

Liberals eye changes to mandatory minimum sentences

CBC News

The Canadian Press

Last overhaul of sentencing provisions in Criminal Code happened in 1996

May 8, 2017

The Liberal government is set to begin tackling mandatory minimum sentences this spring, but advocates for reform have been waiting a long time for the promise to play out.

"It's something the government promised long ago and its delivery is overdue," said Eric Gottardi, a Vancouver defence lawyer and past chair of the criminal justice section at the Canadian Bar Association.

"We are all kind of looking forward to it with bated breath."

The Liberal campaign platform was silent on mandatory minimum sentences, but then Prime Minister Justin Trudeau tasked Justice Minister Jody Wilson-Raybould with reviewing changes to the criminal justice system and sentencing reforms the previous Conservative government brought in as part of its tough-on-crime agenda.

Many of those changes involved imposing — or increasing — mandatory minimum penalties for dozens of offences, which critics decried for taking away the ability of judges to use their discretion in handing down a punishment that fits not only the crime, but also the person convicted of committing it.

The push to finally begin introducing legislative amendments on that front came as part of the response to the worsening problem of backlogs in the courts, which took on new urgency after the Supreme Court of Canada last year imposed strict limits on the length time an accused can wait to stand trial.

Changes to bail, preliminary inquiries and the reclassification of offences are other policy areas where the federal government is looking for solutions to that problem.

"Was it a kick in the butt?" Wilson-Raybould said after an April 28 meeting with provincial justice ministers on whether the ruling accelerated plans for reform.

"I think it was a call to action for all of us, absolutely."

Yvon Dandurand, a criminologist at the University of the Fraser Valley in Abbotsford, B.C., said the Liberals could bring back some more flexibility to judges by creating special exceptions to some mandatory minimum penalties, an option he outlined in a report provided to the Justice Department last year.

Dandurand said he suspects the coming legislation will include a mix of adding special exceptions to some mandatory minimum sentences while abolishing others.

He said he also thinks, based on what he has heard from Wilson-Raybould and her officials during consultations, that they will go beyond reversing the last decade of changes.

"(They) said this sentencing reform they are contemplating is not just a matter of setting back the clock and changing what has happened during the Conservative government... but going back to principles and more fundamental changes to the sentencing regime that we have," Dandurand said.

'We were targeting very serious crimes'

The last overhaul of the sentencing provisions in the Criminal Code happened in 1996.

Conservative MP Rob Nicholson, who spent more than five years as justice minister under former prime minister Stephen Harper, said he does not want the Liberals to touch any of the mandatory minimum penalties.

"We were targeting very serious crimes," including the sexual exploitation of children, said Nicholson, who is now Opposition justice critic.

"If some of them are going to be getting a break in the next couple of weeks here, I mean obviously we'll oppose that."

The Supreme Court, however, has already struck down two of the Conservative sentencing reforms last year, including a mandatory minimum penalty of one year behind bars for anyone convicted of a drug offence. That measure was introduced in 2012 as part of an omnibus crime bill.

Alistair MacGregor, the NDP justice critic, said he would like to see the Liberals allow for more judicial discretion in some cases, such as for non-violent offences and first-time offenders, especially if the judge sees hope for rehabilitation.

A federal government source said it is too early to get into detail, but noted Wilson-Raybould was asked to look at all mandatory minimum penalties.

The source, who spoke on condition of anonymity in order to discuss matters not yet made public, said choosing which ones to amend is a matter of finding a political consensus over what will work.

Gottardi said he remembers leaving consultations with Wilson-Raybould feeling "buoyed and inspired" by the bold vision and encouragement to think outside the box when it comes to criminal justice reforms.

Now, he said, he suspects the Liberals might end up disappointing him.

"I have the sinking feeling that the reality of politics is quickly seeping in and we will see a much more muted response to mandatory minimum sentences than a lot of us are hoping for," Gottardi said.

That view stems from how much time has passed and the fact that the Liberal government ended up taking a "pretty careful and cautious approach" to legislation on difficult issues such as medically assisted dying and the proposed legalization of marijuana for recreational use.

Barry Stuart, a director with the Smart Justice Network of Canada, said he believes the circle around Wilson-Raybould is open to a "sea change" and he is willing to wait as long as it takes for the federal government to get it right.

"I don't want another quick bandage on the system — I'm patient," said Stuart, a retired Yukon judge.

Canada's unions applaud Canada's commitment to ratify ILO Convention 98

OTTAWA, ONTARIO--(Marketwired - May 9, 2017) - Canada's unions are celebrating an announcement by Patty Hajdu, Minister of Employment, Workforce Development and Labour, that Canada will finally ratify the International Labour Organization's Convention 98.

The minister confirmed the news ahead of participating in an international solidarity event at the Canadian Labour Congress Convention in Toronto.

"Our government understands that organized labour is key to healthy labour relations that benefit people in workplaces all across our country," said Minister Hajdu. "We are committed to ratifying Convention 98 and sending a clear message to the world about the right of workers to organize in Canada."

"This is a long overdue and important step forward for Canadian labour relations," said CLC President Hassan Yussuff.

The convention is the only one Canada has yet to ratify out of eight considered by ILO to be the minimum "enabling rights" people need to defend and improve their rights and conditions at work, and to work in freedom and dignity.

The Right to Organize and Collective Bargaining Convention, 1949, protects all workers from anti-union discrimination, including being forced to give up union membership in order to get a job, or job termination for participating in union activities.

Canada's unions have been working for ratification for decades, but since 1949 and until now, successive Canadian governments have refused. The decision will make Canada the 165th country to ratify. The United States, Mexico, and 20 other countries have yet to ratify.

"Internationally, this ratification means Canada can more effectively insist that trade partners like the United States and Mexico must respect and enforce labour rights," said Yussuff. "This is key as we face the prospect of the renegotiation of NAFTA."

At home, Yussuff said, ratification will help reinforce recent decisions by the Supreme Court of Canada that protect union rights.

"Those Supreme Court decisions are binding in all of Canada's courts and tribunals, and now provincial and territorial governments will be expected to conform under Convention 98 as well, and Canada's unions will work hard to ensure they do," said Yussuff.

Union files Phoenix grievances, wants federal government to 'immediately pay all monies owed'

It goes beyond just paying people what you owe them: union president

CBC News

Karina Roman

May 11, 2017

The union representing nearly 60,000 professionals in the public service has filed two policy grievances against the federal government, accusing it of continuously violating their collective agreements since the troubled Phoenix pay system was launched in February 2016.

Policy grievances are filed on behalf of all union members, rather than an individual. The Professional Institute of the Public Service of Canada, PIPSC, however, has already filed nearly 600 individual grievances on behalf of its members.

"It is the last remaining formal thing we can do," said PIPSC president Debi Daviau, explaining that legislation prohibits them from filing a class action suit.

"We don't expect these grievances will expedite actually getting people paid," she said. "We expect...they will help to make people whole when they do finally get paid.

"It goes beyond just paying people what you owe them," she says. "It goes to compensating them for the havoc you've wreaked on their lives."

Ottawa adopted a new consolidated pay system called Phoenix last spring. Since then, tens of thousands of federal public servants, retirees and employees on leave have reported problems with their pay. Some have been overpaid, some paid too little and others have not been paid at all.

The first grievance accuses the federal government of making "continuous and on-going errors in pay." The second grievance is linked to a failure to properly compensate workers for disability and maternity/parental leave benefits. The union argues those problems not only violate the collective agreements, but also the Canadian Human Rights Act.

PIPSC demands that the employer "immediately pay all monies owed." The union is also asking the federal government to "pay members accurately and in a timely manner" and to "process all information related to disability and maternity/parental benefits in a timely manner."

No fix in sight

Daviau says after nearly a year and a half of lobbying and trying to work with the government, there is still no permanent fix in sight.

"We're doing our best to contribute to the solutions but the solutions are too slow coming and at this point we start to worry it will be a very long time still until all of the kinks are ironed out of the system, if ever."

Daviau acknowledges it is an unprecedented situation for an employer to be willing to try and fix a problem but not have the ability to do so. Although she points out that whenever public servants go to the media or to their union, somehow issues are solved.

The last public update from the government in early March put the number of outstanding pay "transactions" at 284,000 or about a three month backlog, with hopes the situation will get to a steady state as soon as possible.

A long road ahead

But Daviau says she does not believe the government's numbers, arguing the situation is far worse than the federal government is willing to admit.

She says reaching that steady state is a long way off because the government hasn't accounted for new collective agreements or for incoming summer students.

And Daviau says many public servants are so wary of Phoenix that they are not reporting changes in their work situation, such as a secondment or a temporary acting position, because they fear doing so will mess up their pay.

But eventually these changes will have to be reported and retroactively entered into the system, a shadow backlog of sorts that Daviau says the government has also not accounted for.

A spokesman from Treasury Board President Scott Brison's office said efforts are ongoing to resolve remaining issues.

"We are working closely with public service bargaining agents to resolve these issues as quickly as possible and minimize impacts on employees, and to put in place the necessary measure to ensure affected employees are made whole," he said in an email.

Le juge en chef Fournier lance-t-il un ultimatum à la ministre Vallée ?

Dans un litige l'opposant à la Cour du Québec, le juge en chef de la Cour supérieure aurait demandé l'intervention de la ministre d'ici la fin du mois...

Droit-Inc

Delphine Jung

12 mai 2017

D'après les informations transmises à Droit-inc, le juge en chef de la Cour supérieure, Jacques R. Fournier, aurait lancé un ultimatum à la ministre de la Justice, Stéphanie Vallée. Il lui demande son intervention au sujet de la chicane qui oppose les deux institutions : statuer clairement sur les compétences des deux cours une bonne fois pour toute.

« Je ne peux ni infirmer ni confirmer cette information. Tout ce que je peux dire c'est qu'effectivement, il y a un conflit et que s'il n'est pas réglé, cela pourrait se retrouver devant les tribunaux », explique Guillaume Bourgeois, adjoint exécutif au juge en chef de la Cour supérieure du Québec.

Du côté du ministère aussi on s'est refusé à commenter cette affaire.

Combat de coqs

Le 14 octobre 2016, les juges de la Cour supérieure du Québec ont entrepris un recours contre le gouvernement québécois car ils se sentent dépossédés de leurs compétences.

Depuis le 1er janvier 2016, les juges de la Cour du Québec ont compétence pour entendre tous les litiges civils concernant des affaires de moins de 85 000 \$ au lieu de 70 000 \$ auparavant.

Trop de dossiers passeraient ainsi sous le nez des juges de la Cour supérieure, notamment en région.

« Dans certaines régions du Québec, la Cour supérieure n'est plus le tribunal de droit commun de première instance », avait dit à La Presse le juge en chef Jacques R. Fournier.

Les juges de la Cour supérieure veulent obtenir un jugement déclaratoire pour que les limites de la compétence de la Cour du Québec soient clairement établies. Le hic, c'est qu'une telle demande doit passer par la Cour supérieure elle-même.

Une situation qui place l'institution dans le rôle de juge et de partie.

C'est la raison pour laquelle le juge Fournier aurait demandé l'intervention de la ministre Vallée pour que ce dossier soit directement transmis en Cour d'appel.

Selon le ministère de la Justice, en faisant passer de 70 000 \$ à 85 000 \$ la compétence de la Cour du Québec, 2 000 dossiers repasseraient ainsi par la Cour du Québec, sur 60 000 au total.

Activist judge puts stop to citizenship revocation

Toronto Sun

Candice Malcolm

May 13th 2017

An unelected judge has made a ruling that will significantly weaken the value of Canadian citizenship.

The landmark decision delivered by the Federal Court this week drastically restricts the government's ability to revoke citizenship from people who gained it through fraud or misrepresentation.

The previous Conservative government introduced a streamlined process for stripping citizenship from fraudsters, liars and terrorists. Canada has long revoked citizenship from those who become Canadians on false pretenses – a policy that even Justin Trudeau defended in 2015.

Despite Trudeau's big talk that "a Canadian is a Canadian is a Canadian," his government stripped more citizenships in its first year in office than the previous Conservative government had in seven years.

But now, thanks to judicial activism pushing a big government agenda, the streamlined process will be dismantled.

Individuals found to have lied or cheated to become a citizen will be afforded more tax-payer funded resources to plead their case and appeal decisions they don't like.

Justice Jocelyne Gagné determined that while the rules do not violate the Charter of Rights and Freedoms, they do infringe upon Canada's Bill of Rights. Gagné ruled that those facing citizenship revocation "should be afforded an oral hearing before a court."

This will all but end the practice of stripping citizenship. It will become too costly, too resource-intensive and too time-consuming.

The previous Conservative government spent years carefully crafting legislation to protect the integrity of Canadian citizenship. They held consultations, worked with non-partisan civil servants and cautiously introduced new rules to crack down on fraud and abuse in Canada's immigration system.

Now, in a single day and without a coherent alternative, an activist judge has undone it with the slap of a gavel.

One unelected judge has overruled years of legislative accomplishments from Canada's elected officials.

In our system of government, the judicial branch is designed to be a check on executive power. There is no practical check, however, on the unelected judges who lord over the Federal Court.

Canada's judges have become super-legislators. They've given themselves the power to strike down laws they disagree with, and mask their dogmatic ideology with legalese.

Absurd decisions have become commonplace by activists on the bench.

In 2014, one judge struck down a policy to cut off additional welfare benefits to failed asylum seekers who were awaiting deportation from Canada.

The judge said it was “cruel and unusual” to deny bogus refugees – people already rejected by a Canadian immigration judge – from receiving healthcare benefits above and beyond what Canadian citizens receive.

You can’t make this stuff up.

In another case, legal obstacles thrown in front of immigration officials led to a lengthy delay in deporting career criminal Clinton Gayle. In the meantime, this thug was able to stay in Canada, commit crime after crime, and eventually murder a Toronto police officer.

When it comes to protecting the rights of foreign criminals, judges are steadfast. But when it comes to protecting Canadians – our safety, security and the value of our citizenship – these activist judges are nowhere to be found.

The decisions made by activist judges on the Federal Court have real consequences. Justice Gagné’s decision will no doubt make it much more difficult to strip citizenship and deport convicted fraudsters, gangsters, terrorists and war criminals.

The rights and freedoms of foreign criminals are judiciously protected by activist judges on the Federal Court. As for law-abiding Canadians? The jury is still out.

Lawyers who delay trials liable for costs, Supreme Court rules

The Globe and Mail

Sean Fine

May 13th 2017

The Supreme Court of Canada says judges have the power to punish criminal defence lawyers who try to delay trials by ordering them to pay the financial costs of the delay.

The 7-2 ruling came in a case involving veteran lawyer Robert Jodoin of Granby, Que. In 2013, a Quebec Superior Court judge had awarded court costs of \$3,000 against Mr. Jodoin, at a prosecutor’s request, after he tried to have two separate judges recused for bias on the same day, and made a flurry of other motions. The Superior Court judge said he had committed abusive conduct in an attempt to obtain a postponement of the trials of 12 people facing drunk-driving charges. The Quebec Court of Appeal threw out the costs award, saying the lawyer’s behaviour was not so rare and exceptional as to deserve the punishment.

But the Supreme Court majority said judges have the authority to combat the problem of delay, and appeal courts should not interfere in the exercise of that unless the lower-court judges act unreasonably.

Justice Clément Gascon, writing for the majority, said the judge who ordered the costs award had sent a clear message to the players in the judicial system that abusive conduct will not be

tolerated. Justice Gascon cited the Supreme Court's ruling in a case from last summer known as *R v Jordan*, an attempt to tackle the problem of clogged courts and years-long trials. The *Jordan* ruling created strict time limits for criminal trials, resulting in upheaval in the justice system in which, among other things, courts have dismissed charges against four men accused of murder over unreasonable delay.

"The judge's comments were consistent with the principles recently enunciated by this Court in *R. v. Jordan*, in which the majority denounced, among other things, the culture of complacency toward delay that impairs the efficiency of the criminal justice system," Justice Gascon wrote. He added that the cost awards will usually be small, because judges will dismiss the abusive attempts at delay quickly.

Several intervenor groups, including the Criminal Lawyers Association, had sought to persuade the court that defence lawyers need manoeuvring room to defend their clients aggressively without fear of financial punishment.

Frank Addario, a Toronto lawyer who represented the Canadian Civil Liberties Association, said the ruling could have a chilling effect on defence lawyers. Five judges out of the 13 who heard this case said the behaviour was not exceptional enough to deserve punishment (three appeal court judges and two on the Supreme Court), he said, so the standard expected from lawyers is unclear.

"How is a defence lawyer who is told, 'Be courageous, fight as hard as possible, make every argument,' supposed to know?" he said in an interview. "I'm afraid young defence lawyers, reading that, will tilt toward timidity: 'I won't raise novel arguments.'"

Justice Rosalie Abella and Justice Suzanne Côté, writing in dissent, said they agreed with the majority that courts can order costs against lawyers who abuse the rules, but said they also agreed with the Quebec appeal court that Mr. Jodoin's actions, while improper, were not exceptional. Some of what Mr. Jodoin sought to do was reasonable, they said.

"The desire to make an 'example' of Mr. Jodoin's behaviour does not justify straying from the legal requirement that his conduct be 'rare and exceptional' before costs are ordered personally against him," the two dissenting judges wrote.

Mr. Jodoin could not be reached for comment.

Government of Canada announces judicial appointment in the province of British Columbia

OTTAWA, May 12, 2017 /CNW/ - The Honourable Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada, today announced the following appointment under the new judicial application process announced on October 20, 2016. The new process emphasizes transparency, merit, and diversity, and will continue to ensure the appointment of jurists who meet the highest standards of excellence and integrity.

W. Paul Riley, Q.C., Senior General Counsel with the Public Prosecution Service of Canada, is appointed a judge of the Supreme Court of British Columbia in Vancouver. He replaces Madam Justice C.J. Ross, who elected to become a supernumerary judge effective April 1, 2016.

Biography

After earning his LL.B. from Dalhousie University in 1995, Mr. Justice W. Paul Riley articulated with the federal Department of Justice in Vancouver. From 1997 until his appointment to the bench, Mr. Justice Riley practised as Crown counsel with what is now the Public Prosecution Service of Canada. In 2007, he became the head of the British Columbia Regional Office's appeals group. He has conducted hundreds of appeals in the British Columbia Court of Appeal and appeared over a dozen times as lead counsel in the Supreme Court of Canada in cases involving important issues of criminal and constitutional law.

Mr. Justice Riley was appointed Queen's Counsel in 2014. He has served on numerous committees, including the PPSC's National Litigation Committee and the British Columbia Court of Appeal's Criminal Appeals Advisory Committee. Moreover, he has served his local community by working at an Access Pro Bono legal clinic and by volunteering one night per week at the Salvation Army's Gateway of Hope homeless shelter. Mr. Justice Riley is also an avid distance runner. He ran competitively in university, has since completed numerous marathons, and at one point maintained a streak of 9.5 years of running at least once per day, but is now content to share this enthusiasm with other avid runners in his family.

Excerpts from Mr. Justice Riley's judicial application will be available shortly.

Quick Facts

- Budget 2017 proposes additional funding of \$55 million over five years beginning in 2017-2018 and \$15.5 million per year thereafter for 28 new federally-appointed judges. Of these new positions, 12 would be allotted to Alberta and one to the Yukon, with the remaining 15 being assigned to a pool for needs in other jurisdictions.
- To ensure a judiciary that is responsive, ethical and sensitive to the evolving needs of Canadian society, the Canadian Judicial Council will receive \$2.7 million over five years and \$0.5 million ongoing thereafter. This will support programming on judicial education, ethics and conduct, including in relation to gender and cultural sensitivity.
- Today's appointments are separate from the Budget 2017 announcement.
- Federal judicial appointments are made by the Governor General, acting on the advice of the federal Cabinet and recommendations from the Minister of Justice.
- The Judicial Advisory Committees across Canada play a key role in evaluating judicial applications. There are 17 Judicial Advisory Committees, with each province and territory represented.
- Significant reforms to the role and structure of the Judicial Advisory Committees, aimed at enhancing the independence and transparency of the process, were announced on October 20, 2016.

- The Judicial Advisory Committees in ten jurisdictions have been reconstituted. Most recently, Minister Wilson-Raybould announced the composition of three new Judicial Advisory Committees on April 13, 2017.
- This process is separate from the Supreme Court of Canada judicial appointment process announced on August 2, 2016. Nominees to the Supreme Court of Canada are selected by the Prime Minister from a thoroughly vetted list of candidates.

SOURCE Justice Canada, Department of

Bigger proportion of federal public service goes temp, according to PCO report

The Privy Council clerk's annual report to the prime minister also shows that there are more workers older than 55, and fewer between 25 and 34.

Hill Times
Derek Abma
May 15, 2017

The Privy Council clerk's annual report to the prime minister on the public service shows growth of about one per cent in the core public service between 2015 and 2016, but fewer people employed on a permanent basis.

It said there were 258,979 public servants at the end of the 2015-16 fiscal year in March last year, up by about 2,000 from 257,034 a year earlier. Yet, the number of indeterminately placed public servants was 218,544, or 84.4 per cent of the total, down from 219,688, or 85.5 per cent, a year before.

Those on term jobs numbered 25,472, or 9.8 per cent of the total, compared to 23,203, or nine per cent, a year before. Casual employees had risen to 9,251, or 3.6 per cent, from 8,663, or 3.4 per cent. Student employment was at 5,712, or 2.2 per cent of everyone, compared to 5,500, or 2.1 per cent, a year before.

The report said: "Ensuring that we recruit, develop and support the right people is now our most pressing challenge," given the scores of baby boomers retiring.

But union leaders say the government is going to have to offer more stable employment if it wants to attract a critical mass of younger workers who can fill the gaps over the long term.

"If you have young workers coming out of university, they have a huge debt load, obviously, so they're going to look for some stability in their life," said Robyn Benson, national president of the Public Service Alliance of Canada (PSAC), the biggest union of federal employees. "The government, if they're only going to offer you a six-month term, would you do that or would you

go somewhere that's offering you an indeterminate or a permanent position? I would suggest the latter.”

Debi Daviau, president of the Professional Institute of the Public Service of Canada (PIPSC), said such numbers are “discouraging,” but she understands how it happens. She said major hiring needs are being created by people retiring at such a high rate. However, she said those in charge of hiring are forced to get people on a temporary basis because it can be done quickly as opposed to the six months to a year that hiring someone on a permanent basis can take because of the bureaucracy involved.

“They need somebody now; they don't need somebody a year from now,” Ms. Daviau said. “So I think they're turning to alternative solutions because of the barriers in staffing. ... Some of our members who are managers have explained that when they have a need, they almost have no choice but to turn to non-indeterminate [positions] because the indeterminate staffing is such a heavy process.”

Ms. Daviau added that the most qualified applicants for government jobs have often moved on to other jobs by the time the government gets around to calling them.

A letter from Privy Council Clerk Michael Wernick to Prime Minister Justin Trudeau (Papineau, Que.), which topped off the report, said: “You will see evidence on the following pages that we are also making headway in recruiting new public servants.”

The report pointed out that that there were 7,698 new permanent hires in 2015-16, more than half of whom were younger than 35. That did not quite make up for the 9,554 people who retired or quit from the public service, but was a slightly better ratio than in 2014-15 when 9,737 people left and 6,093 people were hired on permanently. It was also the highest level of hiring for permanent positions in many years—two-and-a-half times more than the 2,865 that the former Conservative government hired in 2012-13.

“Although the gap between people leaving through attrition and hiring continues to shrink, we still face a skills gap as the experienced baby boomers leave,” the report said.

The average age of the public service was 45 as of March 2016, unchanged from a year earlier.

The proportion of the public service who were 65 or older at the end in March last year was 2.1 per cent, up from two per cent a year before. The proportion between the ages of 55 and 64 rose to 18.1 per cent from 17.6 per cent.

The cohort aged 45 to 54 made up 31.2 per cent of the public service, down from 32 per cent a year earlier. Twenty-eight per cent were found to be between the ages of 35 and 44, up from 27.8 per cent the year before.

In the younger categories, 16.9 per cent of the public service was between 25 and 34, down from 17.3 per cent a year earlier, and 3.6 per cent were younger than 25, up from 3.3 per cent the year before.

Ms. Benson said 25 to 34 “would be the age group that you should be trying to entice for coming to work for you” in terms of getting people who are well educated and who will establish a long tenures with the public service and replace retiring boomers.

The Liberal government had been in power for five months at the time this data was measured. In its first budget, the Liberals committed to making annual reductions of \$221-million in the category of “professional services, travel and government advertising,” and it was reiterated in this year’s budget. That number would include money for some temporary staffing, though it’s unclear how much.

There would not have been enough time for Liberal budget measures to affect public service numbers taken in March 2016, the month this government’s first budget came down. But Ms. Daviau said she has not seen much evidence of less contracting out for manpower in the time since.

“In fact, in some areas, because the deficit-reduction [measures of the previous Conservative government] cut too deep and because staffing takes too long, they’ve been forced to increase the amount of contractors just to meet the ongoing operational needs,” she said.

Ms. Benson said: “I think that the Liberals are starting to move, but there’s a lot more work to be done.”

The clerk’s report said the public service’s ratios for different employment-equity groups all exceeded their workplace availability, which represents those in the overall workforce in corresponding occupations. For example, visible minorities made up 16.2 per cent of the public service compared to a 14.2 per cent availability. People with disabilities were 5.6 per cent of the public service compared to a national availability of 4.5 per cent. Aboriginals were 4.7 per cent of the public service compared to 3.3 per cent workplace availability. And women were 55.1 per cent of the public service compared to 52.3 per cent availability.

All these proportions were up between 2015 and 2016, except for people with disabilities, which was down slightly from 5.7 per cent.

However, Mr. Wernick said in the report that he is “concerned that there are still gaps for particular specialized classifications and that representation is not distributed evenly across all levels.”

For example, visible minorities accounted for 9.4 per cent of executive jobs in the public service compared to 9.5 per cent availability. For aboriginals, they made up 3.7 per cent of executive jobs despite national availability of 5.2 per cent. And women took 47.3 per cent of public service executive jobs compared to an availability of 47.8 per cent. People with disabilities, however, made up 5.1 per cent of executive jobs, well ahead of their availability of 2.3 per cent.

Federal public service by the numbers (up or down from 2015 to 2016)

Total core public service: 258,979 (up)

Permanent: 218,544 (down)

Term: 25,472 (up)

Casual: 9,251 (up)

Students: 5,712 (up)

Ages

25 and younger: 9,390 (up)

25-34: 43,810 (down)

35-44: 72,519 (up)

45-54: 80,904 (down)

55-64: 46,793 (up)

65 and older: 5,563 (up)

Source: Privy Council clerk's 2017 annual report to the prime minister on the public service

'We need to raise our game': the challenges facing the public service in 2017

Ottawa Citizen

James Bagnall

May 15th 2017

When Michael Wernick emerged as the federal government's top bureaucrat 16 months ago, he had little idea just how radically the job of clerk of the privy council was about to change.

Usually the clerk's emphasis is on policy, on providing cabinet with expert, non-partisan advice. But Wernick very quickly learned his main focus would instead be government operations.

Just weeks after he settled in, federal managers launched Phoenix, the massive, multi-year software project meant to modernize the pay system for hundreds of thousands of government employees. The botched rollout, which technology experts are still trying to rectify, was a stark reminder of how Wernick's predecessors had failed to equip the public service with the skills necessary to modernize the federal government's electronic backbone.

“We need to raise our game in project management,” Wernick acknowledged last week in his annual report to the prime minister on the state of the public service. “Progress has been slower than expected.”

Indeed, departments and agencies across government are struggling with billions of dollars worth of information technology projects. These projects were intended to improve online access for Canadians, and to increase the efficiency of government.

Shared Services Canada — the government’s central computer services agency — recently estimated that nearly a dozen significant projects are behind schedule, over budget, or both. These include Phoenix and the very late project to upgrade the government’s email system. Both are classified “red.” Another two dozen projects are coded “yellow”, as they are merely in danger of running off the rails.

MORE IT PROJECTS IN DANGER OF GOING OFF THE RAILS

LATE AND/OR OVER BUDGET, FEB. 28, 2017

Information Technology Project	Lead department
Email Transformation Initiative	Shared Services
Hosted Contact Centre Service Transformation	Shared Services
Data Centre Server Storage Infrastructure Supply Chain	Shared Services
Workplace Communication Services	Shared Services
Mainframe Legacy Application Migration Project*	Employment
SOC Facilities Construction (phases 1, 2, 3)	Shared Services
PCH Enclave Migration - Hypervisor	Shared Services
Long-term Email Enhancement Project	Shared Services
GCMS - Interim Disaster Recovery (phase I)	Shared Services
Phoenix Project	Public Service
DND headquarters consolidation*	DND

*REQUIRES ACTION TO AVOID BEING LATE
OR OVER BUDGET, FEB. 28, 2017*

Information Technology Project	Lead department
Passport Modernization	Immigration
Radarsat Constellation Mission	Space Agency
E-Manifest	Border Services
High Performance Computer Renewal Project	Shared Services
New Dissemination Model	Statcan
GCNet WAN project	Shared Services
GC Internal Credential and Administration Service	Shared Services
Service Bundle 2	Shared Services
Legacy Data Centre Closures	Shared Services
ITSM Roadmap Implementation	Shared Services
Enterprise Data Centre - Borden Relocation Project	Shared Services
Security Management CITS Program Integrity	Shared Services
ePortal (Pilot 4 Line of Business)	Border Services
Canadian High Arctic Research Station	Indigenous
CIC Biometrics Expansion	Immigration
Re-build	National Research Council
PCO-04 BB10 & iOS/Enhanced Mobility	Privy Council Office
PCO-01 BNET Workstation Mobility	Privy Council Office

* Citizen estimate

SOURCE: SHARED SERVICES CANADA JAMES BAGNALL AND DENNIS LEUNG

Not surprisingly, the Liberal government is increasingly anxious that this mess be dealt with well before the next general election, scheduled for 2019.

The question is, how? The government has under-invested for decades in computer networks, telecommunications systems and online services. The result is that most aspects of this complicated system must be upgraded within desperately short time frames. Older data centres and software are being pressed into service far longer than planned, forcing the government to spend hundreds of millions of dollars on stopgap measures. This is money that could have been invested in new gear or re-engineered services.

Hiring private contractors and outside experts to fix things isn't a panacea. Shared Services, after all, outsourced the job of streamlining and upgrading the government's email systems to Bell Canada and CGI Group — and that \$400-million project is running three years late, according to current projections.

Boosting the number of in-house employees with experience in information technology is an option. But government insiders cite two major difficulties: One is the complex process of managing large projects across multiple agencies; the other has to do with qualifications — the top echelons of the bureaucracy are staffed mainly by policy experts, not people with hands-on knowledge of the government's technical operations.

Which brings us back to Wernick. As the government's top bureaucrat, he has special responsibility for ensuring the public service is trained for the right mission — and in this case, the job has everything to do with IT.

Wernick pointed out last week that he is not starting from scratch. Public servants have successfully managed a number of complex technology files, including a multiyear upgrade of military pension services. Building projects managed by Public Service and Procurement Canada, notably in the Parliament Hill district, have generally been done on time and within budget. Wernick has also boosted training in a handful of departments, including Public Service and Procurement, which handles most of the government's contracting.

To date, the Liberals appear to have relied far more heavily on outside experts than in-house staff. Consider how government staffing levels have changed from April 1, 2016, to April 1, 2017 — the first full fiscal year under the Liberals and most of Wernick's tenure as clerk.

The Citizen obtained detailed data from nine of the largest federal departments, which collectively account for nearly 80 per cent of the government's total workforce.

FEDERAL GOVERNMENT EMPLOYEES

No hiring boom under the Liberals.

	Total in federal government		In the capital region	
	Employees	Change	Employees	Change
National Defence	130,845	0.3%	19,695	1.3%
Canada Revenue Agency	43,092	1.8%	11,809	0.5%
RCMP	30,667	1.4%	5,338	4.0%
Employment & Social Development	24,731	6.2%	7,240	2.6%
Correctional Service Canada	19,438	-0.2%	1,428	1.8%
Public Service and Procurement	12,263	5.8%	7,637	7.1%
Fisheries and Oceans	11,125	3.7%	1,728	9.4%
Health Canada	9,894	2.2%	6,678	1.9%
Statistics Canada	5,592	4.1%	5,195	4.5%
Sub-total	287,647	1.6%	66,748	2.6%

Employees as of March 31, 2017. Change since March 31, 2016.

SOURCE: DEPARTMENTS' HR SOFTWARE

JAMES BAGNALL AND DENNIS LEUNG

Our survey shows the group of nine's workforce grew by 4,500 or just 1.6 per cent year over year. Within the national capital region, these departments added about 1,700 workers, for a year over year gain of 2.6 per cent.

While growth overall was slow, two of the departments added staff at a reasonable clip — Public Service and Procurement (up 5.8 per cent) and Employment and Social Development (up 6.2 per cent). The first is responsible for managing the Phoenix Pay projects (among many other procurements) while the second department is one of the government's most technology intensive. Canadians tap the Employment and Social Development website to apply for Canada Pension Plan payments, old age security and employment insurance, among other things. Whether hiring in these departments increased because of IT spending is unclear.

Certainly the government has boosted its use of professional services and staffing services firms, such as Calian. To what extent can be gauged from an anomaly in how government and Statistics Canada track employment.

StatCan, for instance, has reported that the federal government swelled by 27,100 employees (eight per cent) in the year ended March 2017 — including 23,000 within the national capital region and 4,100 in the rest of the country. Yet, over the same period, the government's top nine departments — a 78 per cent sample — grew less than two per cent overall.

StatCan pointed to two potential culprits when queried about the differences between its data and the departments' own employment records. First, StatCan officials prepare their estimates by surveying households; they don't get their data directly from the departments. (A separate survey by Treasury Board does that but this won't be available until the summer). Second, StatCan acknowledges that "respondents may report working for the government, even if they are in fact contractors providing services to federal government."

This seems to be what is happening, with the result being that StatCan's monthly survey is including thousands of private contractors in its tally of government employees.

CAPITAL CENTRIC

Some departments matter more to the region than others.

Per cent of department employees in capital region, March 31, 2017



SOURCE: DEPARTMENTS' HR SOFTWARE

JAMES BAGNALL AND DENNIS LEUNG

Private contractors, especially those with expertise in technology, tend to be concentrated in the Ottawa region — precisely where the biggest government employment gains have been reported by StatCan. This also fits the historical pattern of departments relying on outsiders for special skills ranging from military electronics to software engineering.

Nevertheless, as Wernick has already concluded, it's not enough just to pile on outside experts. The federal government also requires a critical mass of federal managers capable of seeing these complicated technology projects through. Developing these in-house champions might well prove Wernick's most difficult job in the months ahead.

