

Press Clippings for the period of November 29th to December 5th 2016 / Revue de presse pour la période du 29 novembre au 5 décembre 2016

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Ottawa seeks dismissal of Phoenix legal action forcing it to pay workers on time

Government lawyers say arbitrary deadline to fix payroll problems not practical
Katie Simpson, CBC News, December 3 2016

Government lawyers are calling on the Federal Court to dismiss a complaint seeking to force Ottawa to pay public servants on time while it sorts out its troubled payroll system.

The request is part of the government's response to a legal action launched by several unions over the Phoenix payroll fiasco.

In June, the Public Service Alliance of Canada, along with a dozen other unions, teamed up to file the complaint in the hope of getting financial relief for its members.

- [Public servants warned about possible Phoenix scam](#)
- [Judy Foote says 15,000 cases remain in Phoenix backlog](#)

More than 80,000 public servants have been underpaid, overpaid, or not paid at all since the government implemented its new Phoenix payroll program.

In the government's Nov. 28 court filing, which was seen by CBC News, lawyers for the Treasury Board argue that an order to force the government to pay its employees on time is not necessary because Ottawa is already working to fix the situation.

"The government has taken many steps to address pay administration issues, including the opening of satellite pay offices and the hiring of additional compensation trainees," the court filing states.

"Moreover, the government has implemented a claims process to compensate employees for out-of-pocket expenses incurred as a result of the pay transformation and has ensured that emergency salary advances and priority payments are made available," the document says.



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Deadline not 'practical,' lawyers say

In the same court filing, Treasury Board lawyers also argue against a request to set a deadline for the Phoenix system to work properly.

"Though the parties agree that the ultimate objective is for the pay administration system to reach its steady state, it is not open to the applicants to ask this court to set the arbitrary timelines they propose," the document says.

"Given the evolving nature of the pay issues and the complex nature of the remaining files and of pay administration generally, the setting of specific target dates is neither useful nor practical."

"Setting arbitrary dates does not assist in the resolution of pay issues. Consequently, the request for the court to set an arbitrary date for the final resolution of the pay administration issues is of no practical effect," the document adds.

The government has already missed one self-imposed deadline connected to Phoenix.

Public Services and Procurement had promised to resolve problems for more than 80,000 workers by the end of October.

More than a month later, at least 15,000 cases remain unresolved.

The government says the outstanding claims are complex, and many of the remaining issues pre-date the Phoenix roll-out.

Federal government overpaid more than 20,000 public servants

Kathryn May, The Ottawa Citizen, December 4 2016

The malfunctioning Phoenix pay system that left thousands of Canada's public servants unpaid has also doled out millions of dollars in overpayments to 13,700 employees since its ill-fated launch.

A letter sent to MPs on the government operations committee says a total of 20,600 public servants had received overpayments of more than \$56 million by mid-October.

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The \$56 million in overpayments were generated by two pay systems — the old clunky regional pay system and the new Phoenix system, whose first phase went live in February.

The old pay system, which was decommissioned after the second phase of Phoenix was rolled out in April, generated \$23 million in overpayments.

It's unclear how much Phoenix issued in overpayments. The department said some recoveries have been made, leaving \$33 million to be collected as of mid-October.

The department earlier told the Citizen, however, that Phoenix produced \$39 million in overpayments to about 5.2 per cent of the 300,000-strong public service between the end of April and September.

Stories of overpayments abound.

Public servants have received payday surprises of small amounts or thousands of dollars in overpayments. Some people have been paid two salaries, one regular salary and another, full acting salary when filling in jobs. Some retirees continued to receive paycheques after retiring. Others continued to get paid after taking a leave. And others received double severance payments.

And in some cases, the system can't catch the error: the government won't know about the overpayments unless employees report it.

Employees who have received overpayments, sometimes over many pay periods, faced significant claw backs, and the government has offered options for repayment, which can be done over multiple pay periods, to help minimize the financial hardship. But a push is also on for employees to repay overpayments before year-end since Phoenix will churn out T-4 slips that reflect overpayments if they aren't repaid before year-end.

Conservative MP Kelly McCauley said the government shouldn't "throw it back at public servants ... and tell them to call a support line if they think their T-4s are wrong." He said the government should be making sure employees aren't stuck with tax implications because of Phoenix's mistakes.

Marie Lemay, deputy minister at Public Services and Procurement Canada, said employees who notify the Phoenix call centre before year-end that they want to reimburse overpayments will be "recorded" like they have repaid them and the overpayments will not be reflected in T-4s.

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Overpayments have always been a problem for the government and those and other errors were a key reason for switching to Phoenix from a 40-year-old pay system considered “fraught with risk” of breaking down.

Public Services conducted various benchmark studies into the old system before the pay modernization project was ever approved. Those studies found that the system’s performance was far below most employers on key indicators of, quality and efficiency and cycle time.

Public Services estimates it has churned out \$256 million in overpayments to employees since 2012. They include:

- \$54 million in 2012 among 14,354 employees
- \$45 million in 2013 to 13,555 employees
- \$79 million in 2014 to 16,048 employees
- \$78 million in 2015 to 16,844 employees

The number of employees receiving overpayments increased with Phoenix’s launch but it’s unclear whether overpayments generated by Phoenix were higher or lower than with the old system because the department only provided the amount of overpayments owing after some recovered were made.

One bureaucrat who worked in compensation said the government monitored for errors after the Phoenix rollout by comparing its payroll with that produced by the old system but said it was difficult to spot mistakes because the overpayments to some employees weren’t evident because of the underpayments to others.

In an email, PSPC officials said overpayments since the implementation of Phoenix are related to unresolved cases in the backlog and processing delays and that the error rate will improve with more automation.

“As we increase system automation and as users become more proficient with the system, we expect to see a notable decrease in the amount of overpayments,” the department wrote.

It’s unclear, for example, what proportion of the overpayments were generated by the 46 departments that rely on the pay centre in Miramichi, N.B., to pay their employees compared with the 55 departments that still have their own compensation advisers and don’t use Miramichi’s services.



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Until now, a priority has been getting money to people who are underpaid or not paid at all. The government has yet to reveal the scope of underpayments or how much it paid out in emergency advances to public servants who didn't get paid.

Public Services told MPs it doesn't track data on underpayments, which typically crop up over "short but varying periods of time." For example, an employee who is acting in job at a higher pay grade often faces a delay between the start date and when the data are entered. Employees then receive a retroactive payment.

At last count, Lemay said her department had received about 1,800 requests for emergency salary advances since June but that most employees go directly to their departments for emergency advances.

The department has been working to reduce a backlog of pay problems affecting 82,000 public servants before July 1. It missed its Oct. 31 deadline to clear the backlog, which at last count stood at about 15,000.

Appels frauduleux liés à Phénix

Paul Gaboury, Le Droit, le 30 novembre 2016

L'Alliance de la fonction publique du Canada (AFPC) a mis ses membres en garde contre une possible arnaque liée au système de paye Phénix.

Des fonctionnaires ont reçu des appels de personnes prétendant représenter des agences de recouvrement.

«Leur objectif est de récupérer, au nom du gouvernement, de l'argent versé par Phénix. Ces appels sont frauduleux. Le gouvernement a confirmé qu'il ne faisait pas affaire avec des agences de recouvrement», indique le syndicat sur son site Internet.

L'AFPC demande à ses membres d'informer leur ministère de ces appels et de les signaler au Centre antifraude du Canada.

Même s'il s'agit d'une semaine de paye, le ministère des Services publics et de l'Approvisionnement n'a pas fait de mise à jour mercredi, comme il avait l'habitude de le faire depuis septembre. La ministre Judy Foote a plutôt profité de sa présence devant un comité parlementaire pour indiquer qu'il reste encore 15 000 des 82 000 dossiers d'employés à régler, soit 3000 de moins qu'il y a deux semaines. La prochaine mise à jour du ministère aura lieu le 14 décembre.

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Un total de 121 152 fonctionnaires fédéraux travaillant pour divers ministères et organisations ont complété la formation sur le système Phénix, offerte en ligne par l'École de la fonction publique du Canada. Dans les derniers mois, le gouvernement a admis que la formation des employés avait été un facteur important ayant mené aux problèmes d'implantation de Phénix. Au ministère des Services publics et de l'Approvisionnement, responsable de la mise en oeuvre du système, 10 333 employés et 1821 gestionnaires avaient complété cette formation «obligatoire» en ligne, soit près de 90 % des effectifs. La date butoir pour compléter le cours avait été repoussée au 7 novembre dernier.

Médiation

Par ailleurs, le gouvernement fédéral a accepté la demande de médiation faite par l'Alliance de la fonction publique du Canada (AFPC) dans le cadre des négociations pour le renouvellement du contrat de travail de plus de 100 000 de ses membres. Le syndicat avait formulé cette demande à la suite de dix jours de négociations, entre le 1er et le 9 novembre. L'AFPC avait accepté de retourner négocier, après avoir appris que le gouvernement avait donné un nouveau mandat à ses équipes de négociations. Toutefois, les pourparlers n'avaient pas permis d'en arriver une entente. Le nom du médiateur n'a pas encore été divulgué, ni la date de la reprise des négociations.

Collection scam targets public servants overpaid by Phoenix, ministry warns

Fraudsters could call posing as collection agency, Public Services says
Katie Simpson, CBC News, December 1 2016

Fraudsters appear to be trying to cash in on the government's troubled payroll system.

Federal public servants are being warned about a potential phone scam targeting employees who have pay problems because of the government's malfunctioning Phoenix pay system.

More than 80,000 government workers have been underpaid, overpaid, or not paid at all since Ottawa implemented the Phoenix payment program earlier this year.

"Public Services and Procurement Canada (PSPC) was informed that employees have been receiving calls from an alleged recovery agency about reimbursing overpayments," said Nicolas Boucher, a spokesperson for the ministry said in a statement.

- [Judy Foote says 15,000 cases remain in Phoenix backlog](#)

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- [Public servant on paid leave in Paris overpaid \\$30K — and counting](#)

"These individuals claim to be working with the Phoenix team and are looking to recover overpayments made to employees."

But Public Services says the government is not using a collection agency to recover erroneous pay.

"If you receive a suspicious call from an agency claiming that you need to repay an overpayment, do not provide personal information such as your address, credit card or bank account number and do not make payment arrangements with this agency," Boucher said.

Public servants are being told to call police and report suspicious behaviour to their managers and the Canadian Anti-Fraud Centre.

The department says it is aware of one employee getting a suspicious call, and as a result, "took immediate action to notify employees to alert them of the potential fraud."

[Legitimate repayments accepted](#)

For the thousands of workers who have been overpaid, Public Services has set up a process to voluntarily reimburse the government.

Public Services is under pressure to resolve all outstanding pay issues before Dec. 31 in an effort to minimize tax problems for workers and is encouraging staff to make any necessary repayments by the same date so they, too, can avoid tax complications.

The department had promised to clear a backlog of more than 82,000 cases by Oct. 31, but has missed its self-imposed deadline.

At last check, 15,000 workers with complex pay problems are still waiting to have them resolved.

That backlog figure only includes employees who formally complained before July 1. The government is not saying how many employees have come forward with problems since that date.

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Public Service performance pay rush underway, except for execs who worked on Phoenix

Internal evaluation in process

Kathryn May, The Ottawa Sun, November 30 2016

Public Services and Procurement Canada is racing to process the performance pay for federal executives by year-end — except for those who managed the rollout of the bungled Phoenix payroll system.

Marie Lemay, deputy minister at Public Services, told MPs on the government operations committee Tuesday night that she's putting all performance pay and bonuses "on hold" for the executives who worked on Phoenix's implementation until investigations into how the project went off the rails are completed.

The department is conducting its own internal evaluation of the Phoenix implementation and Auditor General Michael Ferguson was also asked to conduct an audit into what went wrong. Lemay said she won't be deciding who gets performance pay until those reviews are done.

Lemay told MPs she wanted to "debunk the myth" that executives were offered incentives if they rushed or met "speed targets" to implement Phoenix as quickly as possible. She said the incentive was for "successful implementation."

Performance pay has been controversial management tool since it was first implemented in 1980s and its effectiveness is debated whenever a project is bungled. The malfunctioning Phoenix system raises questions about its effectiveness for managing large "enterprise-wide" projects that take years to design and roll out and involve many players.

When Public Services Minister Judy Foote was asked whether executives in her department would be getting performance pay, she said it was "purview" of the deputy minister not the minister. She added she had her own views about performance pay but did not elaborate.

Meanwhile, the department confirmed that the Miramichi pay centre recently began processing performance pay for the executives who work in the 46 departments that use the centre.

Public Services had earlier promised the executive cadre that it would start processing their performance pay once the Oct 31 deadline to clear the backlog of 82,000 cases had been cleared. The government missed that Oct. 31 deadline, which left many executives wondering

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about the tax implications if the processing of performance pay was further delayed.

Deputy ministers typically rate their executives and send their assessments to Treasury Board by the end of June. Executives are then informed in July about how much performance pay or bonuses they will receive, with payments following in the next several months. Public Services, the department that oversaw the design and implementation of Phoenix, has taken the heat for the glitches and problems that have plagued it since the first rollout in February.

Under the plan, deputy ministers' and executives' cash compensation includes base salary, performance pay and bonus.

Poor performers who don't meet any of their commitments get nothing but their base pay — without that year's annual raise. A solid performer gets the yearly raise and performance pay. The superstars, however, get the raise, up to performance pay plus a bonus. Performance pay must be re-earned every year.

La grève des juristes de l'État allonge divers délais

Mario Bélair-Cirino, Le Devoir, le 30 décembre 2016

La grève des juristes de l'État a des répercussions non seulement à l'Assemblée nationale, mais jusqu'à la Régie du logement, où les délais d'attente, jugés déraisonnables avant même le débrayage, s'allongent.

Une cause en fixation de loyer était entendue pour la première fois en moyenne 6,9 mois après avoir été portée à l'attention de la Régie. Or, la grève des greffiers spéciaux va prolonger l'attente encore davantage puisque toutes les audiences en fixation de loyer ont été annulées depuis le coup d'envoi de la grève des avocats et notaires de l'État québécois le 24 octobre dernier.

Les propriétaires d'immeubles locatifs, qui sont les principaux touchés par les délais supplémentaires, prennent avec philosophie l'accroissement du temps d'attente. « *Ce sont des causes pour lesquelles on attend de six mois à deux ans. L'ajout de deux mois de plus est peu perceptible* », a fait valoir le porte-parole de la Corporation des propriétaires immobiliers du Québec, Hans Brouillette.



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20 projets de loi paralysés

À l'Assemblée nationale, le leader parlementaire, Jean-Marc Fournier, minimisait mardi l'impact de la grève historique des juristes de l'État sur les activités législatives du gouvernement libéral. « *On suit un rythme de travail* », a-t-il soutenu lors d'un bref entretien avec *Le Devoir* après la période des questions. À la question ce « *rythme-là est-il ralenti par la grève des juristes de l'État ?* » M. Fournier a rétorqué : « *Je ne dirais pas ça.* »

Or, pas moins de 20 projets de loi et 222 projets de règlement sont paralysés, et ce, moins de deux semaines avant l'ajournement des travaux parlementaires, selon les avocats et les notaires de l'État québécois (LANEQ).

Plusieurs élus, dont le solidaire Amir Khadir, s'inquiétaient mardi des risques associés à l'absence de « conseillers juridiques » pour passer au crible les projets de contrats gouvernementaux. Les organismes et ministères, y compris le ministère des Transports ainsi que le Centre de services partagés du Québec, « *naviguent donc sans boussole juridique quant à l'octroi et la gestion des contrats publics, notamment dans les domaines de la construction et de l'informatique, dans une mer juridique complexe et parfois houleuse qui nécessite une expertise pointue dans des domaines particuliers et propres à l'État* », a d'ailleurs averti LANEQ dans une lettre transmise à tous les députés il y a une semaine.

Emilie Taman candidate du NPD dans Ottawa-Vanier

Paul Gaboury, Le Droit, le 29 novembre 2016

Candidate défaite lors du scrutin fédéral de 2015, Émilie Taman est confirmée candidate du Nouveau Parti démocratique pour l'élection partielle dans la circonscription fédérale d'Ottawa-Vanier.

Aucun autre candidat n'était dans la course, si bien que le couronnement de la candidate Taman a été confirmé mardi soir au Centre communautaire Richelieu-Vanier.

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Plusieurs personnes étaient présentes, dont l'ancien chef Ed Broadbent, la sénatrice Kim Pate, la présidente du parti Marit Stiles, la mère de la candidate, l'ex-juge Louise Arbour, ainsi que des membres du caucus néo-démocrate.

L'avocate Taman s'est fait connaître lorsqu'elle a été renvoyée de son poste du bureau du procureur de la Couronne, pour avoir choisi de tenter sa chance en politique

Pour l'instant, aucune date n'a encore été annoncée pour l'élection partielle dans Ottawa-Vanier, circonscription laissée vacante à la suite du décès du député libéral Mauril Bélanger.

«Nous sommes dans une période de grande incertitude politique et je crois que plus que jamais, le Canada a besoin d'une opposition forte et progressive, qui puisse travailler au-delà des lignes de parti afin de construire un pays plus inclusif, qui ne laisse personne de côté», a indiqué MmeTaman. «Nous ne pouvons pas permettre aux Kelly Leitch de ce monde de dominer notre discours politique. Nous ne pouvons pas permettre que ce qui s'est passé au sud de la frontière arrive ici.»

PSAC, Treasury Board agree to mediation

Kathryn May, The Ottawa Citizen, November 29 2016

The Liberal government and the largest public-service union have agreed to mediation in a bid to resurrect stalemated contract talks and reach a deal.

The Public Service Alliance of Canada confirmed Tuesday that Treasury Board negotiators have agreed to mediation to help sort out their differences.

It's unclear when mediation will begin.

The Liberal government and the federal union walked away from a marathon collective bargaining session earlier this month after 10 days of talks. The union pulled the plug but said it was still open to further talks and requested a mediator be appointed for negotiations that would resume within two weeks.

Meanwhile, Treasury Board negotiators have been holding contract talks with other unions. The Professional Institute of the Public Service of Canada is going back to the bargaining table next week.

PSAC is the largest union, with five large bargaining groups representing 90,000 federal workers. The union has common issues that affect all employees, but each bargaining group has

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its own specific issues to be hammered out. It's unclear which issues were at the centre of the latest impasse.

It appears the government has moved on several critical fronts for the first time. It offered a pay raise and a proposal that could remove the logjam around sick leave reforms that have been on the table for the past two years.

Until now, the Liberals have stuck with the previous Conservative government's plan to replace the existing regime, which gives public servants 15 days of sick leave a year. Unused leave can be banked and used later.

It has proposed an "employee wellness" plan that would be discussed separately from the contract talks. The proposal called for a memorandum of understanding that would take sick leave off the table for this round, to be dealt with in a separate and independent process.

The other big issue is wages. The government has proposed .75 per cent-a-year raise, which was the first move on wages in months.

Letting workers go too soon sabotaged Phoenix, Minister Judy Foote says

Kathryn May, The Ottawa Citizen, November 30 2016

Public Services Minister Judy Foote says the Phoenix pay crisis could have been avoided if the federal government had kept the 700 compensation advisers who were laid off before the new payroll system was up and running.

Foote told MPs on the Commons government operations committee Tuesday that the Phoenix project was flawed, poorly planned and executed, but that one of the reasons the rollout of the new system was doomed because so many of the experienced staff who understood the government's complex and arcane pay rules were let go.

"Pay transformation was compromised as soon as the decision was taken to eliminate the jobs of some 700 compensation staff before we had transitioned to Phoenix," Foote said.

"Had we kept those jobs longer, we would not be in the situation we are in today."

Foote, the minister responsible for the government's payroll system, was grilled by MPs about the ill-fated Phoenix project in her first committee appearance since the government missed its

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own Oct. 31 deadline to clear the thousands of pay problems that have affected 82,000 public servants.

Foote said the government still has 15,000 cases to resolve despite the department's best efforts to clear that backlog. It has now assigned a special dedicated team of compensation advisers to handle them. She said most of those employees are owed supplementary payments but "missing any pay is concerning and a priority to address."

Several weeks ago, Treasury Board president Scott Brison said his big lesson from the Phoenix experience was to keep the old system until the new system was working. The old pay system was decommissioned with the second rollout of Phoenix in April.

The previous Conservative government approved the transformation plan to bring in Phoenix.

Under the plan, the government eliminated 700 jobs of compensation advisers working in 46 departments and centralized their pay operations in a new pay centre in Miramichi, N.B. The elimination of those jobs were responsible for much of the \$70 million a year the government hoped to save with Phoenix.

Public Services and Procurement Canada had to recruit about 550 new employees when nearly all of the 700 experienced compensation advisers who lost their jobs declined to move to Miramichi, opting instead to retire or find other jobs.

Foote said a big problem in the rollout of Phoenix was the volume of work and inadequate training which left newly recruited pay advisers in Miramichi unable to handle the workload. She blames the Conservatives for putting savings ahead of employees.

"The government needed a new pay system; however, the planning of Phoenix and the broader pay transformation initiative were driven by cuts instead of service," Foote said. "The former government sought annual savings of \$70 million at the expense of employees."

Foote told MPs she felt the rollout could have gone much more smoothly if the 700 compensation advisers were around to help those working at Miramichi.

Another 55 departments kept their own compensation advisers. The government had planned to move the services of those departments to Miramichi, but that has been put on hold until Phoenix's glitches have been sorted out.

The department is examining its original plan in the fallout of Phoenix but Foote confirmed that Miramichi and its employees who have now become the government's "Phoenix experts" will

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remain the government's central pay centre. In fact, she said, their advice is also key to finding solutions for Phoenix's problems.

"Miramichi is here to stay," said Foote. "We have dedicated employees there and they are working so hard."

She has also indicated that the more than 200 compensation advisers hired to help clear the backlog will remain as long as they are needed.

In fact, Foote said, a key lesson from the Phoenix debacle is the "need to consult widely and validate," including with unions and front-line compensation advisers.

"I have told my department to review the plan and its assumptions with other client departments, employees and unions. This focus on validation will ensure we have a robust and reliable go-forward approach. Many good ideas on how to improve the pay system have come from front-line compensation advisers."

Foote, however, was unable to say when the Phoenix would be running at its "steady state" — when the system will in theory be running smoothly and without glitches.

She said the department has a plan with three aims, which she hopes will get Phoenix to steady state. The first priority is to get rid of the backlog, followed by speeding up the processing of cases and developing a "process for validation and improvement."

The Phoenix fixes are expected to cost an extra \$50 million this year, which will eat into the projected \$70 million savings. The funding includes:

- \$5.7 million for additional support from IBM, such as 24/7 troubleshooting support, and refinements to the system;
- \$24 million for four satellite offices and call centres;
- \$16.1 million for our complaints centre; training and support to departments; and system maintenance;
- \$4.2 million for contingencies.

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'The impact on society is enormous': In legal profession, depression, addiction hurt clients, too

Lawyers face much greater stigma than other professionals when revealing mental health or addiction issues

Nicole Ireland, CBC News, November 26 2016

Ten years ago, litigation lawyer Michele Hollins was a "perpetually happy person," with twin daughters and a partnership in her Calgary law firm.

Then, depression struck.

For a while, Hollins was able to hide her illness at work, then go home and "become a complete automaton," she says, unable to eat or even muster the energy to get ready for bed.

- [Depression, anxiety cost Canadian economy billions, Conference Board says](#)

At its worst, the depression crippled her at work, to the point where Hollins would walk into her office, say hello to her assistant and then "close the door and lay on the floor and cry for hours."

At her lowest point, she says she would "spend most of the day trying to figure out how to collect myself enough to get to my car and get home."

That raw vulnerability doesn't match the general impression society has of lawyers as tough and ambitious.

But research suggests that they are at much higher risk of depression, anxiety and substance abuse issues than people in the broader population — and may even be more susceptible than those in other high-stress professions, such as medicine.

A U.S. study published in the Journal of Addiction Medicine last February found the rate of problem drinking among lawyers was between two and three times higher than among other highly educated professionals, including physicians. The study was funded by the American Bar Association and the Hazelden Betty Ford Foundation.

The rate of depression was about three times higher than the general population in the U.S., according to lead researcher Patrick Krill, who will be presenting his research to lawyers and

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law students in Toronto on Monday at a professional development session hosted by the Law Society of Upper Canada.

"Impairment among attorneys truly has a ripple effect that implicates everything from the proper and efficient functioning of the economy and government more broadly, to the individual, civil and property rights of citizens who depend on lawyers in the course of daily life," said Krill, a lawyer and counsellor.

"The impact on society is enormous, and has not, to date, been properly acknowledged or appreciated."

Canadian parallels

Although there is limited research on lawyers and mental health in Canada, Krill believes the American findings are "almost certainly applicable to Canadian lawyers," because "mental health distress and substance abuse are more directly linked to the profession than they are to a nationality."

Lawyers going through emotional distress are unlikely to ask for help, says Doron Gold, a lawyer-turned-social worker at Homewood Health in Toronto, an agency with mental health and addiction facilities across Canada.

"If there's stigma in society generally, the stigma is tenfold in the legal profession," he says. "This is a group of people who aren't supposed to have these vulnerabilities. And they're supposed to be impervious to them."

Gold will also be speaking at Monday's event in an effort to help lawyers acknowledge there's a problem — and that it's OK to deal with it.

People drawn to law tend to be thinkers rather than feelers, he says, which doesn't predispose them to coping well with emotional problems.

On top of that, he says the profession "essentially demands [them] to be perfect," and they feel enormous pressure to put up a front of confidence and competence for their clients, peers and bosses.

'Adversarial' jobs

Plus the "adversarial" nature of court and hearing proceedings means they can't show anything that could be perceived as weakness.



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"You don't want [opposing counsel] to see any vulnerability in you if you want to get the better of them," Gold says.

When faced with personal or professional distress, lawyers judge themselves harshly for even feeling that way, he says.

"[They tell themselves,] 'Suck it up, buttercup,'" says Gold. "[They say,] 'You're a fixer, you don't get fixed.'"

He says that by not facing the issue, it usually gets worse, ultimately leading to addiction or a breakdown.

Gold says law societies across the country have set up lawyer assistance programs to provide confidential counselling and treatment before their suffering gets worse.

It's in society's best interest, Gold says.

"Lawyers impact whether people... have their liberty taken away from them in criminal matters. They help to determine in what homes children grow up in family law matters," he says.

"Lawyers have a big impact on society and therefore distressed lawyers have a big impact on society."

'Terrible anxiety'

Veteran criminal defence lawyer Derek LaCroix knows first hand the importance of getting help — both for his own well-being and that of his clients.

Decades ago, the B.C. lawyer suffered "terrible anxiety" and became addicted to alcohol. He ended up cutting back his workload because he "didn't want to go to court drunk or hungover."

Like many lawyers, LaCroix couldn't understand why, as a high achiever, he couldn't solve the problem himself.

"I'd go, 'I should be able to do this. I should be able to. Why can't I? What's wrong with me?'" he says. "As opposed to, 'Hey I've got a problem. I need help.'"

The prospect of having to go on social assistance jolted him into finally getting assistance.

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Although LaCroix went back to work and excelled, he eventually decided to use his experience to help other lawyers in similar situations. He's now the executive director of B.C.'s Lawyer Assistance Program.

"If I look back and was honest, I mean, I don't know whether my win-losses would have been much different, but the quality of service I gave my clients was different," LaCroix says candidly.

"How well I treated them, how quickly I got back to them, how much I listened to them, how much I, you know, appropriately comforted them and/or gave them the straight goods in a kind and useful way."

- [Mental illness in the workplace: Ask for help early, lawyers say](#)

At the urging of friends, Michele Hollins got treatment for her depression, and says she has made a full recovery.

She feels fortunate that her seniority as a partner in her firm helped protect her job, and recognizes that many lawyers don't have that job security.

So when she started a year-long term as president of the Canadian Bar Association in 2014, she made it her mission to speak openly about mental health and make sure programs were in place — like an online service launched in 2015 — so lawyers could feel safe seeking support.

Hollins says it's rare that a week goes by when she doesn't hear from someone in the law profession who is struggling or seeking help for a colleague.

"There is a huge... unmet need that people have to talk about their own mental health challenges."

Judicial committee says 'knees together' judge Robin Camp should lose his job

The Canadian Press, National Newswatch, November 30 2016

An inquiry committee of the Canadian Judicial Council says a judge who asked a sexual assault complainant why she couldn't just keep her knees together should lose his job.

Court transcripts show Robin Camp also called the complainant "the accused" throughout the trial and told her "pain and sex sometimes go together."

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Camp acquitted Alexander Wager in the 2014 trial, but the verdict was overturned on appeal and a new trial was ordered. Testimony in the retrial wrapped up earlier this month

"We conclude that Justice Camp's conduct ... was so manifestly and profoundly destructive of the concept of the impartiality, integrity and independence of the judicial role that public confidence is sufficiently undermined to render the judge incapable of executing the judicial office," the committee said in its recommendation released Wednesday.

"Accordingly, the inquiry committee expresses the unanimous view that a recommendation by council for Justice Camp's removal is warranted."

The committee said Camp "relied on discredited myths and stereotypes about women and victim-blaming during the trial and in his reasons for judgment.

"Accordingly, we find that Justice Camp committed misconduct and placed himself, by his conduct, in a position incompatible with the due execution of the office of judge."

It's now up to the Canadian Judicial Council to decide whether the recommendation should be taken to the federal justice minister, who has final say on Camp's fate.

At a hearing earlier this year, Camp apologized for what he called his rude and insulting attitude toward the then-19-year-old woman when he was a provincial court judge in Calgary.

"I was not the good judge I thought I was," Camp said. "Canadians deserve more from their judges."

The complainant, who can't be named under a publication ban, told the hearing that she had contemplated suicide after what happened at the initial trial.

"He made me hate myself and he made me feel like I should have done something ... that I was some kind of slut," she said.

The committee heard that Camp had undergone sensitivity training and counselling with a superior court judge, a psychologist and an expert in sexual assault law. He admitted in testimony that he had made mistakes, but said he was willing to learn from them and wanted to remain on the bench.



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Camp's lawyer sought to paint a portrait of a "complex human being" who is humble, tolerant and remorseful.

"He's fair. He's accommodating," Frank Addario said. "He's motivated to learn and get better." Addario said removing Camp would send the wrong message to other judges who seek to improve themselves.

But Camp's efforts after the trial don't make up for his comments, the committee said. "In these circumstances, the impact of an after-the-fact commitment to education and reform as an adequate remedial measure is significantly diminished."

Délais judiciaires: la situation est hors de contrôle, dit Couillard

**«C'est un gros paquebot à faire tourner», souligne la ministre Vallée
Marco Bélair-Cirino, Le Devoir, le 1 décembre 2016**

Le gouvernement québécois consentira des ressources supplémentaires au Directeur des poursuites criminelles et pénales (DPCP) afin de juguler la « crise des délais », promet le premier ministre Philippe Couillard.

À l'heure actuelle, la situation est hors de contrôle, a-t-il reconnu mercredi. « *C'est un enjeu de très haute priorité et on va dégager les moyens pour y remédier le plus rapidement possible* », a-t-il déclaré en Chambre.

Le chef du gouvernement s'est notamment engagé à allouer des fonds supplémentaires au DPCP afin qu'il puisse en peu de temps « *ajouter* » de nouveaux procureurs à ses effectifs. « *Grâce aux marges de manoeuvre retrouvées, on va continuer à soutenir notre appareil judiciaire, mais pas seulement à court terme pour mettre un sparadrap* », a insisté M. Couillard.

La ministre de la Justice, Stéphanie Vallée, a pour sa part proposé au Conseil des ministres des mesures additionnelles au Plan d'action de la Table justice-Québec, dévoilé le 4 octobre dernier, pour limiter au maximum le nombre de procès risquant de s'écrouler sous le poids de l'arrêt Jordan.

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En juillet dernier, la Cour suprême avait fixé dans cette décision controversée le délai raisonnable pour la tenue d'un procès au criminel à 18 mois (Cour du Québec) et à 30 mois (Cour supérieure).

Les acteurs du système de justice se sont mis à la tâche de modifier la « *culture judiciaire* », a répété Mme Vallée lors d'un impromptu de presse mercredi avant-midi. « *C'est un gros paquebot à faire tourner. Ça prend beaucoup d'efforts. Ça prend du temps* », a-t-elle souligné à gros traits.

Malgré ces « *efforts* », « *des procès qui avortent pour des enjeux de procédures, malheureusement, il y en a eu et il risque d'en avoir encore* », a-t-elle laissé tomber. D'ailleurs, le nombre de requêtes en arrêt de procédures signifié au DPCP — qui fait actuellement le tri de ses dossiers afin de « *terminer des dossiers de gravité objective importante comme les crimes contre la personne* » — est passé de 153 à 222 entre le 3 novembre et le 24 novembre dernier. « *C'est faux de prétendre que tous les dossiers peuvent échopper [sic]* », a précisé Mme Vallée.

Les partis d'opposition craignent que des individus épinglés par l'Unité permanente anticorruption (UPAC), ou encore l'ingénieur de la locomotive ayant semé la dévastation à Lac-Mégantic à l'été 2013, Thomas Harding, puissent échapper à la justice.

La députée péquiste Véronique Hivon soupçonne l'ex-maire de Laval Gilles Vaillancourt d'avoir tiré profit de la « *logique de sauver les meubles* » adoptée par le DPCP. « *Clairement, l'épée de Damoclès des délais déraisonnables a pu favoriser une entente avec des accusations réduites et une sentence réduite* », a-t-elle déclaré en fin de journée. « *On est presque au point de rupture de la confiance du public* », a soutenu le chef péquiste, Jean-François Lisée.

Néanmoins, M. Couillard a exclu mercredi la possibilité que le gouvernement du Québec se prévale à court terme de la disposition de dérogation pour suspendre temporairement les effets de l'arrêt Jordan. « *Il n'est pas nécessaire d'envisager dès maintenant des mesures législatives* », a-t-il dit lors de la période des questions.



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L'ex-député libéral Gilles Ouimet estime que de recourir à la disposition de dérogation est une « *fausse bonne idée* ». « *On ne peut pas adopter une loi, selon moi, qui dirait qu'un procès criminel peut durer 24 mois nonobstant l'article 11 b) [de la Charte]. On est dans la procédure criminelle, c'est fédéral* », a-t-il plaidé dans un entretien téléphonique avec *Le Devoir*.

L'ex-bâtonnier du Québec recommande poliment à Mme Vallée d'épauler le DPCP dans le tri de ses dossiers. « *La loi prévoit que le ministre peut donner des directives. Il me semble que c'est une avenue qui devrait être envisagée* », a fait valoir l'avocat criminaliste. Mais, tout d'abord, la DPCP, Annick Murphy, doit être convoquée à l'Assemblée nationale, selon lui.

M. Ouimet accueille favorablement la « *prise de conscience* » au sein de la population québécoise sur les défis du système de justice. « *On a les moyens. Il faut réagir. [Cependant], on n'aura jamais assez de ressources, de juges, de procureurs, de policiers et de palais de justice pour poursuivre toutes les infractions pour lesquelles on aurait de la preuve, ce qui amène le DPCP à faire des choix* », a-t-il averti.

Ontario to tackle court delays by hiring more judges, prosecutors

Attorney General Yasir Naqvi announces that 13 more provincial judges will be appointed, and Ontario will hire 32 more assistant Crown attorneys, 16 duty counsel and 26 court staff. Jacques Gallant, The Toronto Star, December 1 2016

The provincial government will be hiring more judges, Crown attorneys and court staff to speed up the criminal justice system, as well as making changes to the bail process.

While an announcement Thursday by Ontario Attorney General Yasir Naqvi was seen as an improvement to the current state of affairs, lawyers say it still does not necessarily address some of the root problems causing major delays in courtrooms across the province.

"I think the conversation has to be more than just: we need more judges and court staff and Crown attorneys to prosecute cases," said criminal defence lawyer Daniel Brown, a Toronto director of the Criminal Lawyers' Association.

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“What we have to figure out is: Are all these cases necessary to prosecute in the first place? Can some of them be dealt with using alternatives measures? How do we identify them early, and how do we identify the cases that need to be prosecuted and then streamline them so they get to trial sooner?”

During an announcement at the University of Toronto’s law school, Naqvi said the government would be appointing 13 new provincial court judges, along with 32 Crown attorneys, 16 duty counsel (lawyers paid by Legal Aid who generally operate out of courthouses) and 26 court staff, at a cost of about \$25 million a year.

Article Continued Below

“Our criminal courts are bottlenecked, daily dockets are jammed and early trial dates are hard to come by,” Naqvi said. “This is not good for anyone.”

The announcement comes in the wake of the Supreme Court’s landmark decision in July, R v. Jordan, which set time limits to get matters to trial. Excluding delays caused by the defence and exceptional circumstances, a case can be thrown out due to delay if it takes longer than 18 months to get to trial in provincial court and 30 months in Superior Court.

Just last month, a Superior Court judge in Ottawa put a halt to a first-degree murder case for taking too long to get to trial.

The government plans to expand its bail verification and supervision program as of January to cover the entire province. The program allows for low-risk offenders who may be impoverished or have no social ties — which can make it difficult to get bail — to still be released into the community under supervision, rather than wait in jail pending their trial.

The province will also launch a program in January of having “embedded” Crown attorneys in police stations to quickly provide bail information upon request, but also to help find alternatives to criminal charges for low-risk, vulnerable offenders. The first embedded Crowns will be placed in Toronto police's 51 division.

Brown, the defence lawyer, said some courtrooms are clogged because bail hearings are still held in nearly every case.

“Right now, there’s an overreliance on bail as a mechanism for release pending trial,” he said, mentioning that police already have the powers to release low-risk individuals on a promise to appear in court, and can also impose conditions on their release if necessary.

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Naqvi said the province has appointed three legal experts, including former Ontario Court Chief Justice Brian Lennox, to work on “modernizing” Crown procedures on bail.

On the same day as Naqvi’s announcement, the Senate’s standing committee on legal and constitutional affairs said it is calling on the federal justice minister to ask the Supreme Court for clarification on its ruling in R v. Jordan, specifically about transitional provisions, meaning how to deal with the cases that were already moving through the court system when the Jordan ruling came down.

The murder case thrown out in Ottawa last month was one such case, and was mentioned by the standing committee in a statement Thursday.

“The committee, in asking for a clarification of the Supreme Court’s decision, said it is deeply concerned about the impact on victims and on the public perception of the justice system when serious charges are stayed without trial.”

New indigenous elders council to advise Ontario on justice issues

Sentencing will be a key issue for council of 13 elders
Colin Perkel, iPolitics.ca, November 29 2016

A new elders council that will offer advice to Ontario’s attorney general should help make the justice system more responsive to the aboriginal population, the provincial government said Tuesday.

The announcement came on a day the federal auditor general in his annual report criticized correctional authorities for failing aboriginal inmates.

In announcing the council, Ontario’s Indigenous Relations Minister David Zimmer acknowledged the long-standing concern about the over-representation of indigenous peoples in the criminal justice system.

“We are working closely with indigenous people on new approaches that are culturally appropriate and respect traditional practices,” Zimmer said in a statement. “The work of the elders council is critical to those efforts as part of the journey of reconciliation.”

A key issue for the new council, which includes 13 elders from across the province, is the application of the so-called Gladue principles in sentencing aboriginal offenders. Arising out of a

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Supreme Court of Canada decision in 1999, courts are supposed to consider the special circumstances native Canadians find themselves in and try to avoid incarcerating them where possible.

In Ottawa Tuesday, Auditor General Michael Ferguson found Correctional Service Canada was failing to provide timely rehabilitation programs for indigenous offenders and that relatively few of them were released on parole — a situation he called “beyond unacceptable.”

Ferguson faulted the prison system for failing to take into account aboriginal social history factors, including the lingering trauma inflicted by the Indian residential school system, poverty and substance abuse.

Public Safety Minister Ralph Goodale responded that the federal Liberal government wanted to improve the situation.

“Our government is seized with the issue of over-representation of indigenous persons in the correctional system,” Goodale said.

The Ontario government has been hosting a three-day Gladue summit in Thunder Bay, Ont., as it seeks to help address the fact that aboriginals make up about four per cent of the Canadian population but about 25 per cent of the country’s prison population.

The summit is part of its response to recommendations from the Truth and Reconciliation Commission, the federal judicial inquiry into the residential school system. In its final report last year, the commission concluded that the residential school experience lay at the “root of the over-incarceration” of aboriginal people.

“Traumatized by their school experiences, many succumbed to addictions and found themselves among the disproportionate number of aboriginal people who come into conflict with the law,” the commission wrote.

In response, the Ontario government acknowledged the link between the notorious residential school system and the numbers of aboriginals involved in the justice system.

“Indigenous offenders feel a deep alienation behind the bars of correctional institutions just as they (or their parents or grandparents) felt inside the walls of residential schools,” the province said in May.

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As a result, it promised to improvements that included increasing the availability of community-led restorative justice programs.

Building a justice system that is both culturally relevant and responsive to the needs of indigenous people requires tapping the “wisdom and experience” of aboriginals, Attorney General Yasir Naqvi said in a statement Tuesday.

The province has already promised to spend another \$13.3 million over three years to expand a federal-provincial program that funds Gladue report writers who serve 18 areas of the province.

Ontario passes law giving equal parenting rights to same-sex couples

Liberals say bill driving a wedge through PC caucus

The Ontario legislature unanimously passed the *All Families Are Equal Act* today, despite numerous MPPs being absent from the vote — including the Progressive Conservatives’ newest member Sam Oosterhoff.

Oosterhoff, a 19-year-old social conservative, will be sworn in Wednesday.

Deputy Premier Deb Matthews said she doesn’t think it was an accident that Oosterhoff was absent for Tuesday’s vote on the bill, which ensures equal parenting rights for same-sex couples. She suggested the no-show reflects the “divided” nature of the PC caucus when it comes to same-sex marriage and parenting.

“I don’t think there is any coincidence there at all, I mean I suppose if you want to believe what they’re saying, that he was too busy party planning, that he wasn’t free to vote on family planning, I guess if you want to believe that you can believe that,” Matthews told reporters after the vote.

“It’s clearly a divided caucus and there were people there during question period who left so they wouldn’t have to vote for or against, I guess, the bill, so I think you can read into that that they were opposed to the bill.”



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Liberal MPP Nathalie Des Rosiers was elected on November 17 — the same day as Oosterhoff; she was sworn in Monday. PC Leader Patrick Brown said Oosterhoff was trying to organize a celebration to mark the occasion.

Brown said nearly two-thirds of his caucus was present for the vote, and noted several Liberal MPPs were also absent.

“I’ve made it clear where I stand on Bill 28 and the vast majority of our caucus was there supporting Bill 28,” he said.

“I was the only leader of any party by the way to show up and support bill 28,” he added, saying that he was proud to do that.

Premier Kathleen Wynne, who is in Japan on a trade mission, and NDP Leader Andrea Horwath, who is touring northern Ontario, were absent from the House.

As a party the NDP is “very, very excited” to see Bill 28 pass, said Deputy Leader Jagmeet Singh after question period.

“Parents deserve this respect. This is something a long time coming. Human rights should be given to all people and this is a great success,” he said.

Under Bill 28, same-sex parents no longer have to adopt their own children.

In cases where a child is conceived through assisted reproduction, Bill 28 recognizes the parents as being the birth parent and the birth parent’s partner at the time of the child’s conception — without requiring a court order.

It also allows for up to four people to be recognized as a child’s parents without a court order, if all the parties sign on to a written agreement before conception.

While the bill still allows parents to identify themselves as “mother” or “father” on their child’s birth certificate, it also gives parents the option of identifying themselves simply as “parent.”

Feds appeal Manitoba decision to ease compensation rules for residential school survivors

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Manitoba judge decided in August survivors didn't have to prove intent in cases of sexual assault

Laura Glowacki, CBC News, November 28 2016

The federal government is appealing a decision made by a Manitoba judge that set a precedent that makes it easier for residential school survivors to receive compensation for sexual abuse.

J.W., as the claimant in the Manitoba case is called, alleges his genitals were grabbed by a nun and she threatened him with physical abuse while he was a student at a residential school.

- [Residential school claim adjudicators made mistakes, says judge](#)

After a lengthy battle fighting for compensation under the Indian Residential Schools Settlement Agreement, a Manitoba judge ruled in August that J.W. didn't have to prove the nun's sexual intention as a requirement for compensation.

All residential school survivors, including J.W., are entitled to the Common Experience Payment, but in cases of physical and sexual abuse, the Independent Assessment Process can grant thousands of additional dollars in compensation to survivors.

Manitoba Justice James Edmond said in his decision that requiring survivors to show an alleged perpetrator's intent in order to be eligible for additional compensation was "fundamentally inconsistent" with Canada's "criminal law jurisprudence regarding sexual assault."

In other words, motive or intent is relevant but Crown attorneys are not required to prove it in sexual assault cases, so it shouldn't be a requirement for residential school survivors seeking federal compensation.

[Lawyer not surprised by appeal](#)

Martin Kramer, J.W.'s lawyer, said he's not surprised the federal government is appealing Edmond's decision.

"We had already had some indications that they would be appealing," he said.

"I'm disappointed that they are deciding to appeal it, but I'm not surprised."

In the appeal, the attorney general argues Edmond's decision should be dismissed because he did not have jurisdiction to rule in J.W.'s case and he misinterpreted the terms of the Indian Residential Schools Settlement Agreement.

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Kramer said adjudicators' misinterpretation of terms of the Indian Residential Schools Settlement Agreement are the problem — requiring victims to prove motive asks more of them than Canada's criminal justice system asks of sexual assault victims.

"We agree with the judge that it was the adjudicators who had been interpreting the compensation rules incorrectly," he said.

"The judge obviously felt that he had jurisdiction to decide the matter," Kramer added.

Kramer said Monday he could not speculate on the government's motivation for appealing the decision but noted in August that dozens of residential school survivors could be eligible for additional compensation if they do not have to prove their alleged abuser's intent.

CBC has contacted Attorney General Jody Wilson-Raybould for a response and will update this story if her office responds.

A hearing for the appeal is expected in the coming months.

All-party electoral reform committee ready to return to table — if Liberals bring forward a bill

Kady O'Malley, The Ottawa Citizen, November 29 2016

Even after spending the last few weeks holed up in the basement of Centre Block going over the fine print of their much-anticipated report on how — or, indeed, if — Canada should change how it elects MPs to the House of Commons, the members of the all-party special committee on electoral reform aren't quite ready to go their separate ways just yet, it seems.

Not, at least, without making it clear that they're prepared to suit up and return to the table should their country — or, in this case, their Commons colleagues — have further need of their deliberative services.

In a report presented to the House on Monday, the committee formally proposed that, should the government proceed with bringing in legislation "designed to amend the Canadian election system," the special committee would be "reconstituted" in its current form, with the same chair and vice-chairs, membership and rules of operation, at which point it would presumably be assigned to the file.



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(The motion doesn't specify that this would happen, but it's hard to think of any other reason to resurrect the special committee.)

In a separate report, the committee also encouraged Democratic Institutions Minister Maryam Monsef, who had previously (and somewhat controversially) announced her intention to conduct an online survey via the mydemocracy.ca website, to consider using the questionnaire that the committee used for its own "e-consultations" over the summer, "either as a replacement for the other planned questions, or in addition to any other questions that the minister wishes to include."

It's not clear whether both — or either — report garnered unanimous support during the closed-door discussion that produced the two reports.

As is traditional when reporting matters that took place under in camera rules, the minutes simply state that the committee "agreed" to the recommendations. Unlike most committees, the Liberals don't command a majority at the table, which means there's no way to know if the Liberal MPs at the table backed the suggestions.

Meanwhile, inveterate electoral reform tea leaf readers should note that the language surrounding the possible introduction of legislation frames it as an "if," not a "when."

In any case, barring seriously unexpected delay, the main report will be revealed to the world on Thursday, making today's submissions simply a matched set of teasers.

Shared Services government email project pushed out to 2018. It was supposed to be finished in 2015.

James Bagnall, The Ottawa Citizen, December 1 2016

For once, Shared Services Canada met its deadline. On Thursday, as promised, the federal government's computer services agency said how it would correct certain deficiencies in its operations identified early this year by Auditor General Michael Ferguson.

In a report it delivered to the House of Commons Committee for Public Accounts, the agency promised it would do a better job providing key information technology services to the 43 departments it deals with, and spelled out the level of service the latter could expect. For instance, government call centres, data centres, email and other telecommunications services

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are to be available 24 hours a day, 365 days a year — with outages to be fixed in most cases in less than four hours.

But these are statements of intent about services, to be judged later as to progress. Shared Services has yet to finalize its revised plan for actually upgrading the government's electronic backbone, the more difficult part of its mandate. This part of the plan will be presented to the Public Accounts Committee after it wins approval from the Liberal cabinet. It's not clear when that will be.

The report presented Thursday by Shared Services suggests the upgrade overall isn't proceeding well. For one thing, Shared Services is now targeting March 2018 for the delivery of the \$400 million government-wide email system that was supposed to have been completed March 2015. Contractors Bell Canada and CGI Group have encountered a number of technical roadblocks owing in part to revisions in the email platform.

This is one of three key jobs assigned to Shared Services when it was created five years ago. Not only is Shared Services trying to consolidate 63 email systems into one, it is also decommissioning more than 500 data centres to make way for a handful of super centres, and streamlining government telecommunications services ranging from mobile phones to videoconferencing.

The original target for getting all this done was 2020, including the transfer of some 14,000 software applications from old data centres to new ones. Shared Services insiders no longer believe this target can be met.

On top of this, Shared Services is facing the potential loss of part of its mandate.

Treasury Board, the cabinet committee responsible for setting the government's IT policy, last June responded finally to pressure from individual federal departments upset at Shared Services' less-than-stellar progress in modernizing its IT networks.

Treasury Board opened the door to eventually allowing private sector firms such as Amazon Web Services and Microsoft to perform the role of data centre. They would do so by offering pay-as-you-go storage (hosting) services through what the industry calls the cloud — networks of third party computers shared by multiple customer or federal departments.

Details were few but these will be on offer in coming weeks when Shared Services issues a request for proposal for the provision of cloud services. The most likely scenario for the moment is that Shared Services will continue to build and operate its new data centres in Borden, Barrie and Buckingham, Que. Crucially, however, Shared Services would also play the

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role of broker, which means it would no longer be the monopoly supplier of data services. The agency would vet qualified cloud suppliers and make sure that federal departments' plans for using them are sound.

Shared Services noted Thursday in its response to the Auditor General that it "will challenge its customers (federal departments) to build the right cases for using cloud services, while serving as public stewards to ensure that services delivered always meet the Government's highest standards of security, availability and value."

The danger for Shared Services is that its 43 customers — the federal departments forced to rely on the agency for data storage — will eventually exercise their right to choose. Exactly when will depend on the soon-to-be-revealed cloud services procurement.

Treasury Board revised its cloud services policy after commissioning a report from Gartner Group, a consultancy. Gartner was not impressed by Shared Services' ability to keep current on a number of technology fronts. It predicted that even if the agency configured its new data centres to offer cloud services, Shared Services' ability to innovate, reduce costs and react to sudden changes would be "constantly outpaced" by third party providers such as Amazon Web Services.

There will likely always be a role for Shared Services in storing classified data, but this represents a small minority of the government's total. For the rest, it may have little choice but to compete for the business by trying to get better at what it does.

Indeed, there was more than a hint in its response to the auditor general that Shared Services was seeking a role that would secure its place at the centre of the government's IT world.

"Notwithstanding the many challenges, the creation of SSC remains a sound government decision," the agency reminded us Thursday. "The idea that each federal organization would modernize its IT infrastructure by building independent systems one by one is simply not viable," it added.

But, increasingly, Shared Services recognizes that viability also depends on being able to deliver. It has precious few months to show that it can.