NB Southern Railway trial date to be set in July for oil transportation charges

J.D. Irving subsidiary facing 24 charges related to the transportation of oil

CBC News

Rachel Cave

June 4, 2018

NB Southern Railway, facing 24 charges related to the transportation of oil, will be back in court July 4 to set a trial date.

A date was supposed to be set Monday, but the company's lawyer, Catherine Lahey, and prosecutor Guylaine Basque made a joint submission for an adjournment.

Basque told the court there were substantial issues that needed to be addressed.
NB Southern, a subsidiary of J.D. Irving Ltd., pleaded not guilty to all charges on April 6.

In an interview with CBC News on that date, federal prosecutor Denis Lavoie said the charges stem from a Transport Canada investigation triggered by the 2013 derailment that killed 47 people in Lac-Mégantic, Que.

"There was an investigation that started in Lac-Mégantic in relation to what was contained in the railcars that exploded in Lac-Mégantic," said Lavoie.

"That brought Transport Canada to do further investigation in Saint John, New Brunswick."

Eight-month timeline

Twelve of the charges under the Transportation of Dangerous Goods Act relate to failing to create proper shipping documents for the purpose of transporting petroleum crude oil.

The other 12 charges relate to having unqualified personnel "offer for transport dangerous goods for their transportation ... to wit: petroleum crude oil," according to the informant, Transport Canada Inspector Marc Grignon.

The alleged offences occurred between Nov. 3, 2012, and July 5, 2013, the day before the derailment.

During those eight months, about 14,000 cars of crude oil were transported for Irving Oil, according to the Public Prosecution Service of Canada.

On Oct. 26, 2017, Irving Oil was ordered to pay $4 million after pleading guilty to 34 offences under the Transportation of Dangerous Goods Act.

About $3.6 million of that money was directed to research programs in the field of safety standards. Another $400,000 was paid in fines.

In addition, Irving Oil was ordered to submit a corrective measures plan with Transport Canada.

In the NB Southern case, the court was advised of some 9,000 documents of disclosure and that the crown would take about three weeks to argue its case.

Prosecutor testifying at perjury trial denies trying to conceal police corruption allegations
The Toronto Star
Betsy Powell
June 4, 2018

KITCHENER -A prosecutor denied trying to sweep allegations of police corruption under the rug Monday while testifying at the trial for Toronto defence lawyer Leora Shemesh on perjury and attempt to obstruct justice charges.

Crown attorney Robert Johnston told Superior Court Justice Gerald Taylor that during one of his Brampton drug cases, Shemesh told him she had seen a “nanny cam” video showing Peel Regional Police Const. Ian Dann stealing money from her client’s safe.

Told that information, Johnston said he stayed the charges against her client and asked Dann, one of the arresting officers, if any money was stolen.

The officer at first denied removing any money but later told Johnston he had taken between $400 and $2,000 and given it to Shemesh’s client in order to try and convert her into a confidential informant, Johnston testified.

Shemesh’s lawyer, Marie Henein, challenged Johnston repeatedly on how he handled that revelation, particularly in light of the fact a Superior Court judge found that Dann and the other arresting officers colluded and committed perjury in one of Shemesh’s previous cases.

“What I’m going to suggest to you Mr. Johnston is that after you get this information from Constable Dann ... you do everything you can to clean up this mess for him. Do you accept that’s what you then do?” Henein asked.

“I most certainly did not,” Johnston replied.

“I’m going to suggest to you you make sure Constable Dann never hits the stand, right, because he never does,” Henein continued.

"I did nothing to outwardly make sure he didn't hit the stand except in regards to this one matter that I stayed so to avoid the potential of a confidential informant being identified."

He added: "If Constable Dann stole that money, he deserves whatever he gets."

"Well he did not get any retribution from you, right?" Henein replied.

Shemesh is asking the judge to stay the charges against her or exclude sworn testimony where she denied claiming a nanny cam video existed, arguing she was improperly compelled to testify.

The Crown alleges Shemesh attempted to obstructed justice by claiming to have a "nanny cam" video showing Dann stealing money from her client's residence, when no such video existed.

Pretrial motions began Monday and if the judge agrees to exclude her testimony there will no trial in September.

At the end of Monday's proceeding, Taylor told Johnston he is troubled about Dann's admission about giving money to Shemesh's client.

"How is that not theft?" the judge asked Johnston.

"I concur," the prosecutor, a former police officer, said after a long pause, "however at the moment we were simply trying to determine what we were doing with this one case as far as whether a CI (confidential informant) relationship existed and whether we could or could not proceed and whether we could put Constable Dann on the stand to allow him to be cross-examined and perhaps the (nanny cam) videotaped played. The fact there may well have been a theft," was something for Peel police internal affairs to investigate.

"That's what I'm hung up on. It may well have been a theft ... how can it be anything but," the judge said.

Johnston said he wasn't conducting a criminal investigation, he was just trying to sort out the "existence of a tape issue."

The hearing resumes Tuesday.

Man convicted in Lindhout kidnapping loses court bid for confidential information to help possible appeal
The Globe and Mail
Jim Bronskill
The Canadian Press
June 4, 2018

A Somali man convicted of taking Amanda Lindhout hostage has lost a court bid for confidential information he says could help with a possible effort to overturn the guilty verdict.

A new Federal Court of Appeal ruling dismisses Ali Omar Ader's attempt to see sensitive files gathered during a criminal investigation of the kidnapping.

Mr. Ader faces a potentially lengthy prison sentence after being convicted late last year of hostage-taking.

Ontario Superior Court Justice Robert Smith called Mr. Ader a "willing participant" in the 2008 kidnapping of Ms. Lindhout, who was working as a freelance journalist near Mogadishu at the time.

The judge found little to believe in Mr. Ader's testimony, saying it did not support his claim that he was forced into serving as a negotiator and translator on behalf of a gang who threatened to harm him and his family.

Mr. Ader is slated to be sentenced later this month.

Behind the scenes, proceedings played out in Federal Court over prosecution-service concerns about classified information that, if disclosed during the trial, could harm international relations, security or defence.

A Federal Court ruling said last fall that a number of documents must remain confidential because the competing interests weighed in favour of protecting the information – prompting Mr. Ader's application to the Court of Appeal.
Mr. Ader was unsuccessful in trying to have his criminal trial adjourned last October while the disclosure issue went through the courts.

In its decision, a three-member appeal panel concluded the Federal Court judge "made no error" in prohibiting release of the records in question. A public version of the Court of Appeal ruling blacks out some passages to shield details of the disputed materials.

Targeted killings of Canadian ISIS members cloaked in secrecy, but officials discussed issue
Global News
Stewart Bell and Andrew Russell
June 5, 2018

Senior officials discussed the legality of killing Canadian foreign terrorist fighters in Iraq and Syria after the government joined the coalition against the so-called Islamic State, according to the prime minister's former national security advisor.

Richard Fadden, who was national security advisor to both Prime Ministers Justin Trudeau and Stephen Harper, said the officials decided that international law permitting the killing of combatants in armed conflicts applied to the anti-ISIS coalition.

"As I recall, a range of senior officials discussed the issue and were convinced that applying the law of armed conflict was appropriate in the circumstances," Fadden said.

With about 100 extremists from Canada taking part in the conflicts in Syria and Iraq, their targeting by the coalition was likely discussed by officials at Justice Canada and the Judge Advocate General, the military's legal advisor, in order to protect Canadian soldiers from possible prosecution.

But it doesn't appear the officials briefed cabinet ministers at the time. Jason Kenney said the issue was never discussed when he was defence minister until Nov. 2015. "I was never part of, or privy to, a discussion or exchange on targeting Canadians," he said.

"I obviously would have had no objection whatsoever to CAF [Canadian Armed Forces] including suspected Canadian IS members in targets — can't imagine anyone at the political level of the Harper government would have objected," Kenney said.

"But this was not discussed while I was MND [Minister of National Defence]."

The targeting of Canadian citizens by the coalition to which Canada belongs has not been officially acknowledged by the government but Global News reported last week that a secret briefing note to Chief of Defence Staff Jonathan Vance said three Canadians had been targeted just in the first year of airstrikes.

The heavily-redacted Sept. 2015 document was a discussion of the "strategic issues" arising from the targeting of enemy combatants who were Canadian citizens during Operation Impact, the Canadian contribution to U.S.-led Operation Inherent Resolve.

Trudeau halted Canadian airstrikes against ISIS in 2016, but the military continues to participate in the coalition.

While few will mourn the deaths of Canadians who joined ISIS, their targeting by the coalition forces raises questions the government does not appear to want to discuss.

The details of the government's policy on targeted strikes against its citizens, as well as the role of federal agencies, and whether they were tracking and reviewing such killings, remain cloaked in mystery.

Asked Monday about Canada's official policy, Public Safety Minister Ralph Goodale said only that police and security agencies "would be anxious" to track the movements of those who had left Canada to join ISIS and other terror groups.

He said security services "do not release" the number of Canadians killed in airstrikes. He said the assumption was that "some of them are dead, but it's a very difficult number to confirm."

Trudeau's office said Goodale's response would serve as "the response on behalf of the government."

Defence Minister Harjit Sajjan said last week that Canada followed the laws of armed conflict. A key question, however, is how Canada interprets those laws. Over which parts of countries like Iraq and Syria do they apply?

In addition, international law allows the targeting of those directly participating in hostilities. But the definition of "directly participating in hostilities" is interpreted broadly by the U.S. and more narrowly by others.

University of Ottawa law professor Craig Forcese said Canada's new National Security and Intelligence Committee of Parliamentarians should examine how the government has been defining the term in Iraq and Syria.

"The Americans have a view on direct participation in hostilities which is not universally shared," the national security law expert said. "I am not aware of any Canadian public statement of where we come down on this issue."

Targeting may be occurring under the more permissive U.S. interpretation, Forcese said. He also questioned whether Canadian military lawyers conducted their own assessments of whether targets met the threshold.

The parliamentary committee would not say whether it would examine the issue. Executive Director Rennie Marcoux said the committee preferred not to discuss its work. Neither Liberal, Conservative nor NDP MPs on the committee would comment.

Experts said that while international law permitted the killing of combatants in armed conflict, Canadian law and the Charter of Rights and Freedoms were untested on the issue of Canada's participation in the targeting of Canadian citizens.

The briefing note acknowledged that while the nationality of "targeted individuals" was "not an issue" "domestic Canadian policy, political, and legal concerns may emerge."

"These issues are so serious that we clearly need a public inquiry led by someone of very significant stature," said Ryan Alford, an associate professor at Lakehead University's Bora Laskin Faculty of Law.

He said a retired Supreme Court justice might be appropriate to head an inquiry, which could look at whether Canada had simply followed U.S. policy on targeted strikes without one of its own.

Federal agencies would say little about the topic.

The military said it did not keep track of Canadians targeted in Operation Inherent Resolve. "However, if during the targeting process, the CAF is made aware of possible Canadian citizens involved, the information is shared with appropriate government agencies for security reasons," said Capt. Christopher Daniel, a National Defence spokesman.

Canadian Security Intelligence Service spokesperson Tahera Mufti said she could not confirm the agency's role and said only that "the identity of Canadian foreign fighters involved in combat would be of interest" to its investigations.

The RCMP would not discuss whether its National Security Joint Operations Centre, which tracks Canadian "extremist travelers," followed up on Canadians targeted in airstrikes.

Ottawa's promised Indigenous rights bill not as advertised, says report from new think-tank
Liberals' plans would create a 'modified version of the status quo,' says Yellowhead Institute report
CBC News
Jorge Barrera
June 5, 2018

The federal Liberal government's promised Indigenous rights bill would likely do away with the Indian Act by coaxing First Nations into a "narrow model" of self-government aimed at suppressing Indigenous self-determination, according to a new report.

While few concrete details have so far emerged about the promised bill, a report issued Tuesday by the Yellowhead Institute warned First Nations should be cautious about its intent.

"We find that nearly all of Canada's proposed changes to its relationship with First Nation peoples neglect issues of land restitution and treaty obligations," said the report titled Canada's emerging Indigenous rights framework: a critical analysis.

The report comes at a time of heightened tensions over Ottawa's decision to purchase the Trans Mountain pipeline which, while supported by some First Nations, is fiercely opposed by others.

The Yellowhead Institute, based out of Ryerson University's Faculty of Arts, began its official operations on Tuesday. The new think-tank will provide a First Nations perspective on policy issues in support of "First Nation jurisdiction."

Anishinaabe scholar Hayden King, the executive director for the institute, said the Liberals are making moves on the Indigenous file at such a dizzying pace that it's hard to keep up.

"There is almost like a concerted effort to confuse First Nations on all these changes happening," said King, one of the co-authors of the report.

King said the report aims to cut through the Liberal spin around Ottawa's proposed Indigenous recognition of rights framework.

'An effort to mislead First Nations'

The report noted that the Liberals' rhetoric on the historic nature of its promised changes is often underplayed in policy documents.

"There is also a clear attempt to maintain a modified version of the status quo and, as such, an effort to mislead First Nations of the transformational nature of these changes," said the report, written by King and Shiri Pasternak, the institute's research director.

The federal government's moves on Indigenous rights seem focused on transferring administrative responsibility for service delivery to First Nations without reconstituting lost traditional land base or affecting federal, provincial or territorial powers, according to the report.

The federal government appears to favour aggregating First Nations to deliver education, health care and child welfare, while focusing on signing sector-specific agreements on issues like forestry and fisheries, instead of dealing with broader matters like self-government and land rights, said the report.

A Valentine's Day promise

Prime Minister Justin Trudeau announced in a Valentine's Day speech in the House of Commons that his government would introduce a bill to recognize Indigenous rights enshrined in Section 35 of the Constitution in federal law.

The recognition of Indigenous rights framework is expected to be tabled by the fall and passed before the next federal election, according to Indigenous-Crown Relations Minister Carolyn Bennett.

Bennett has been on a cross-country tour gathering input from First Nations on the promised framework she said is currently a blank slate.

Bennett said in an interview last week that the promised framework would be "co-developed" over the summer.

The minister has said that the new framework, once passed, would include an "opt-in" option, meaning First Nations can choose when to move out of the Indian Act and under the new legislative structure.

The Yellowhead Institute report suggests the opt-in avenue is a really an option without a choice.

"For those who object to this process, the Indian Act will likely remain in place, but with pressure to conform or be labeled 'dissidents' or criminalized," said the report.

An outline of the framework's intent was revealed by recently tabled bills, policy pronouncements and a major retooling of government machinery on the Indigenous file, said the report.

Outline emerging

The report analyzed several of these examples including Justice Canada's 10 principles, the splitting of the Indigenous and Northern Affairs department and the proposed legislative overhaul of the environmental assessment process, Bill C-69.

"These efforts are coalescing around a very narrow view of Indigenous rights and jurisdiction that is far short of what First Nations have been demanding," said the report.

On Bill C-69, the report said it makes no mention of the UN Declaration on the Rights of Indigenous Peoples and "limits" Indigenous participation.

Justice Canada's 10 principles were created to essentially guide Canada's relationship with Indigenous Peoples. The report found that while the principles talk of a new fiscal relationship and a constantly evolving approach responsive to the unique characteristics of each Indigenous community, it still falls short.

"They are innovative insofar as they do not stray far from pre-existing institutions and structures, which entrench the authority of the federal and provincial governments," said the report.

The report also cautions about the impact of splitting Indigenous Affairs into Crown-Indigenous Relations and Indigenous Services — the latter Ottawa hopes will be eventually be replaced by First Nations institutions.

The report said the move seems to weaken the link between rights and Ottawa's fiduciary responsibility.

"We are concerned that the federal government will now make a distinction between its constitutional obligations," said the report.

Ottawa is also expected to table a bill on the department split.

Head of inquiry into missing, murdered Indigenous women says scope will narrow after extension limited to six months
The Globe and Mail
Gloria Galloway
June 5, 2018

The head of the commission investigating why so many Indigenous women fall prey to violence says she is disappointed that the federal government rejected her request for a two-year extension and is allowing just six additional months for the inquiry to complete its work.

Marion Buller, the chief commissioner of the National Inquiry into Missing and Murdered Indigenous Women and Girls, says the brief reprieve from the initial deadline of Nov. 1, 2018, means some important topics will not be covered and the final report will be more narrow in scope than the commissioners had hoped.

“This is not what we wanted, of course,” Ms. Buller said Tuesday after Carolyn Bennett, the federal Minister of Crown-Indigenous Relations and Northern Affairs, announced that the

commission would have until April 30, 2019, to submit its report and must wrap up all operations by the end of next June.

The commissioners asked for more time when they submitted an interim report to the government last fall and clarified in March that they wanted another two years and an additional $50-million, on top of the $54-million already allotted.

“We did a very careful and very thorough analysis about the work that needs to be done and the time that realistically we need to do it in,” Ms. Buller said. “And obviously the federal government has rejected that analysis.”

Michèle Audette, one of the other commissioners, said the government’s decision had left her feeling “incomprehension and deep disappointment,” adding that she would take a few weeks to consider her future participation in the inquiry.

But Dr. Bennett told a news conference that, in discussions with survivors, family members, Indigenous organizations, provinces and territories, the government found little support for extending the commission’s mandate beyond the next election in 2019.

“This approach acknowledges that there are more survivors and family members that want to share their experiences,” Dr. Bennett said. “However, it also underscores the urgency this government places on seeing the commission deliver concrete recommendations that will address the systemic and institutional issues to help Indigenous women and girls be safe.”

All the provinces and territories agreed that the commission may subpoena evidence within their jurisdictions until Dec. 31, but not all have agreed to extending those powers, Dr. Bennett explained. “If any province and territory did not agree to have those extended, we would no longer have a national public inquiry.”

And it is unclear how much more money the government is willing to give directly to the inquiry to conduct its research. That will be determined with the commissioners in the coming weeks, government officials said.

Ms. Buller says reducing the extension from two years to six months means there are issues that the inquiry will not be able to cover, including provincial differences in the delivery of social services.

“We know that we‘re going to be very limited in further issue exploration in terms of expert hearings and institutional hearings,” she said. “But our first priority is to hear from the families and survivors who have registered with us because we need to hear their truths and their recommendations. That’s critical to our work.”

The commission has heard from about 1,200 survivors and family members, and more than 600 people have registered and are waiting to testify.

The government, meanwhile, is addressing some of the recommendations of the inquiry’s interim report.

It is offering an additional $21.3-million in health support to family members and others who have been affected by the issue and will continue to provide those services for a year after the inquiry’s new end date.

It has set aside an additional $5.24-million to extend, by one year, Justice Canada programs that provide families with information about their missing loved ones and connect them to trauma and grief supports.

It is establishing a commemoration fund of $10-million over two years to honour the Indigenous women who have been lost to violence.

And it is addressing gaps in the criminal-justice system by spending as much as $1.25-million over two years to help organizations review police policies and practices and $9.6-million over five years to support a new National Investigative Standards and Practices Unit within the RCMP.

Still, Ms. Buller says she is disappointed that it took the government until June to respond to the recommendations the commission made last November.

“Families and survivors have been left in limbo, as have all Canadians for that matter, about what the government is going to do about the interim recommendations,” she said. “I think that it does not bode well for the government taking action, as they’ve said they want to do, on our final report and our final recommendations.”

Mariage mixte à Kahnawake : les Mohawks n’iront pas en appel
Radio-Canada
7 juin, 2018

Le Conseil des Mohawks de Kahnawake ne fera appel de la décision de la Cour supérieure du Québec, qui a récemment annulé une partie d'une loi controversée sur le mariage mixte dans la communauté autochtone au sud de Montréal, affirmant qu'elle est discriminatoire au regard de la Charte canadienne des droits et libertés.

« Il est clairement dans notre intérêt d'avancer en tant que communauté et de mettre cet épisode désagréable derrière nous, en tant que communauté », a déclaré le grand chef Joseph Tokwiro Norton dans un communiqué rendu public mercredi.

« Il a été convenu à l'unanimité (par le conseil) que faire appel à un autre tribunal externe ne servirait pas nos objectifs », a-t-il poursuivi.

Le conseil s’est également engagé à payer la somme de 35 000 $ à 7 des 16 plaignants, comme l’avait ordonné le juge.

Ces 16 personnes contestent la politique en vigueur depuis 1981 qui oblige les résidents de la communauté mohawk à déménager s'ils épousent une personne non autochtone, et suspend leurs autres droits d'adhésion - le principe communément appelé en anglais « Marry Out, Get Out ».

Le conseil de bande estime pour sa part qu'il s'agit là d'un outil pour sauvegarder la culture et les traditions de la communauté.

L’avocat Julius Grey, qui représente les 16 plaignants, s’est réjoui de la décision du conseil de ne pas porter en appel le jugement de la Cour supérieure.
« C’est une bonne décision car c’est évident qu’en droit canadien, elle était très bien écrite, bien étoffée. Donc ça épargne l’argent de tous et ça laisse présager de meilleures relations entre les résidents de Kahnawake », a-t-il déclaré à Espaces autochtones.

Le Conseil des Mohawks travaille à réécrire certains passages du règlement actuel jugés « discriminatoire » par le juge. Une rencontre avec des membres de la communauté est prévue la semaine prochaine. La nouvelle mouture de la « loi sur le membership » - rebaptisée la Kanien’kehá:ka of Kahnawà:ke law (la loi des Mohawks de Kahnawake) - sera à nouveau ratifiée.

Me Grey espère qu'avec ce nouveau règlement, le conseil tiendra compte du jugement de la Cour supérieur, sans quoi la situation « s'envenimera ». La nouvelle loi devra « préserver les droits fondamentaux mais néanmoins continuer le principe d’un gouvernement autochtone », affirme-t-il.

Ni le grand chef Norton ni les autres chefs n’étaient disponibles pour une entrevue.

400 000 $ disparaissent des coffres d'un syndicat de la fonction publique
Radio-Canada
7 juin 2018

Un syndicat représentant des professionnels de la fonction publique du Canada, y compris des économistes, des statisticiens et des employés civils de la GRC, essaie de comprendre comment 400 000 $ ont pu disparaître sans que personne s'en rende compte.

Des sources ont indiqué à CBC qu'un employé de l'Association canadienne des employés professionnels (ACEP) a été congédié dans le cadre d'une enquête interne, bien que le syndicat ait déclaré que plusieurs employés faisaient l'objet d'une enquête.

Le syndicat a avisé la police d'Ottawa il y a plus d'un an d'un détournement de fonds allégué, mais il ne l'a jamais rendu public, ce qui choque bon nombre de syndiqués.

« Je suis certain que de nombreux membres ne sont pas au courant », a déclaré Judy Everson, qui travaille à Statistique Canada. « Je suis choquée, je suis dégoûtée. La confiance dans le syndicat? Le respect du syndicat? Tout ça est fini pour moi. C'est incroyable. Le pire, c'est que ça ne dure pas depuis des mois, mais depuis des années. »

Le président de l'ACEP, Greg Phillips, a déclaré que le syndicat avait été aussi transparent que possible.

« Quand il n'y a pas d'accusations criminelles, parler de détournement de fonds... ça peut tourner au cauchemar. Nous devons faire attention à ce que nous disons, parce que tout le monde est innocent jusqu'à preuve du contraire », a-t-il tempéré.

Des irrégularités remarquées dès 2017
Au début de mai 2017, au moins une personne a dénoncé le conseil exécutif national du syndicat relativement à d'éventuelles irrégularités financières, a ajouté M. Phillips.

« Des preuves nous ont été apportées. Nous avons immédiatement pris des mesures pour engager les vérificateurs judiciaires pour examiner la question », s'est-il défendu.

Le syndicat a déclaré s'être rendu au Service de police d'Ottawa, mais la police n'a pas confirmé l'ouverture d'une enquête à CBC. Personne n'a été accusé en lien avec ces fonds manquants.

Le cabinet d'audit et de conseil Deloitte s'est penché sur les dossiers financiers de l'ACEP et a découvert qu'en 2017 seulement, plus de 60 000 $ avaient été transférés du compte bancaire principal du syndicat par Internet sans aucun document à l'appui, comme des reçus ou des factures.

Ce n'était que le début. Le cabinet a trouvé d'autres transferts électroniques suspects datant de huit ans.

De 2009 à 2017, entre 380 000 $ et 400 000 $ ont disparu, selon les états financiers présentés sur le site Internet de l'ACEP.

Des transferts sans vérification
M. Phillips a avancé que, si l'argent manquant était passé inaperçu depuis si longtemps, c'était peut-être parce que les transferts électroniques étaient sporadiques. Les montants variaient, mais étaient généralement en deçà des quatre chiffres.

Contrairement aux chèques, les transferts de fonds par Internet ne nécessitaient pas d'autres vérifications à l'époque.

Les salaires, les heures supplémentaires et les indemnités de départ des employés étaient payés par versements électroniques.

« Aucun contrôle n'était mis en place », a reconnu M. Philipps. « Clairement, ce ne sont pas tous les paiements qui ont été vérifiés. »

Le président de l'ACEP a assuré que le syndicat avait depuis mis en place de nouvelles politiques, et les transferts électroniques nécessitaient maintenant l'approbation de deux dirigeants qui doivent utiliser des porte-clés spéciaux pour générer un mot de passe qui expire en quelques secondes.

Coût « excessif » de l'enquête
Trouver la base du problème a été coûteux pour le syndicat.
Il a dépensé « une quantité phénoménale d'argent » pour enquêter sur l'argent manquant, a admis M. Phillips. Entre Deloitte, les avocats et les membres du comité exécutif national de l'ACEP, jusqu'à 200 000 $ ont été dépensés.

Jusqu'à présent, le syndicat n'a pu récupérer que 25 000 $ du montant total qui manquait par sa compagnie d'assurance, de sorte que les pertes pourraient avoisiner les 600 000 $.

Déception des membres
Un employé de Santé Canada, Rakesh Manhas, membre de l'ACEP depuis près de 10 ans, s'est dit déçu.

« Je ne suis vraiment pas content que mes cotisations soient siphonnées comme ça », a-t-il réagi.

M. Manhas, qui fait partie des nombreux membres du syndicat, croit que les membres auraient dû être mieux informés.

Mentionné dans les documents budgétaires
Les membres ont reçu par courriel des liens vers les états financiers de l'ACEP et ont approuvé les documents lors d'une réunion budgétaire en novembre 2017, mais ce n'est qu'à la dernière page d'un rapport qui en comptait 20 que l'argent manquant était mentionné.

Le directeur du syndicat a maintenu que l'ACEP a été transparente. Selon lui, la vérification judiciaire a été finalisée en janvier seulement.

Mais M. Manhas ne voit pas les choses du même oeil.

« Qui regarde la 20e page des documents financiers? », a-t-il demandé. « Ça devrait être indiqué sur la page d'accueil du site [...] pour que tout le monde puisse le voir. »

Selon le site du syndicat, l'ACEP représente 13 000 économistes, analystes politiques, chercheurs, statisticiens, traducteurs, interprètes et terminologues, entre autres.

New hires starting to whittle down Phoenix Pay backlog
Ottawa Citizen
James Bagnall
June 7, 2018

Is it possible the government is finally getting a handle on the Phoenix Pay system?

In light of the tortured history of this nine-year-long $1-billion project, it may be best not to read too much into the latest four-week pay period. But the portents are good.

Public Services and Procurement Canada, the department responsible for the government-wide pay system, reported Thursday it had reduced the core backlog by 25,000 between May 2 and May 30, leaving 347,000 transactions awaiting disposition at the Pay Centre in Miramichi, N.B. That's a net decline of nearly seven per cent. It's also the fourth straight drop in the number of transactions stuck in the queue. These peaked at 384,000 last January. Nearly 300,000 federal government employees rely on Phoenix Pay, though fewer than two-thirds are served directly through the Pay Centre.

The core backlog includes transactions that involve pay errors — government employees who received too much or too little, sometimes both. Phoenix Pay workers at the Pay Centre and newly hired ones elsewhere across the country processed 97,000 transactions in the four weeks ended May 30, compared to 72,000 new transactions received. It's the best four-week period

on record for productivity since June 2017, when the Pay Centre resolved 108,000 transactions with considerably fewer staff.

The Pay Centre's total backlog of transactions at May 30, 2018 was 596,000, down just 9,000 during the latest four-week pay period. The total includes 105,500 transactions that don't have a financial ramification. These are typically requests for information about pay rules, promotions, paid leave, vacation entitlements and the like. These increased by 4,500, suggesting the Pay Centre is concentrating on correcting pay. There was also a significant increase in the number of files that were waiting to close, but which had already seen payments issued to affected employees. Again, this suggests an emphasis on dealing with employees' financial pain first, and dealing with the paperwork later.

It's not clear how much of the recent improvement has been the result of a series of pilot projects launched in recent months by Public Services Minister Carla Qualtrough. These aim to resolve pay issues particular to departments through dedicated teams. These "SWAT teams" have been reporting some success in expediting pay transactions but they cover just 15 per cent of the government's total workforce.

While progress at Phoenix Pay is far too slow for government employees impatient with 27 months of pay errors, it appears at last to be moving in the right direction.

Opinion: Too many Indigenous women are in prison—but sentencing flexibility will help
In the absence of real systemic reform, a bill would allow judges to adjust sentences despite mandatory minimums makes an unjust system better
Mcleans
Patricia M. Barkaskas and Emma Cunliffe
June 7, 2018

Patricia M. Barkaskas is the academic director of the Indigenous Community Legal Clinic at the Peter A. Allard School of Law at the University of British Columbia. Emma Cunliffe is an associate professor in the Peter A. Allard School of Law at the University of British Columbia. Both are expert advisors with EvidenceNetwork.ca.

There is no justice for Indigenous women in the current Canadian justice system.

Indigenous women are violently victimized at almost three times the rate of their non-Indigenous counterparts. Indigenous women are also more likely to commit criminal offences—but nine times more likely than non-Indigenous women to be sentenced to prison.

Independent Sen. Kim Pate recently announced her intention to introduce a private member's bill that would grant Canadian judges the power to impose an appropriate sentence for any offence, regardless of whether the offence carries a mandatory minimum sentence of imprisonment. An appropriate sentence reflects the seriousness of the offence committed and the offender's degree of responsibility. But it also takes into account the circumstances in which someone has committed a crime.

Judges already have the power to impose a more severe sentence than the mandatory minimum. This bill would allow them to impose a lesser sentence than the usual minimum in appropriate circumstances.

Adopting an evidence-based approach to sentencing reform makes sense for all actors within the Canadian criminal legal system. However, it is an urgent imperative for Indigenous women. For them in particular, a mandatory minimum sentence is often a systemic response to an offence committed in the context of extreme poverty, violent victimization or fear of state apprehension of children. Indigenous women's experiences of racism and colonial violence are "risk factors" that lead some to commit criminal acts.

Mandatory minimum sentences remove judicial discretion to account for these circumstances in sentencing. Worse, they have a disproportionately harsh impact on Indigenous women as judges are unable to craft sentences that reflect the circumstances in which Indigenous women offend.

The proportion and number of Indigenous women in Canadian prisons has grown rapidly as the use of mandatory minimum sentences has proliferated.

The recent case of Cheyenne Sharma illustrates the pattern. Sharma, a 20-year-old Saugeen woman, was arrested at Pearson airport while carrying cocaine. She had no previous criminal record and co-operated immediately with the police and investigation. Sharma later explained that she had agreed to carry a suitcase through customs for money because she was terrified of losing her housing and, consequently, her daughter. Like too many Indigenous families, Sharma and her daughter were living in poverty and often precariously close to becoming homeless.

Sharma's personal and family history reveals intergenerational patterns typical of many Indigenous women in her position: her grandmother was a residential school survivor, her mother spent time in foster care and Sharma experienced poverty, sexual violence and addiction from an early age.

However, Sharma's case is unusual because Aboriginal Legal Services successfully challenged the mandatory minimum sentence that would otherwise have applied to her. Mounting such a

challenge takes resources that are rarely available within our chronically underfunded legal aid system.

Eventually, even the prosecutor conceded that the mandatory minimum sentence was too harsh for Sharma because of her family history and personal context. However, as Jonathan Rudin, director of Aboriginal Legal Services in Toronto observed: “The fact that the Crown thinks [her personal history is] exceptional speaks to the fact that they don’t really understand the circumstances of Indigenous people.”

The trial judge agreed with Aboriginal Legal Services: imposing the mandatory minimum sentence upon Sharma would be “cruel and unusual.”

Allowing judicial discretion in sentencing is also important because research shows that Indigenous women who have experienced violence are more likely than other women to plead guilty to serious charges and more likely to be sentenced to lengthy periods in custody. Sen. Pate’s bill would permit a trial judge to craft a just sentence for an offender such as Sharma without the need for an expensive court battle of the kind that most individuals before Canadian courts cannot afford.

Sen. Pate’s bill, however, would just be the beginning. Ending mandatory minimum sentences would only make an unjust system less unjust. Ultimately, neither judges nor the Canadian justice system are capable of unilaterally delivering justice when it comes to Indigenous peoples in Canada, and a fuller solution must begin with the restoration of Indigenous legal systems and processes and with approaches that incorporate Indigenous women’s knowledge, concerns and needs.

Providing judicial discretion to depart from mandatory minimum sentences is a simple step that can ameliorate some of the harshest impacts of the criminal justice system on Indigenous women. But it doesn’t change the need for deeper systemic reform.

‘Shot across the bow’: Federal government seeking $25K in legal fees from St. Anne’s residential school lawyer
APTN National News
Lucy Scholey
June 7, 2018

The federal government is seeking $25,000 in court fees from an Ottawa lawyer representing the survivors of St. Anne’s Indian Residential School – a rare legal move that critics say is meant to strike fear into other lawyers fighting claims.

For years, Fay Brunning has been representing survivors of the notorious Fort Albany, Ont. residential school known for operating a homemade electric chair.

The horrific sexual and physical abuse of Indigenous students at the school has long been the subject of criminal and civil proceedings.

Among the lawsuits, St. Anne's survivors have been fighting for access to secret documents they argue are relevant to their compensation claims.

But Ontario Superior Court Justice Paul Perell ruled Canada did not need to turn over the materials generated from a 1990s provincial police investigation into the horrors inflicted on Indigenous children at the school.

Ottawa defence lawyer Lawrence Greenspon, who is representing Brunning, said the federal government is now seeking $25,000 from her to cover the legal costs, a move he calls "very rare."

"This is really a punitive measure that the federal government is trying to take against Fay Brunning personally and the cost should not be awarded against her," said Greenspon.

Edmund Metatawabin, a St. Anne's survivor and former Fort Albany chief, calls it a "desperate" attempt by the government to keep the secret documents hidden.

"What is the message to other lawyers who are thinking of working with First Nations?" he said. "Shot across the bow. That's what we call it."

The same federal government that promised a "nation-to-nation" relationship with Indigenous peoples is now seeking legal fees from a lawyer representing residential school survivors – a point that's not lost on Patrick Etherington, another St. Anne's survivor.

"What did they mean when they spoke about reconciliation?" he said. "What did they mean when they spoke about the truth?"

APTN News reached out to the Department of Justice for a response, but did not hear back.

Court filings state the federal government is seeking costs from Brunning because of "allegations about Canada and its lawyers' conduct."

Last January, Perell issued a decision slamming Brunning for her handling of the case, saying she "slandered the court" and acted unprofessionally.

Brunning alleged “the court was biased and was purposely shirking its obligations under the Indian Residential Schools Settlement Agreement,” reads Perell’s ruling.

He said she has a duty to respect the court and her comments could be contemptuous and possibly interfere with the administration of justice.

Brunning is also facing a defamation lawsuit from Wallbridge Wallbridge, an Ontario law firm with offices in Timmins, North Bay, Sudbury, New Liskeard and Ottawa. The Wallbridge firm’s lawyers allege they were defamed by Brunning when she claimed they sat on police files critical to a residential school survivor’s compensation claim.
On Monday, Greenspon filed a motion to the court asking Perell recuse himself from considering the parties’ legal costs.

Greenspon argues Perell might be biased against Brunning.

“The judge just slammed her and did so in a direction, in a decision that was picked up by the media,” he said, adding Perell made “very negative comments about Fay and did so without providing Fay with any opportunity to be heard.”

The federal government’s pursuit against Brunning is the latest chapter in the St. Anne’s saga.

Survivors of the northern Ontario school have been fighting to obtain secret documents generated during 62 lawsuits filed between 2000 and 2003 by 154 Indigenous children over the physical and sexual abuse they suffered.

The appellants argued the materials should have been available to bolster compensation claims under a process set up as part of the settlement of a class action over the Indian residential school system.

While Canada did eventually hand over the criminal-related documents, it argued it had no obligation to disclose transcripts and other civil-litigation materials on the basis the information was subject to confidentiality rules. Both Perell and the Appeal Court agreed.

In various lower court rulings over the past several years, Perell found the Canadian government had not acted in bad faith by failing to meet its obligations to turn over documents related to criminal proceedings that flowed from the St. Anne’s abuse.

“Nor did he make any finding of reprehensible, scandalous or outrageous conduct on the part of Canada,” the Appeal Court noted.

Greenspon said he has yet to hear of a date set for the cost submissions or for his recusal request.

For more on the horrors of the Fort Albany residential school, watch our APTN Investigates story, Reckoning at St. Anne’s.

Supreme Court of Canada asked to hear Hells Angels hitman case
CBC News
Blair Rhodes
June 7, 2018

The Crown has formally applied to the Supreme Court of Canada to appeal the case of a man accused of being a Hells Angels hitman.

Dean Daniel Kelsie, 44, was convicted of first-degree murder and conspiracy to commit murder in the October 2000 death of Sean Simmons, who was gunned down in the lobby of an apartment building in north-end Dartmouth, N.S.

Last year, Kelsie's convictions were overturned by the Nova Scotia Court of Appeal and a new trial ordered.

Efforts to schedule that trial have been hampered by Kelsie's attempts to get a lawyer, and by the possibility of a Crown appeal hanging over the case.

On Thursday in Nova Scotia Supreme Court, prosecutor Peter Craig said the Crown filed its application documents to Canada's highest court a few weeks ago.

There's no word on when or even if the Supreme Court will hear the case. Unlike lower courts, the Supreme Court has the discretion to simply refuse to hear a matter, without giving any explanation.

'Returning and returning'
With the appeal issue temporarily resolved, the Nova Scotia Supreme Court turned its attention to scheduling a new trial for Kelsie.

"It's very unfortunate that this keeps returning and returning," Justice Denise Boudreau said.

With the help of Nova Scotia Legal Aid, Kelsie is trying to hire Toronto defence lawyer Philip Campbell. Kelsie's matter will return to court later this month to update his progress. If Campbell is hired, his first task could be to represent Kelsie before the Supreme Court of Canada.

Kelsie has been in custody since his arrest in 2001.

At his first trial in 2003, the jury heard that Simmons was shot to death because he'd allegedly had an affair with the wife of a Hells Angel. Kelsie was accused of pulling the trigger.

2 others convicted
Two other men, Neil William Smith and Wayne Alexander James, are both serving life sentences for their roles in Simmons's killing. A fourth man, Steven Gareau, was set free earlier this year after a judge ended the prosecution against him.

Gareau had been twice found guilty of first-degree murder, but both convictions were overturned on appeal. In February, a judge ruled that it would be unfair to subject Gareau to a third trial.

Why Canada needs deferred prosecution agreements in our courtrooms
The Globe and Mail
Stephen Aylward
June 7, 2018
Stephen Aylward is a lawyer at Stockwoods LLP in Toronto practising commercial litigation and white-collar defence.

Justice deferred is not necessarily justice denied. Deferred prosecution agreements allow corporations to avoid a criminal conviction in exchange for admission of wrongdoing, payment of a fine and internal reforms. Such arrangements are common in the United States and Britain. The federal government is now planning to bring them to Canada, and some are worried that the new approach is overly lenient to corporate wrongdoers.

It is true that deferred prosecution agreements lower the stakes for corporate defendants. But they also ensure swift compensation for victims, more consistent enforcement and fairness to innocent stakeholders, such as shareholders and employees.

These agreements (called “remediation agreements” in the draft legislation) will be available to corporations facing charges of economic crimes such as fraud and bribery. Prosecutors must consider how the misconduct came to light and corrective steps taken by the corporation when deciding whether an agreement is appropriate. The corporation must agree to publicly acknowledge the relevant facts, compensate victims, pay a financial penalty and co-operate in the prosecution of any individual wrongdoers. The bill foresees an important role for the courts in overseeing these agreements (unlike the U.S. model, which leaves greater discretion to prosecutors).

A conviction may block a firm from bidding on government contracts for 10 years. But the more serious impact may be on a firm's reputation. Arthur Andersen was one of the "big five" audit firms before it was convicted in 2002 of obstruction of justice for shredding documents relating to its audit of Enron. The conviction was overturned years later by the U.S. Supreme Court but the firm had already collapsed, with more than 100,000 jobs lost.

These high stakes mean corporations must treat prosecutions as a life or death battle. There is little incentive for corporations to settle or to come forward when they uncover criminal activity internally. Well-funded defendants dig in for drawn out legal battles. Meanwhile, victims wait for years without knowing whether they will be compensated for their losses.

White-collar prosecutions are costly and prosecutors have limited resources. This results in unpredictable enforcement: wrongdoing might result in draconian punishment but more often will escape notice. Since Canada introduced foreign corruption legislation in 1998, there have been only four convictions, with total fines of less than $20-million. By contrast, U.S. authorities levied penalties of US$2-billion in 2017 alone. Maybe Canadians are more virtuous than Americans in their overseas dealings; the fine discrepancy is more likely the result of a serious enforcement gap.

Deferred prosecutions will mean more consistent punishment as firms co-operate with the authorities. Social science literature on deterrence consistently shows that defendants are incentivized by the likelihood of punishment much more than its magnitude. Even The Economist, a long-time opponent of deferred prosecutions agreements, admitted recently that they have an impact in deterring wrongdoing.

Critics complain of special treatment for corporations. Individuals cannot pay their way out of criminal charges and neither should corporations. But corporations are not typical defendants. They are a legal fiction that represents the shared interests of a wide array of stakeholders, most of whom are innocent bystanders. Failing to recognize this can have perverse consequences. BNP Paribas pleaded guilty and paid US$9-billion in fines for evading U.S. trade sanctions in 2014. None of the bank's executives were charged, although some were demoted and a few were fired. The focus on punishing the corporation left shareholders to shoulder the fine while those responsible walked away. Deferred prosecution agreements require corporations to co-operate in pursuing individual wrongdoers, and so place the focus where it belongs.

When given a chance, corporations can turn over a new leaf. SNC-Lavalin was plagued by fraud and corruption scandals for years. But under new management, it has been busy cleaning house. The company has pushed out those it held responsible for the problem, cut high-risk lines of business and brought in a respected compliance officer. It has resolved most of its legacy legal issues, but fraud and corruption charges against SNC remain outstanding. The

company has indicated a willingness to settle and the proposal may prove to be a test case if it moves ahead.

White-collar prosecutions should deter corporate wrongdoing by targeting those responsible for criminal activity. The current all-or-nothing approach lacks the nuance required to achieve this goal. Allowing deferred prosecution agreements would be an important step to a smarter prosecution strategy that can close the enforcement gap.

Opinion: The Phoenix disaster was predictable – and preventable
The Globe and Mail
David Hutton
June 8, 2018

David Hutton is senior fellow at the Centre for Free Expression, Ryerson University

Federal Auditor-General Michael Ferguson's scathing report on the Phoenix pay project reveals that, far from being an accident, this disaster was manufactured: The project was set up for failure from the start.

This process began in 2012 with a big lie – that the project could be completed successfully with about half the budget that the contractor estimated to be necessary. This magic was to be achieved by removing 100 functions from the product (including many that proved later to be vital), slashing the development staff, reducing the testing and compressing the schedule. IT professionals have a saying for this approach: "If the product doesn't have to work, we can meet any budget and any schedule."

Once told, this big lie had to be sustained, and the executives in charge of Phoenix boldly and successfully kept this up for years – until the truth couldn't be hidden any more. They achieved this by seizing control of all the supposedly mandatory oversight mechanisms, such as independent reviews and audits, and keeping their superiors in the dark. Mr. Ferguson's report states categorically that there was no oversight – zero.

In 2015, shortly before the fateful decision to launch the rollouts, the Phoenix executives received an independent report commissioned by the Treasury Board, which raised a number of serious concerns, including incomplete testing and uncorrected errors, the likelihood of high call volumes, the short timelines and lack of contingency plans.

This report was not even shown to the minister responsible. So the massive rollout went ahead – with only partial function, incomplete test results, no fallback and no contingency plan. The result was entirely predictable.

Although Phoenix executives managed to hobble the normal oversight mechanisms, there was one more mechanism outside of their control that could have prevented this disaster, even though everything else had failed – the federal whistle-blowing system.

In other countries, this type of system has proven highly effective at exposing even massive frauds that powerful vested interests were desperate to conceal.

But the Phoenix executives didn't have to hobble the whistle-blowing system – the government had already done this for them.

Created in 2007, the system is supposed to work as follows: Honest employees who see evidence of misconduct go to the Integrity Commissioner (who is an officer of Parliament, like the Auditor-General), confident that they will be protected from reprisals; the Integrity Commissioner conducts an independent investigation into these allegations, with all the considerable powers of the Inquiries Act at his disposal; if wrongdoing is found, the Commissioner reports his findings – which are public – directly to Parliament. One can only imagine what such a report would have done to the big lie, and how quickly the axe would have fallen on this troubled project and its perpetrators.

Unfortunately, this could not happen because our federal whistle-blower-protection system simply doesn't work – and everybody in Ottawa knows it. We have a deeply flawed law, unchanged for 11 years, and a succession of integrity commissioners who, far from being protectors, have proven to be a whistle-blower's worst nightmare since they rarely investigate anything. And no whistle-blower has ever prevailed at the tribunal that is supposed to compensate them for reprisals they have suffered.

In 2017, the government asked a parliamentary committee to review this system. Shocked at the dysfunction they found, the members unanimously recommended sweeping changes. But government's response was to give the committee the brush-off – none of the recommendations were implemented.

In general, there's no lack of honest public servants willing to come forward and expose fiascos such as we just experienced with Phoenix. But under the current system, they would never have a chance.

Since the government seems determined not to help whistle-blowers – even after this debacle – Ryerson's Centre for Free Expression is doing what civil society has done in other countries: We are going help them ourselves. We are setting up a free confidential advice centre that they can go to for help, which we expect to be staffed and operational by the fall.

We have also decided to conduct our own investigation of the Phoenix project – to find out what happened to those honest employees who tried to blow the whistle, and to learn how others were deterred from speaking out at all.

Ottawa credits hiring of new pay centre staff for drop in Phoenix backlog
Toronto Star
The Canadian Press
June 8, 2018

OTTAWA—The federal government says the recent hiring of new staff at its pay centre in Miramichi, N.B., has helped cut the backlog of problem files created under the troubled Phoenix pay system.

Public Services and Procurement Canada says the backlog of transactions involving overpayments or underpayments of civil servants was cut by 25,000 in May, compared with the previous month.

The department said roughly 347,000 transactions beyond its normal workload were still waiting in the queue as of May 30, down from the 372,000 recorded in April.

The number marked the fourth monthly decline in problem pay files since the backlog peaked in January.

Public Services Minister Carla Qualtrough had announced a series of pilot projects in recent months aimed at speeding up pay transactions.

It's not clear whether those projects, including the use of so-called pay pods, contributed to the improving backlog.

But the department says newly hired staff have made a difference.

"Earlier this year, the pay centre hired and trained additional staff to handle straightforward transactions, allowing more experienced compensation advisers to focus on more complex pay requests," the department said on its pay dashboard website.

"This additional capacity is allowing us to make greater progress on the backlog."

More than half of the 290,000 federal workers who are paid through Phoenix have been directly impacted by the computerized system's failings over the past two-plus years, some more seriously than others.

Unions representing those workers recently called on Prime Minister Justin Trudeau to breathe life into stalled talks aimed at compensating employees for the stress and anguish caused by the pay problems.

Qualtrough's department said it is continuing to hire more pay centre employees with a goal of resolving outstanding pay transactions "as quickly as possible."

Avocats recherchés pour une étude… sur eux
Une professeure veut mieux comprendre les effets des « mutations » sur leur carrière
Droit Inc
Émile Bérubé-Lupien
8 juin 2018

La professeure agrégée de droit civil à l'Université d'Ottawa Julie Paquin est à la recherche d'avocats pour participer à une étude portant sur les trajectoires professionnelles des avocats québécois.

L'étude financée par le Conseil de recherches en sciences humaines du Canada vise à détailler «les aspirations personnelles et professionnelles des avocat(e)s et les milieux de travail dans lesquels ils exercent leur profession ».

Pour ce faire, l'équipe de recherche réalisera des entretiens de 60 à 90 minutes avec des avocats ayant emprunté divers parcours professionnels. Le but est d'obtenir des informations sur «leurs aspirations et la manière dont ils sont en mesure de réaliser ou non ces aspirations dans leurs milieux de pratique ».

«C'est un projet qui part du constat que le marché du travail et le marché des services juridiques sont en mutation, et que ces transformations ont des effets sur les avocats. Alors qu'auparavant, les avocats passaient souvent l'ensemble de leur carrière au même endroit, ils sont maintenant plus susceptibles de pratiquer dans différents contextes de travail au cours de leur carrière», explique Julie Paquin.

Le but de l'étude est donc de mieux comprendre ces mutations, en identifiant plus précisément les motivations des avocats qui choisissent de passer d'un milieu de pratique à un autre, « et l'impact de ces différents milieux sur leur satisfaction face à leur carrière ».

Pour pouvoir participer à cette étude, il faut être membre du Barreau du Québec et pratiquer la profession d'avocat, et avoir vécu une transition professionnelle dans les six à 24 derniers mois.

Les entrevues se dérouleront en toute confidentialité et les enregistrements et compte-rendus demeureront à la discrétion des chercheurs.

Si vous êtes intéressé à participer à cette étude, ou pour obtenir plus de renseignements à ce sujet, vous pouvez communiquer avec Julie Paquin ou la doctorante Manon Ferrand.

'I don't trust anybody': St. Anne's survivor feels betrayed, as federal government seeks $25K from lawyer

APTN National News
Lucy Scholey
June 8, 2018

A former St. Anne's Indian Residential School student says she has lost faith in Crown-Indigenous Relations Minister Carolyn Bennett after learning the federal government is seeking thousands of dollars in legal fees from a lawyer representing the survivors.

Angela Shisheesh, who attended the Fort Albany, Ont. school infamous for using a homemade electric chair as punishment and entertainment, said she thinks the federal government is warning other lawyers to back down from defending Indigenous people in court.

"I don't trust anybody anymore," Shisheesh says.
In a rare legal move, the federal government is seeking $25,000 in legal costs from lawyer Fay Brunning, who has been representing St. Anne's students for years.

Shisheesh said this contradicts what Bennett told her and other St. Anne's students during a meeting in April, when the government was seeking an apology from the Pope over the Catholic Church's role in the abuses inflicted on Indigenous children at residential schools.

Shisheesh said she left the meeting under the impression that Bennett would not pursue Brunning in court.

"She lied to me, literally. She lied to me. It hurts. It's just another abuse, that's how I feel right now," said Shisheesh, through tears.

St. Anne's residential school was the subject of more than 60 lawsuits for the physical, sexual and psychological horrors inflicted on Indigenous students.

Much of the abuse was documented in thousands of pages generated from an Ontario provincial police investigation. While the federal government has released some of the materials, much of it has been kept secret.

Brunning has been fighting for access to the documents, which survivors say is relevant to their compensation claims.

Ontario Superior Court Justice Paul Perell ruled the government was within its right to withhold those documents and the Appeal Court agreed.

Brunning has been critical of the decision, alleging the court was biased in favour of Canada – comments that did not sit well with Perell.

In January, he issued a scathing ruling stating Brunning "slandered the court" and acted unprofessionally, which lead to the federal court's decision to pursue legal fees from Brunning.

James Fitz-Morris, Bennett's director of communications, calls it an "exceptional" situation.

"Canada has not – and will not – seek costs against individual claimants," he says in an email. However, "in exceptional circumstances – costs can be sought against lawyers who do not appear to be acting responsibly."

Any costs paid by Brunning will be donated to a fund that supports former students, he says.

NDP MP Charlie Angus, who represents the riding where St. Anne's was located, calls the move a "simple intimidation tactic" intended to stifle lawyers fighting claims.

"Carolyn Bennett met with survivors and said that she would stop this vendetta and yet she walked out of that meeting and business carried on," he told APTN News. "To me, that is the most shocking thing that a government minister could look survivors in the eye and lie to them. I don't know how else to call it."

"We left that meeting with an understanding that these legal battles were going to end and there was going to be some form of justice."

Cathy McLeod, the Conservative Indigenous issues critic, says the Liberal government has been inconsistent in its messaging about reconciliation with Indigenous peoples.

"It just shows the absurdity of the current government," she said. "They sort of say that they want to move towards better relations and they want to be transparent and whether it is the young girl … fighting her dental care in court or going after lawyers who are trying to do the right thing for residential school survivors, they're just not congruent."

Bennett's office has denied allegations the minister lied to St. Anne's survivors.

In a statement emailed through Fitz-Morris, Bennett says she's reviewing the proposals from the former students of the school.

“We can accomplish so much more working together outside of the confrontational courts – and we agreed to do that,” she said.

The matter of costs between Brunning and the federal government has yet to be settled in court.

Defence lawyer Lawrence Greenspon has filed a motion asking Perell to recuse himself from the matter, arguing the judge is biased against Brunning.

It’s not the first time Brunning has been accused of defamation.

Ontario law firm Wallbridge, Wallbridge filed a lawsuit against Brunning, alleging she defamed its lawyers when she claimed they sat on police files critical to a residential school survivor’s compensation claim.

But for Shisheesh, Brunning is a champion for Indigenous rights.
“Fay Brunning, she’s the best lawyer I have ever met. She has so much compassion towards Indigenous people, wanting to help them, and she did that out of the goodness of her heart.”

Lire ceci avant de se plaindre de son patron !
La majorité des employés passe plus de 10 heures par mois à se plaindre de leur patron ou à écouter leurs collègues le faire… Une « ventilation» négative, dit notre coach
Droit Inc
Sophie Audet
8 juin, 2018

Amélie est une jeune avocate qui pratique le droit commercial au sein du contentieux d’une entreprise montréalaise.

Sophie Audet, coach professionnelle, l'assiste dans le développement de son leadership et répond aux questions qu’elle se pose quand elle est mise en difficulté dans le cadre de situations professionnelles.

A: Coach
De: Amélie
Sujet: Au secours!
Date:6 juin avril – 8 : 34

Allo Coach,

J’espère que tu vas bien.

Je te remercie pour les outils que tu m'as transmis quant à la façon d'être plus intentionnelle au travail. J'ai déjà observé quelques résultats.

Aujourd'hui, j'ai vraiment besoin de ton aide par rapport à une situation qui consomme beaucoup de mon énergie.

Il y a eu une réorganisation au sein de la haute direction de mon entreprise. J'ai maintenant un nouveau patron qui n'est vraiment pas facile. Il manque d'attention et est très impatient. Lorsqu'il me pose une question, si je n'ai pas éjecté le contenu de mon cerveau dans les vingt premières secondes, il m'interrompt et se lance dans l'action. Il oublie le contenu de nos discussions et donne des instructions contradictoires aux membres de ma petite équipe. Et, le pire de tout: il croit dur comme fer qu'il est un leader absolument génial!

Ma vie professionnelle est devenue un cauchemar depuis son arrivée. Pour te donner un exemple, j'ai passé deux heures hier à aider le jeune avocat de notre équipe à démêler les instructions nébuleuses lui ayant été données par rapport à la rédaction d'un contrat. Par la suite, j'ai écouté et tenté de rassurer notre technicienne juridique (qui n'a jamais vu quelque chose d'aussi négatif en 10 ans au sein de l'organisation). Comme si ce n'était pas suffisant, quand j'ai regardé ma montre hier soir, après avoir raccroché avec ma collègue de Toronto (qui vit exactement les mêmes frustrations), j'ai constaté que je venais de passer plus d'une heure à ventiler sur la situation avec elle. Quelle perte de temps et d'énergie!

Comment faire face à cela?

Ciao et merci d'avance!

Amélie

À : Amélie
De : Coach
Sujet: Négativité au travail
Date: 7 juin – 18 : 16

Bonjour Amélie,

Nous perdons énormément de temps à nous plaindre. Ainsi, la majorité des employés passerait plus de 10 heures par mois à se plaindre de leur patron ou à écouter leurs collègues se plaindre du leur. Presque qu'un tiers des employés y consacrerait jusqu'à 20 heures par mois!

Imaginons ce que cela représenterait si on incluait le temps passé à se plaindre de nos collègues, employés, amis, amoureux, parents, enfants, voisins, etc..

Pourquoi se plaint-on?

Pourquoi se plaint-on? À première vue, nous agissons de la sorte parce que c'est facile, sans risque et que cela nous permet de nous sentir mieux.

Voici l'impression que nous pouvons en avoir. Nous ne sommes pas satisfaits de la façon dont notre patron se conduit. Nous nous sentons alors frustrés ou menacés. Ceci produit de l'énergie dans notre corps qui est inconfortable. Lorsque nous « ventilons », cette énergie est évacuée. De plus, lorsque nous nous plaignons auprès des gens qui semblent être en accord avec nous, l'appui que nous recevons nous procure des émotions positives qui amoindrissent l'effet des émotions négatives que nous ressentions au départ.

Pourquoi est-ce néfaste pour nous et les autres? Si nous sommes un peu plus attentifs à ce qui se passe en nous, nous pourrons vite nous apercevoir que la satisfaction ressentie au moment où nous « ventilons » ne dure qu'un très court moment. Lorsque les effets éphémères du relâchement de pression seront évanouis, notre réflexe sera de recommencer. Encouragé par le soutien des gens auprès de qui nous « ventilons » notre discours mental se mettra de la partie. L'inconfort que nous ressentions au début se transformera alors en indignation. Nous pourrons constater que plus nous nous plaignons, plus notre frustration augmente! Et plus nous incluons de gens dans cette spirale négative.

Nous pourrons également observer que la spirale négative que nous avons créée constitue un écran de fumée qui limite notre capacité à nous mettre en action afin de répondre de façon efficace à la situation à laquelle nous faisons face.

Que pouvons-nous faire pour remédier à la situation? Peter Bregman, chroniqueur au Harvard Business Review, nous invite à transformer notre envie de nous plaindre de la façon suivante :

1) Prendre conscience de la montée d'adrénaline que nous ressentons lorsque nous faisons face à une situation qui nous indigne (ex. au moment où nous exprimons mentalement « je ne peux pas croire que …»).
2) Respirer et ressentir nos émotions quant à cette situation. La clé: prendre note que nous pouvons rester « groundés » sans être submergés par ces émotions négatives (ressentir sans réagir).
3) Utiliser son discernement pour cerner le ou les comportements qui provoquent ces émotions en nous.
4) Déterminer nos options par rapport à la situation. Décider ce que nous voulons faire pour remédier au problème. Voulons-nous clarifier nos limites? Demander à la personne concernée

de changer un comportement? Quitter notre poste pour trouver un environnement correspondant davantage à nos valeurs?
5) Se mettre en action par rapport à ce que nous avons décidé.

Il va sans dire que cette approche est beaucoup moins facile que celle qui consiste à se plaindre. Elle demande du courage.

Pour nous encourager, nous voulons nous rappeler que nous avons la plupart du temps beaucoup plus de pouvoir par rapport à une situation que nous pensons en avoir initialement. Même auprès de nos patrons.

Décrire les faits que nous avons observés sans exagération ou jugement, exprimer notre ressenti en utilisant le « je » (et pas le « tu ») et ne pas formuler de reproches sont les éléments clés.
Exprimer notre point de vue avec l'intention de permettre à l'autre de nous comprendre (et non de le convaincre que nous avons raison) peut également faire toute la différence.

Nous pourrons être surpris de la capacité de notre patron à recevoir notre feed-back. Dans certains cas, cela pourra l'inciter à nous respecter davantage. Dans d'autres cas, cela pourra même changer complètement la relation que nous avons avec lui.
Dans les cas où nous ressentons que le climat de travail est vraiment toxique pour nous, il ne faut pas hésiter à consulter un psychologue. Certains outils ont également été développés pour nous permettre de déterminer le degré de toxicité dans lequel nous pataugeons.

À cet égard, je te rappelle qu'Isabelle Nazare-Aga a élaboré un outil comportant 30 critères pour déterminer si nous faisons face à une personnalité toxique et plusieurs stratégies pour faire face à ce type de situations.

Comment ce qui précède t'éclaire t'il par rapport à la situation dans laquelle tu te trouves? Que comptes tu faire?

Ton coach

A : Coach
De : Amélie
Sujet : Merci
Date: 7 juin 2018 – 12 : 45

Allo Coach,

Wow! Merci pour ce feed-back! Ce que tu décris est exactement ce que j'ai ressenti par rapport à la situation. Je constate effectivement que les effets d'apaisement ont été très temporaires et que ma frustration s'accentue de jour en jour depuis un mois. Je réalise également que ceci me fait réagir en victime!

Je vais profiter de la prochaine semaine pour faire appliquer les 5 étapes et on en discute la semaine prochaine lors de notre prochaine rencontre?

Ciao

Amélie

Un coach professionnel est une personne bien placée pour vous aider à développer votre leadership personnel. Pour plus d'information, consulter mon site web à www.sophieaudet.ca. Suivez-moi sur Facebook.

CrimeStopper charge stayed
Kelowna News
Nicholas Johansen
June 9, 2018

A former president of Central Okanagan CrimeStoppers who was charged with operating a marijuana grow operation had his charges dropped two weeks before his trial was set to begin and the Crown won't say why.

Dino Cabalfin was the board president of the the local CrimeStoppers program in 2014. He had been a member of the board since 2011.

A marijuana grow operation was raided by police in April 2017 and as a result, a charge of production of a controlled substance was laid against Cabalfin and his co-accused Aurea Villanueva on Aug. 15.

They made their first appearance in Kelowna provincial court on Sept. 26, followed by several appearances over the next several months.

While the pair were set to go to trial on June 4, the Crown stayed their charges on May 18.

The Public Prosecution Service of Canada refused to disclose the reason for staying the charge, with spokesperson Nathalie Houle only stating "the Crown considers a number of factors in the exercise of its discretion."

The CrimeStoppers board is in charge of raising funds to help pay for cash rewards for tips, along with building awareness about the program.

The program has helped seize more than $88.4 million in drugs in the Central Okanagan since its inception in 1987.

While Cabalfin is no longer a member of the Crime Stoppers board, his Linkedin profile says he's the head coach of the Immaculata Mustangs high school golf team and a former director of Vancouver Career College.

He is currently the president and CEO of Armada Partners Inc., a “business consortium” that provides “quality products and services to local, regional and international markets.”

Canada's child pornography regulations flagged for inconsistencies, say internal memos
Internal letters shine a light on flawed government rules
CBC News
Catharine Tunney
June 10, 2018

The federal Department of Justice has quietly agreed to amend the regulations on internet child pornography after Parliament Hill's legal fact checkers spotted problems with the law.

The back and forth between department officials and lawyers with the Standing Joint Committee on Scrutiny of Regulations — detailed in internal letters — shines a light on the imperfect science of drafting government regulations.

The regulations brought in by the Harper government in 2011 to accompany a new child pornography law require that Canadian internet service providers (ISPs) report child pornography to the police.

The regulations include a unique provision that asks a designated organization — the Canadian Centre for Child Protection — to review any online files flagged by ISPs or members of the public to determine if they constitute child pornography. The Manitoba-based charity is seen as the leading voice on the issue in Canada.

For that reason, the regulations require that all of the centre's personnel have "necessary security clearance and training."

That raised a red flag with lawyers at the standing joint committee, according to letters obtained by CBC News under the Access to Information Act.

Committee lawyers first wrote to senior Justice officials back in 2016 warning that the phrase "necessary security clearance" could lead to the charity's staff requesting high-level government security clearances. (The committee is basically Parliament's fact-checker, examining government regulations for legal flaws and redundancies.)

"The use of the term 'necessary security clearance' is imprecise and seems to give unnecessary discretion to the designated organization to determine what security clearance will be necessary," wrote committee lawyer Penny Becklumb in a follow-up October 2017 letter.

At first, the Department of Justice pushed back, arguing the phrasing referred to a police check or a psychological assessment — but ultimately decided the committee had a point.

A March 2018 briefing, which Justice Minister Jody Wilson-Raybould approved, recommends the offending paragraph be amended for "clarity."

Translation issues
The committee also found inconsistencies between the French and English versions and was worried some of the act's language was too subjective. The department has agreed to clean up those problems as well.

While it's normal for departments to argue with the committee, it does have a special power up its sleeve.

If a department and the committee staff find themselves at an impasse, the committee has the unique (and rarely used) ability to recommend "disallowance." If triggered, the regulation in question is kicked back to Parliament for debate.

The Department of Justice said it would move on the recommended changes "at the next available opportunity."

"The department continues to examine these issues, however, [it] is not in a position to confirm timing," said spokesperson David Taylor in an email.

Ottawa must learn from failures on Indigenous programs
STAR EDITORIAL BOARD
June 10, 2018

More Indigenous children are taken from their homes by children's aid societies today than were displaced at the height of the residential school system.

The inquiry into murdered and missing Indigenous women is bogged down in delay and recriminations.

And the federal government spent $110,000 to avoid paying a $6,000 bill for a 16-year-old Indigenous girl's braces before finally deciding to update its dental care policies.

No matter how many politicians talk about rebuilding the relationship with Indigenous peoples and fixing the failed policies of the past, things just don't seem to get any better on the ground.

In that context, it's hardly a surprise that Canada's auditor general, Michael Ferguson, found yet more examples of federal failure. This time with Indigenous education and employment programs.

Both are vital to achieving a better future. And that makes Ferguson's recent report awfully depressing reading.

On education, he found a significant gap in high school graduation rates between Indigenous students living on reserves and other Canadian students.

That's a problem that the auditor general's office has reported on before. Not once or twice, but three times — in 2000, 2004 and 2011. And yet this new report shows that the gap has grown over the past 15 years.

Worse still, the government doesn't seem to even know that.

The government's data suggests that between 2011 and 2016 one in two on-reserve First Nations students graduated high school. In fact, the figure is just one in four, according to Ferguson.

Rising inequality linked to drop in union membership
Times of strong unions see a smaller share of income going to the elite, study finds
The Guardian
Toby Helm
June 10, 2018

The sharp fall in trade union membership since Margaret Thatcher came to power in 1979 has directly contributed to the high levels of income inequality that the current prime minister, Theresa May, has denounced and promised to tackle, according to a new study.

The analysis, which looked at the effect unions have had in combating inequality and improving pay and working conditions in the UK and other countries, found that, where membership had fallen and union influence had decreased in workplaces, income inequalities had risen.

At the same time, wealth had become concentrated more and more in the hands of the richest 1% in society. Conversely, during periods when union membership had grown and in countries where unions were strong, pay inequality had declined.

The study by the centre-left Institute for Public Policy Research (IPPR) also found that there was less pay inequality in firms where a trade union was present and represented at least some of the workforce.

Between 1937 and 1979, trade union membership more than doubled (increasing by 126%), while the share of income going to the top 1% fell by two-thirds (65%).

However, between 1979 and 2014, a period during which membership of unions fell by half (47%) in the UK, the share of wealth that went to the richest 1% more than doubled (leaping by 134%).

The research comes at an important time for unions as the TUC marks its 150th anniversary and new figures show that the proportion of employees who are members of a union has fallen to an all-time low.

Across the 37 member countries of the OECD (Organisation for Economic Co-operation and Development), the study found that where collective bargaining was more common in workplaces, inequality tended to be lower.

Reacting to the report, Frances O'Grady, the TUC general secretary, said: "If we want to live in a more equal Britain, we have to get more people into unions – and unions into more workplaces. Extending collective bargaining would improve workers' pay, conditions and voice at work – and get them a fairer share of the wealth they create.

"If Theresa May is serious about 'protecting and enhancing' workers' rights, she must allow unions the right to go into every workplace."

The author of the report, Joe Dromey, a senior research fellow at IPPR, said: "In recent years, we have seen union membership fall by half, and collective bargaining coverage fall by two-thirds. At the same time, inequality has rocketed. Over the past four decades, the share of income going to the top 1% has nearly tripled.

“Inequality is the scourge of modern times. If we want to tackle inequality – and if we want to improve productivity, pay and job quality – we need stronger unions and a renaissance in collective bargaining.”

When May entered Downing Street on July 2016 she said she would govern in the interests of everyone not just those at the top of the income pile. Pledging to make this the guiding principle of her premiership she said: “The government I lead will be driven not by the interests of the privileged few, but by yours. We will do everything we can to give you more control over your lives. When we take the big calls we’ll think not of the powerful, but you. When we pass new laws, we’ll listen not to the mighty, but to you.”

With nearly three million union members set to retire over the next two decades, IPPR suggests May’s government should act to reverse the decline in union membership by appointing a minister for labour with a target of doubling the proportion of workers covered by collective agreements, to 50%, by 2030.

Other measures proposed include: mandatory collective bargaining to raise pay in low-productivity sectors; a lower threshold for unions to achieve recognition at employer level; a “right of access” – based on a New Zealand model – under which unions would be ensured access to workplaces to recruit members; and a “right to join”, with employers required to inform workers of their right to join a union on starting employment, with the right to have subs deducted at source.

Fixing a broken culture: public service in the wake of Phoenix
Ottawa Citizen
Taylor Blewett
June 10, 2018

In no uncertain terms, auditor general Michael Ferguson laid bare last month his belief that a “broken government culture” enabled the Phoenix pay system fiasco to play out, despite bureaucratic safeguards that should have been enough to prevent the failure.

However, after explaining the “why” of Phoenix — “an obedient public service that fears mistakes and risk,” unwilling or unable to hear and convey “hard truths” — in a message accompanying the audit of its building and implementation, Ferguson left it up to the federal government to puzzle out a remedy.

That solution depends on who you ask.

Kevin Page, president and chief executive of the Institute of Fiscal Studies and Democracy at the University of Ottawa, proposed a stark fork in the bureaucracy’s road forward.

“You either get rid of the top echelon of the public service — all the deputy ministers in the central agencies go, and replace them with a new group that we feel confident have the competency and the values and make sure that this stuff won’t repeat over and over again, or we just wait for the next generation.”

Page, who served as Canada’s first parliamentary budget officer, and at various central agencies during a 27-year federal public service career, called Phoenix a “failure of values.”

While they might not always be emphasized, he said, qualities such as integrity, stewardship and excellence comprise a public service “code.”

In his eyes, the negligence of executives charged with the Phoenix project — cancelling a pilot run, pressing forward without an adequate contingency plan — speaks to a deeper disregard for the values that should underscore public service.

“It’s not just a few project managers. It cuts right through all the work that’s done by senior managers and central agencies who are responsible to support decision-making and oversight for the executive,” Page said.

“There’s going to have to be new leadership in the public service.”

While the current cadre of senior executives could ostensibly have a “come-to-Jesus moment” in which a post-Phoenix reckoning leads to commitment to examine these underlying values, Page said he’s not hopeful.

Despite the AG’s self-professed “bleak” assessment of its workplace culture, Page said he works with many students who continue to aspire to public service.

In fact, he said, it’s possible that this recent bit of bad press could actually spur on those who believe they can be part of a culture and values shift in the bureaucracy.

“The time to buy is when the market is low,” Page quipped.

The head of the association that represents the more than 6,000 executives — typically directors and above — in the federal public service, sees things very differently.

“The executive community is as frustrated as any other group with this, and we’re being tarred with a brush with respect to Phoenix,” said Michel Vermette, CEO of the Association of Professional Executives of the Public Service of Canada.

The auditor general made some important recommendations, Vermette said, including the need for project oversight and independent review mechanisms for government-wide IT projects — to which Public Services and Procurement Canada and the Treasury Board of Canada Secretariat have agreed for all such projects, moving forward.

Ferguson's comments about public service culture have also provided a "good reminder" to executives about the nature of their job — to provide advice to ministers, and implement the decisions those ministers ultimately make, according to Vermette.

But after two AG reports and an independent study by the Goss Gilroy Inc. consulting firm, Vermette said, it's time to move forward, implement the audits' recommendations, and work on fixing the pay problems Phoenix has given rise to.

He rejected calls from the Public Service Alliance of Canada for a public inquiry into the project's failure, and a freeze on executive performance bonuses until employee pay issues are resolved.
"That's damning an entire community of people who are working hard to make sure their staff get paid, but have little control over the system."

Meanwhile, PSAC national president Chris Aylward says a national public inquiry into Phoenix is the public service's only hope for changing the culture of "incomprehensible failures" that Ferguson cited.

PSAC, the largest union representing federal public-sector workers, will submit a formal request for an inquiry in the coming weeks.

"We need people to be compelled to come and testify under oath to say exactly what had happened," Aylward said, describing a culture that often discourages public servants from speaking out about perceived or possible flaws.

"I think the broader issue is that workers don't want to come forward and say, 'Hey there might be an issue here,' because they're afraid of reprisal.

"Then, a lot of times, the senior bureaucrats at the deputy level or the assistant deputy level, they don't want to hear it because they've got the political pressure coming down from their ministers and from parliamentarians saying, 'This has to get done,'" Aylward said.

The subjugation of the bureaucracy by political priorities was among Ferguson's grim observations about what ails today's public service.

It's something Christopher Stoney, an associate professor at Carleton University's School of Public Policy and Administration, has observed.

"When it comes to culture, it seems to be very top-down as a hierarchy," he said. "It cascades down from the political priorities and timing to the managerial, then it goes down to the public service themselves, who are then under pressure to try and meet these deadlines, which may be unrealistic."

With Phoenix, Ferguson pointed out that executives were "more focused on meeting the project budget and timeline than on what the system needed to do," as evidenced by decisions such as removing pay processing functions from Phoenix, compressing the project schedule and reducing the number of employees assigned to it, rather than asking for more time or money.

Stoney said this kind of perversion of priorities is enabled in part by the reward system in the public service.

"I would do away with performance bonuses, I think it gets too much tied into what we call goal displacement, so the people start trying to achieve things for the wrong reasons and the public interest gets lost because of self-interest and short-term thinking."

In 2015-16 — the most recent period for which figures are posted by the Treasury Board of Canada Secretariat — more than $75 million was spent on performance pay for nearly 5,500 executives.

The value of the Phoenix experience, Stoney said, lies in the insight it has offered into the public service culture.

"There are some projects that are so important, so big, and so time-sensitive vis-à-vis elections," that the cracks start to show, and what lies beneath is laid bare and talked about.

"Otherwise how the heck do we know what it is?"

This underlying "plumbing of government," said Scott Brison, president of the Treasury Board, is what his government has been working to improve since taking office in 2015.

"The two shiny objects to which people are attracted in government are usually policy and communications," the longtime parliamentarian said. The Liberals, according to Brison, are delving deeper.

"We have taken and continue to take concrete actions to strengthen the culture of the public service, and to encourage a culture of experimentation and innovation," evidenced, he said, by

such policies as the “unmuzzling” of government scientists and new standards for government digital projects.

According to Brison, the public service needs to look less hierarchical, more agile and innovative in its approach to problem-solving and citizen engagement, and more enticing to millennials.

As for why the Phoenix failure was not averted under his government’s tenure — the auditor general held accountable both the previous Harper Conservative government under which Phoenix was first approved, and the current Liberal government for the decision to green light the pay system’s launch — Brison said culture change doesn’t happen overnight.

“We have made significant changes in the last couple of years, but we have a lot of work to do.”

“We feel actually the auditor general’s report helps reaffirm that we are heading in the right direction.”

PS executives wonder if Phoenix bosses’ mistakes unfairly tarring all
iPolitics
Kathryn May
June 11, 2018

Auditor General Michael Ferguson has unfairly generalized the mismanagement of the handful of executives who led the Phoenix fiasco as a cultural crisis within the leadership of the public service, says the association representing federal executives.

Michel Vermette, chief executive officer of the Association of Professional Executives for the Public Service of Canada (APEX), said many feel the whole executive cadre is tarnished because of the missteps of the executives who botched the decade-long planning and implementation of the Phoenix pay system.

“I think many feel he (Ferguson) made a sweeping generalization that damns an entire community for the failings of a few,” said Vermette. “It’s an unfortunate generalization and people are frustrated by that.

“Show me a group that doesn’t make mistakes. We should learn from those mistakes and it’s healthy to examine failures, but we can’t judge 300,000 public servants and 6,500 executives based on the failures of the few.”

In his report, Ferguson called Phoenix and federal Indigenous programs two “incomprehensible failures.”

But what jolted many public servants was Ferguson's preface: a searing indictment of the culture, which left unchanged, he said, will lead to more colossal failures and "incomprehensible" mismanagement.

Ferguson described a culture in which deputy ministers have lost influence, who are too sensitive to the demands of political bosses, where accountability is blurred and bureaucrats are obsessed with dodging responsibility. As a result, public service are risk-averse, 'obedient,' fear mistakes and obscure the tough truths and use policies as cover for blame.

Vermette said Ferguson's condemnation of the public service culture is just the latest frustration for executives.

For executives, pay has been a slow-burn issue, with no raises and salary increases that have fallen behind the rest of the public service. On top of that, came the Phoenix debacle, a union attack and Ferguson's report, which was aimed at the project's executives.

Privy Council Clerk Michael Wernick seemed to say as much in a speech at APEX's recent symposium when he encouraged executives to stand up for themselves.

The APEX symposium is the biggest meeting of federal executives. This year's event, which attracted 800 executives, was held the same day Ferguson dropped his bombshell report.

Wernick said the public service took a "beating" and would learn from the Phoenix fiasco. Despite, the "blemishes" and "setbacks," he said he was confident and optimistic about the public service and the leadership at the helm.

He urged them, however, to speak up, demand respect and advocate for how they want to be paid and managed before politicians make those decisions for them.

Vermette said Wernick's advice came as a surprise and the APEX board will have to consult with its members to see if they want to alter its low-profile approach.

Executives are a conservative, low-profile bunch and for 30 years have wanted their association to represent them 'collaboratively' and 'respectfully'. They don't typically rock the boat, make demands, or criticize the government as employer. As a result, APEX has been cautious and quiet in its advocacy.

But executives also generate little public sympathy. They, along with their deputy minister bosses, are typically the highest paid employees, have job security, great pensions and receive performance pay and bonuses.

“We are easy targets,” said Vermette. “We don’t defend ourselves and we’re seen as bosses not as employees.”

Executives are the only federal employees who don’t have a third-party process to advise and advocate for the terms and conditions of their work. Unionized employees have collective bargaining. By law, management can’t unionize. The government can also make unilateral changes to the terms and conditions of executive employment, which it can’t do with union contracts.

Evidence of the disquiet among executives over compensation emerged in APEX’s recent health and work survey. It flagged the lowest satisfaction levels with pay in 20 years, along with mounting workload and longer hours, as worrisome management trends.

The executive salary gap began in 2013-14 when the government started giving executives smaller raises than unionized employees. They have since received raises totalling two per cent while unions have negotiated increases worth between seven and 17 per cent, depending on the contract. The unions are now starting another round of bargaining for the next raise.

For years, executive pay was handled by an now-disbanded independent external advisory committee, which monitored compensation in the public and private sectors and recommended raises and other compensation changes.

“The government would benefit from an arms-length advisory board, whether it re-establishes the previous one or finds another process to give them independent advice on the terms and conditions of work for executives. Something is needed,” said Vermette.

Executives have long speculated that Phoenix is a reason they haven’t had a raise. They surmise the government blames not only PSPC executives but all executives for departments not being ready for the Phoenix rollout. Others say the government doesn’t want to give executive raises until the pay problems of rank-and file employees are resolved. On top of that the Public Service Alliance of Canada (PSAC) demanded the government stop paying executives performance bonuses until employees are paid properly.

But some executives say that Ferguson’s report should turn up the pressure to find better ways to deal bad performance.

They argue all public servants are tarnished because no one is accountable and punished. Both the government and Public Services and Procurement Canada have decided not to name the key Phoenix executives who mismanaged Phoenix.

“There has to be visible consequences for bad behaviour,” said one senior executive. “It’s like someone is publicly found guilty of a crime but then we never find out the sentence.”

MPs wrestled with the issue at the government operations committee this week with PSPC officials. NDP MP Daniel Blaikie said public servants shouldn’t live in fear of making mistakes but “you certainly do need accountability.”

“When you have catastrophic failure, you also send a wrong message without anybody really being held accountable for this at the end of the day, which seems to be the situation. What kind of message does that send within the organization,” he said.

Marie Lemay, PSPC’s deputy minister, said it was tough to lay blame when there are “multiple points of failure” over the years. She told MPs she believed the executives who mismanaged Phoenix had no “ill-intent.” They were punished by not getting any performance pay for their work on Phoenix for 2015-16, when Phoenix was launched.

“I don’t believe anyone acted with ill-intent but the two senior executives responsible for the project, who reported to the deputy minister, did not properly assess the complexity of the undertaking, the cumulative impact of their decisions or the seriousness of the early warning signs.

She said neither of the executives are working in pay operations but one still works for government.

The Trudeau government recently changed the rules to claw back performance pay of deputy ministers if they are found guilty of misconduct or mismanagement – even after they retired.

The claw back won’t apply to revolving door of deputy ministers or associate deputy ministers accountable for Phoenix over the eight years of planning and implementation because they are grandfathered under the old rules.

The U.K. and Canada: polar opposites when it comes to the terrorist threat
The U.K. has had as many plots in 18 months as we have had in 18 years, more or less.
The Hill Times
Phil Gurski
June 11, 2018

OTTAWA—All it takes is a cursory glance at the news on any given day to conclude—erroneously, as I hope to show—that Islamist extremist terrorism is a daily event that threatens us all. We read of bombings in Afghanistan, beheadings in Libya, vehicular attacks in Barcelona, and shootings in Kashmir and the fear factor rises exponentially. Terrorism, we believe, is a

ubiquitous, common occurrence, and it does not appear that this situation will dissipate in the immediate future, judging by recent history.

On the one hand this fear is justified: indeed there is on average a terrorist attack somewhere every day. When we look closer, however, it becomes clear that some places are beset by terrorism more than others. Those places should come as a surprise to no one: Afghanistan, Pakistan, Iraq, Somalia, and Nigeria. In fact, were you to read some of the excellent analysis carried out by centres such as the START centre at the University of Maryland (http://www.start.umd.edu/) you would realize that the countries just listed are the targets of a disproportionate number of attacks every year. So no, terrorism is not a daily scourge everywhere.

If we narrow our gaze to the West, it is obvious that while terrorism does occur it does so at rates that are small percentages of those found in Asia, the Middle East and Africa. It is also a very interesting question as to why this is so, given that most terrorist groups justify their acts of violence by blaming the West for everything, but this is beyond the scope of a small op-ed piece (although I intend to return to it soon).

Even within the West though we see disparate rates of terrorist incidence. France and Belgium, for example, have more plots, successful and foiled, than, say, Italy, and Norway. The reasons for this are not clear and cannot be reduced to immigration or economic disparity, commonly offered explanations. There are also very few attacks in Eastern Europe, and none that I can recall in Portugal.

If we focus our scope further to the anglophone world, a very interesting picture emerges. New Zealand has yet to suffer an attack and Australia has had a handful since 9/11. The U.S. has seen some large-scale attacks (Orlando, San Bernardino, Fort Hood) and that country's security agencies have been busy disrupting others. Nevertheless, to me the most fascinating comparison is that between the U.K. and Canada.

According to a recent article in The Independent, the U.K.'s intelligence and law enforcement organizations have foiled, on average, one attack a month since March 2017. In addition, several plots have succeeded: Manchester and London on multiple occasions. The U.K. Security Service (MI5) has identified 23,000 people who have been radicalized, of whom it has the resources to watch 3,000. A very terrifying scenario indeed.

What of us here in Canada? By my count since 9/11, CSIS, the RCMP and their partners have foiled four attacks while another six have been successful, all of which were minor in scale. It is important to point out that not all the six are seen by everyone as terrorist in nature, as the recent acquittal in Toronto demonstrated. In addition, we have to add the attack on a Québec

City mosque in January 2017 as terrorism and the van rampage in Toronto a few weeks back is already being labelled terrorism, despite much evidence in that regard.

These figures are telling: a dozen or so attacks both carried out and thwarted in 18 years. This works out to an attack every 18 months. The U.K. has had as many plots in 18 months as we have had in 18 years, more or less. A disparity like this demands an explanation. Alas, I do not have one and I am skeptical anyone else does.

We cannot lay the blame at the feet of the respective security agencies. The U.K. equivalents to CSIS and the RCMP are as competent, if not more so than our protectors. Is it a question of immigration? That is hard to say as both nations are open to newcomers from around the world, including areas where terrorism is endemic. Is it that Canada does a better job at integrating recent arrivals? Can we blame foreign policies? Military interventions? Colonial histories? All very good ideas with no easy answers.

What we should take away from this is that we in Canada are not faced with an implacable enemy that seeks to terrorize us on a regular basis. Yes, Islamist terrorism is a threat that cannot be ignored and we must ensure that the agencies tasked with investigating and neutralizing it are adequately staffed and funded. At the same time, we must keep the threat in perspective and not let irrational and unjustifiable fear lead us to unsustainable and counter-productive policies. Canada remains a safe place to live and this shows little signs of changing soon.

Phil Gurski worked as a senior strategic analyst at CSIS from 2001-2013, specializing in al-Qaeda/Islamic State-inspired violent extremism and radicalization and as a senior special adivser at Public Safety Canada from 2013 until his retirement from the civil service in May 2015.

Louis Riel: tragic Father of Confederation
The Hill Times
Michael Hatfield
June 11, 2018

Drawing on youthful audacity and precocious political skills, Riel by his mid-20s, had achieved the remarkable feat of bringing the Red River settlements of the Hudson's Bay Company into Confederation as a province. But his youthful insecurity and insistence on being respected provoked him into a blunder which undermined this legacy and put him on a path which led to exile, mental illness, and finally, execution, as a traitor to the nation he helped to create.

No other Father of Confederation fits the model of tragic hero so well as Louis Riel. Drawing on youthful audacity and precocious political skills, Riel by his mid-20s, had achieved the

remarkable feat of bringing the Red River settlements of the Hudson's Bay Company into Confederation as a province. But his youthful insecurity and insistence on being respected provoked him into a blunder which undermined this legacy and put him on a path which led to exile, mental illness, and finally, execution, as a traitor to the nation he helped to create.

An aspect of Louis Riel's controversial career which is too often overlooked is his youth at the time he came forward to found the province of Manitoba. In the summer of 1869 Riel was only 25 when he began to organize the francophone and anglophone Métis residents of the Red River communities within the vast Northwest Territory of the Hudson Bay Company to negotiate the terms under which they would join the Canadian Confederation.

By March of 1870, he had established a representative provisional government for the region which was recognized by the Canadian authorities. He also achieved consensus on the new government's negotiating strategy and nominated the emissaries who would persuade the Canadian government to bring the Red River settlements into Confederation as the province of Manitoba later that year. Under the Manitoba Act, the Métis community had its land claims recognized and achieved guarantees for Roman Catholic schools and acceptance of French as an official language in government institutions.

However, this remarkable achievement was undermined by a blunder which occurred just as the provisional government's negotiators were on their way to Canada in March 1870.

The formation and authority of the provisional government had been actively resisted by the so-called Canadian Party, consisting of a small number of recent English Protestant settlers in the territory under the leadership of John Schultz. Several members of the Canadian Party including Schultz, Charles Mair, and an Orangeman, Thomas Scott, had been arrested and imprisoned by the Métis in late 1869. Schultz, Mair, and Scott escaped from their guards in January 1870. They immediately organized an armed force under militia captain, Charles Boulton, with the avowed purpose of freeing the other Canadian prisoners at Fort Garry.

Riel had adopted a policy of clemency, and by Feb. 15, 1870, all the prisoners had been released. This did not deter Boulton's party who now determined to overthrow the Métis-dominated provisional government by force. They were intercepted and arrested by a Métis armed group on Feb. 17. By this time, Schultz had already fled to Ontario, but Boulton and Scott were imprisoned. Boulton, as the military leader of the Canadians, was condemned to death, by a jury, but Riel, as a gesture to promote peace within the community, was pardoned, and released.

Scott, who had nothing but contempt for the Métis, took Boulton's pardon as a sign of weakness. He insulted and mocked his guards relentlessly. They insisted on his trial by court martial for insubordination, at which he was found guilty and sentenced to death. Provoked by

Scott's conduct and determined, in his own words, "to demonstrate to the Canadians that the Métis must be taken seriously," Riel ordered Scott's execution by firing squad on March 4, 1870.

This was a fatal blunder. Ontario Protestants were aroused and the Ontario government offered a $5,000 reward for Riel's arrest for the "murder of Thomas Scott." A promised amnesty for all acts of the provisional government was withheld, and Riel was forced into exile in the United States. The toll on him of these events led to bouts of mental illness.

In 1884, Riel, now an American citizen, was invited by a group of Métis, local Indians, and white settlers in what is now Saskatchewan to negotiate with the Canadian government concerning a series of land and other grievances they had against the federal and territorial authorities. After initially counselling a moderate, peaceful approach, Riel became increasingly irrational. He became convinced he was the prophet of a new nation on the banks of the Saskatchewan River, inspired by a successor religion to the Church of Rome.
Influenced by these delusions, he endorsed an armed resistance to the Canadian government. With the help of troops transported by the new Canadian Pacific Railway, the Canadian government swiftly crushed the rebellion. Riel was tried and convicted of high treason. Despite pleas for clemency from Quebec and lenient sentences for other participants in the rebellion, he was hanged in Regina at age 41 on Nov. 16, 1885.

Riel's story is a true Canadian tragedy, illustrating the potential of youth both for constructive political leadership and for immature and, ultimately, fatal political blunders.

Michael Hatfield is a retired senior economist from Human Resources and Skills Development Canada. He also used to work for Jake Epp when he was minister of Health and Welfare (1984-1989) and Barbara MacDougall when she was minister of Employment and Immigration (1989-1991). Prior to that, he worked as a researcher in social policy for the federal Progressive Conservative Caucus Research Office (1979-1984), worked on the 1976 leadership campaign for Flora MacDonald and worked in the New Brunswick Progressive Conservative party office during part of the term his uncle, Richard Hatfield (1974-1978).

Un avocat devient DGE

La Chambre des communes a confirmé sa nomination comme nouveau directeur général des élections
Radio-Canada
11 juin 2018

L'avocat constitutionnaliste Stéphane Perrault était le DGE par intérim depuis décembre 2016, après le départ de Marc Mayrand.

Son mandat s'étale sur une période de dix ans.

Stéphane Perrault détient un doctorat en droit constitutionnel de l'Université de Montréal. Il a passé plus de 20 ans en tant que cadre et avocat dans diverses organisations fédérales. L'avocat est entré dans la fonction publique en 1997 comme greffier à la Cour suprême du Canada, avant d'aller au ministère de la Justice en 1998.

Il est devenu ensuite conseiller juridique principal chez Élections Canada en 2007. Il a assumé plusieurs fonctions là-bas, dont celle de directeur général adjoint.

Il est désormais à la tête d'Élections Canada et relève directement du Parlement. Le DGE est responsable d'organiser des élections justes et efficaces.

« Il était temps! »

L'annonce de sa nomination survient à 18 mois des prochaines élections générales. Aux yeux de celui qui a occupé le poste de 1990 à 2007, Jean-Pierre Kingsley, il était grand temps que ce poste névralgique soit pourvu.

« Je pense que (cette lenteur) a été un manque important aux principes démocratiques du pays », a-t-il indiqué en entrevue.

« C'est quand même relativement facile. On fait un concours, les Canadiens et Canadiennes intéressés se manifestent, on fait un choix, on fait une nomination. Voilà », a-t-il fait valoir.