis last year, but she declined after learning Statistics Canada no longer tracks the same level of data. She said she is not aware of any published academic study since her own.

Trudell said he is disappointed and concerned.

"I really think that this decision is not well thought out," he said. "I think it's a bit politically motivated by people who criticize the preliminary, but the effects are going to be demonstrative.

"I don't say this without carefully thinking about it: I think there will be more wrongful convictions."

**Phoenix payroll debacle has Ottawa stuck in the muck**
The Globe and Mail
Campbell Clark
April 8, 2018

When gripes about the government's new payroll system rose to a clamour in 2016, Treasury Board President Scott Brison made a simple promise: The government will fix it.

It was an obvious thing to say: Since the new system, widely called Phoenix, had gone live in early 2016, tens of thousands of employees had been underpaid, overpaid, or not paid. But Mr. Brison's promise made some bureaucrats nervous. They didn't know how to fix it.

Two years later, the government no longer talks about a fix. They talk about "stabilizing" Phoenix, and eventually replacing it.

And senior bureaucrats are shuddering anew: In coming weeks, Auditor-General Michael Ferguson will report on how the whole mess happened.

This is not just another big screw-up from which politicians and senior officials can draw "lessons learned," and move on. It's still there causing more problems every day.

One former senior bureaucrat recently referred to it in private as the federal bureaucracy's "Vietnam." They are stuck in the muck.

Many in Ottawa should be nervous about Mr. Ferguson's report. The Conservatives short-term, cost-cutting goals for the Phoenix project was the impetus behind several mistakes. The Liberals didn't twig to problems that should have postponed the launch – and even if Mr. Ferguson doesn't blame them, many civil servants in capital-area Liberal ridings will.

For the class of senior bureaucrats who hold so much influence in government, it is a particular blow. These are supposed to be the technocrats that advise governments of all stripes on getting things done. This still-burning dumpster fire is a deep blow to the brand of the bureaucratic elite.

A big part of this saga of blunders was caused, as one review by consultants Goss Gilroy has already found, by the bureaucracy's failure to do what is supposed to be its vocation: speaking truth to power.

The initial idea of the Phoenix project made sense. The government had several computer systems for human resources and an old one for payroll. HR advisers and pay advisers, often sitting side by side, would enter info about the same employee into different systems. Phoenix would see it entered once, with fewer people doing the work. Ottawa would buy off-the-shelf software – Oracle's widely used PeopleSoft – and have IBM customize it.

But the government treated the job as a software switch, rather than a reorganization of HR and pay. The government has 84,000 pay rules, so the job was really reorganizing how it did things. But it didn't

really do that; instead it asked IBM to customize PeopleSoft 1,500 times. IBM vice-president Beth Bell told a Senate committee two weeks ago that that meant “breaking the code” of PeopleSoft, sometimes to accommodate finicky rules.

The Conservative government liked the promise of savings: 2,000 payroll advisers would be cut, and 500 hired in a centralized centre in Miramichi, N.B., where gun-registry workers had lost jobs. It would save $70-million a year.

That goal drove many blunders. IBM was supposed to train civil servants to use the software, but in 2014, the government amended the contract to do it themselves, IBM officials testified. (Many of the current problems revolved around improper data entry.)

While IBM worked on software, the government was supposed to be revamping how it did things. IBM officials testified that they told the senior officials leading the project, Brigitte Fortin and Rosanna Di Paola, the project wasn’t ready for a scheduled pilot test. So the pilot was cancelled − but the full launch still went ahead.

When IBM officials recommended the full launch be delayed till August, 2016, the officials replied that it had to be launched by April, because pay advisers had already received their layoff notices.

Even before the launch, the new workers in Miramichi warned that it wasn’t ready, said Chris Aylward, vice-president of the Public Service Alliance of Canada. After the first part of the launch, in February, 2016, employees quickly complained. Marie Lemay, then the new deputy minister of Public Services and Procurement Canada, told the unions she had been assured the problems were minor. Mr. Aylward said Ms. Lemay was “being led down the garden path by senior managers of her own department.”

Now the problem cases are still coming in about as fast as they are being dealt with. It may take years to clear the complaint pile.

Mr. Ferguson will make recommendations. But Mr. Brison has clearly learned some lessons. His officials talk about the next payroll system as a broad business transformation, not just a software switch. They say such projects will be adopted, and tested, one piece at a time. That’s good. But for years, the senior bureaucrats will still be stuck in the muck.

**Changes to domestic violence law do not fix our broken system**
Contributed to The Globe And Mail
Kathryn Smithen
April 9, 2018

*Kathryn L. Smithen is a lawyer who represents domestic and sexual violence victims in family courts.*

A man sees a woman on a street whom he does not know. He hits her in the face and, while pushing her against a wall, threatens to kill her.

Another man grabs his spouse during an argument and pushes her against their living room wall while threatening to kill her, too.

If Man A is apprehended by the police, he will be charged criminally with the assault and threatening death of the woman he attacked. If he doesn't plead guilty, he will likely go to trial. If the victim's testimony is believed by the court, he will be found guilty of serious crimes. The "normal" guidelines of the Criminal Code will apply to how he is sentenced. He may even go to jail, depending on his history in the system and other factors.

Man B, the husband, common-law spouse or intimate partner – as the more comprehensive language of the newly introduced Bill C-75 proposes to define him – will be charged with the same criminal offences as Man A if his partner or a neighbour who heard the assault calls the police. The police will, in many cases, uncover evidence of other assaults after talking to the victim, because police are aware that domestic violence is a highly repetitive, misogynistic practice.

However, that is where any similarities between these two cases will likely end.

Partners criminally charged with assaulting their spouses regularly avoid criminal prosecution. This is not a generalization. It is something that I have regularly seen during my almost seven years of practising family law and representing women who are the victim of domestic violence. Perpetrators of domestic violence are regularly offered the option of resolving their criminal cases with diversion. When they provide proof of completion of a 16-week partner-assault response program (PAR), they are then "invited" to enter into peace bonds. When this happens, the criminal charges are withdrawn and the prosecution of the domestic-violence charges end. No trial, no sentencing and no criminal record.

To add insult to injury, sometimes victims are told that the withdrawal of the domestic-violence charge is "the best thing for your family." From a criminal law perspective, it is as though the offences never took place.

Crown attorneys are responsible for the direction criminal matters take in Canada, so even if a victim wanted a trial on the merits of her accusations, unless the Crown is prepared to prosecute, the peace bond route is pursued.

The astonishing fact of these situations is even more baffling given that an Ontario Crown Law Policy Directive published in 2017 mandated that a case where criminal prosecution does not move forward must be "exceptional."

Then comes the family law case, where lawyers such as myself try to get custody and access orders to keep our female clients and their children safe after a criminal case collapses. Litigants such as Man B often tell judges in their family law matters – after the Crowns withdraw their criminal charges in favour of diversion – that "the case was so weak against me, the Crown chose not to prosecute."

Sadly, sometimes family judges are persuaded by these farcical and self-serving stories, perhaps unaware of the two-tiered way in which domestic-violence charges are being addressed in the criminal courts at the front end by Crowns.

The wives/mothers in these same family law cases are often expected to separate “their” issues with their former partners from their children’s right to have both parents in their lives. Incredulously, this expectation is imposed in situations where the same violence that led to the criminal charges in the first place puts the children of Man B at risk of harm, too.

Many tough provisions in law addressing domestic violence already exist in the Canadian criminal justice system. Section 718.(2)(a)(ii) of the Criminal Code currently stipulates that “a sentence should be increased … to account for any relevant aggravating … circumstances relating to the offence or the offender ...[including] evidence that the offender, in committing the offence, abused the offender’s spouse or common-law partner.”

And now,s Parliament purports that it will make women suffering from domestic violence safer by creating higher thresholds for bail and increased sentences for repeat offenders as part of Bill C-75.

Measures such as these – even new laws such as those proposed in Bill C-75 – do not inspire the trust of domestic-violence victims in the criminal justice system, when that system is not treating the prosecution of domestic-violence perpetrators as a foreseeable priority.

There is nothing profound in misleading the public that femicide cases are being actually prevented when the critical work in treating domestic-violence victims equally at the front end of the criminal justice system is being ignored.

**Phoenix 'chaos' sends public servants into tax tailspin**
Many federal employees forced to crunch their own numbers rather than rely on inaccurate tax slips
CBC News
Julie Ireton
April 9, 2018

Kathy Dickenson calls herself a "Phoenix piñata."

Over the past two years, just about everything that could have gone wrong with the federal public servant's pay has gone wrong, from receiving two paycheques for months, to watching them stop altogether. Dickenson is feeling a bit battered.

Now it's tax time, and the Ottawa resident is bracing for more punishment.

Her 2017 T4 indicates she earned just $16,000, which is wildly inaccurate. So rather than rely on that official account, she's tackling her taxes the old-fashioned way.

"I'm going to paper file, with my accountant, using my spreadsheet, and we're going to make sure it's as correct as we can get it," said Dickenson, who works for the Canadian Food Inspection Agency.

Dickenson has essentially created her own more accurate T4, and those are the numbers she'll submit to the Canada Revenue Agency (CRA).

Legal concerns

She got the idea from a Facebook page used by public servants who are trying to navigate the failed Phoenix system.

Other federal workers told CBC they, too, plan to forego the more efficient electronic tax filing route, in some cases because the filing software simply won't work with such obviously flawed numbers.

Some also have legal concerns, since submitting a government-issued T4 amounts to certifying "that the information given on this return and in any documents attached is correct and complete and fully discloses all [their] income," according to a declaration on the tax return form.

Despite that warning, the department in charge of the Phoenix payroll system, Public Services and Procurement Canada (PSPC), has sent a message to federal employees asking them to use the most recent tax slips issued, even if they contain obvious errors.

David Alloggia's 2017 T4 slip claims he earned about $40,000 more than he actually did. He's tried to get answers from CRA, and help from the Phoenix pay centre.

"I got 18 different responses to one single question," said Alloggia, who works at Transport Canada in Ottawa. "There's so much chaos."

He's not alone in his department: Alloggia said one co-worker received a T4 that said he had worked in New Brunswick all year, when he had been in Ottawa the entire time.

Others received tax slips from Quebec, even though they didn't work or live in that province in 2017.

Affecting entire families

For Alloggia and many others, the problem has spread to their spouses.

"My girlfriend ... she has a daughter, but now that our two incomes are calculated and it looks like my income is $100,000, we don't know if we're going to get any child benefits," he said.

No one from PSPC was available for comment, and the CRA failed to answer CBC's specific questions.

The union representing professionals in the government said it's hearing "tons" of complaints from members receiving inaccurate T4s.

"A lot of people are panicking," said Debi Daviau, president of the Professional Institute of the Public Service of Canada. "We represent tax auditors. A lot of them won't file taxes with the wrong T4, even if the government is telling them to do that."